



ISSN 0542-5492

Fourth Session — Thirty-First Legislature
of the
Legislative Assembly of Manitoba
STANDING COMMITTEE
ON
PRIVILEGES AND ELECTIONS

29 Elizabeth II

*Published under the
authority of
The Honourable Harry E. Graham
Speaker*



WEDNESDAY, 9 JULY, 1980, 8:00 p.m.

MANITOBA LEGISLATIVE ASSEMBLY
Thirty - First Legislature

Members, Constituencies and Political Affiliation

Name	Constituency	Party
ADAM, A. R. (Pete)	Ste. Rose	NDP
ANDERSON, Bob	Springfield	PC
BANMAN, Hon. Robert (Bob)	La Verendrye	PC
BARROW, Tom	Flin Flon	NDP
BLAKE, David	Minnedosa	PC
BOSTROM, Harvey	Rupertsland	NDP
BOYCE, J. R. (Bud)	Winnipeg Centre	NDP
BROWN, Arnold	Rhineland	PC
CHERNIACK, Q.C., Saul	St. Johns	NDP
CORRIN, Brian	Wellington	NDP
COSENS, Hon. Keith A.	Gimli	PC
COWAN, Jay	Churchill	NDP
CRAIK, Hon. Donald W.	Riel	PC
DESJARDINS, Laurent L.	St. Boniface	NDP
DOERN, Russell	Elmwood	NDP
DOMINO, Len	St. Matthews	PC
DOWNEY, Hon. Jim	Arthur	PC
DRIEDGER, Albert	Emerson	PC
EINARSON, Henry J.	Rock Lake	PC
ENNS, Hon. Harry J.	Lakeside	PC
EVANS, Leonard S.	Brandon East	NDP
FERGUSON, James R.	Gladstone	PC
FILMON, Gary	River Heights	PC
FOX, Peter	Kildonan	NDP
GALBRAITH, Jim	Dauphin	PC
GOURLAY, Hon. Doug	Swan River	PC
GRAHAM, Hon. Harry E.	Birtle-Russell	PC
GREEN, Q.C., Sidney	Inkster	Ind
HANUSCHAK, Ben	Burrows	NDP
HYDE, Lloyd G.	Portage la Prairie	PC
JENKINS, William	Logan	NDP
JOHNSTON, Hon. J. Frank	Sturgeon Creek	PC
JORGENSON, Hon. Warner H.	Morris	PC
KOVNATS, Abe	Radisson	PC
LYON, Hon. Sterling R.	Charleswood	PC
MacMASTER, Hon. Ken	Thompson	PC
MALINOWSKI, Donald	Point Douglas	NDP
McBRYDE, Ronald	The Pas	NDP
McGILL, Hon. Edward	Brandon West	PC
McGREGOR, Morris	Virden	PC
McKENZIE, J. Wally	Roblin	PC
MERCIER, Q.C., Hon. Gerald W. J.	Osborne	PC
MILLER, Saul A.	Seven Oaks	NDP
MINAKER, Hon. George	St. James	PC
ORCHARD, Hon. Donald	Pembina	PC
PARASIUK, Wilson	Transcona	NDP
PAWLEY, Q.C., Howard	Selkirk	NDP
PRICE, Hon. Norma	Assiniboia	PC
RANSOM, Hon. Brian	Souris-Killarney	PC
SCHROEDER, Vic	Rossmere	NDP
SHERMAN, Hon. L. R. (Bud)	Fort Garry	PC
STEEN, Warren	Crescentwood	PC
URUSKI, Billie	St. George	NDP
USKIW, Samuel	Lac du Bonnet	NDP
WALDING, D. James	St. Vital	NDP
WESTBURY, June	Fort Rouge	Lib
WILSON, Robert G.	Wolseley	PC

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS
Wednesday, 9 July, 1980

Time 8:00 p.m.

CHAIRMAN Mr. J. Wally McKenzie (Roblin)

MR. CHAIRMAN: The Committee will come to order. Bill No. 31, we have a Mr. George Marshall, a Trustee from Transcona-Springfield School Division, who would like to make a representation tonight on Bill 31.

What are the wishes of the Committee? Proceed, Mr. Marshall.

May I also advise the Committee that Mr. Uruski requested this letter be distributed to the members, you all received that one, the members of the Committee, that has been filed. We also had some documents entrusted to my care the other day by Mrs. Plattner, and she only has only one copy. I think the Clerk is going to look after that so that there will be a copy for both political parties that are here.

Proceed, Mr. Marshall.

MR. MARSHALL: Thank you, Mr. Chairman, Mr. Minister, honourable members. I would like to thank you for this extension of the democratic process so that I can speak tonight.

I would like to speak on a favourite topic of mine, and I would like to say that I am speaking on behalf of myself. Although I am an elected trustee, I am not speaking for the Division or for MAST, of which I am a Director at large. I am speaking as an elected trustee. I am speaking on a topic for which I have made a number of presentations over the years to a number of Ministers and that is the question of the need of equalization of educational opportunity and particularly in the urban community through equalization of the assets of the urban community.

I fundamentally believe this is right, because all the citizens of Winnipeg, regardless of which school division administers their educational needs, pay towards the cost of retiring the debt of and providing services to the city of Winnipeg, and that by virtue of this fact and by the stated intent of unicity, the citizens of Winnipeg are entitled to continue to share in the assessment of their city for educational purposes.

Fort Garry suggests that the Greater Winnipeg Education Levy, as it is called, is inequitable because it presumes the taxpayers and the funding divisions are all wealthy and the taxpayers in the receiving divisions are all poor. This is nonsense. The levy is applied equally across all elements of the city, it is precisely the same to everyone.

Winnipeg School Division suggests that they have subsidized by some millions and millions of dollars their fellow citizens of Winnipeg who have their educational services administered by other divisions. This is entirely false. The assessment in the division Winnipeg does not belong only to the people within the boundaries of Division No. 1, it belongs to all the citizens of Winnipeg who are obliged to pay to that assessment.

Some considerable comment has been made with respect to the fact that there are ten different levies. In fact, if equalization were removed there would still be ten different levies, simply because there would be still ten bodies with the power to levy, with one significant difference the people with the most money, spending the most money, would have the lowest mill rate. Fort Garry with the highest paid teachers in Manitoba would have the lowest mill rate, and Winnipeg who spend the most number of dollars per pupil would also have a lower mill rate. To put that argument in perspective, a swing of 5 mills in Winnipeg makes a swing of 20 and 30 mills in the suburbs.

Quite frankly, the advice that has been given to the Minister and to the government and to the Legislature with respect to change in educational finance has been, in my judgment, unimpressive. If only we could pour enough dollars in, if 95 percent of the dollars were provincial, all of these problems would disappear. If only 80 percent of Foundation Levy were from the province, all of these problems would disappear. What would happen in fact is all the problems would simply be masked, because I have been this route before. I have been in local government for 15 years, 5 years on Council and 10 years on School Board, and I have seen through the beginning of unicity a decade ago, precisely the same thing will happen if there is no equalization to the many divisions which reach beyond the suburbs of Winnipeg, indeed to the Brokenhead River to the east, and to the north and to the south and to the west.

This much maligned Greater Winnipeg Equalization Levy, if it were applied provincially, and this levy doesn't cause a single dollar to fall on property, it simply allocates the dollars that fall on property. If it were to be applied provincially tomorrow, the most impoverished division wouldn't pay 5 cents of special levy, because what would happen is that it would be spread up to the lowest per pupil across the whole of the province. How many millions of provincial dollars would have to be poured in to reach that goal, if it could be reached at all?

I speak tonight as a Manitoban. I think that there is a need to provide equality of educational opportunity. Not equality, I don't think we can reach that, but equality of educational opportunity, and every child in this province has a right to expect that, and if they don't get it, then we have failed. It can't happen by removing within the city of Winnipeg the opportunity for those ten divisions to survive.

Partial equalization of the urban educational mill rate is justified because all the citizens of Winnipeg are called upon to retire the debt of the city of Winnipeg and to pay for such projects as the 60 million downtown storm sewer program, the Trizec investment, and the tri-government investment to upgrade the downtown.

Partial equalization of the urban educational mill rate is necessary. It is necessary because two-thirds of the city's commercial industrial development lies

Wednesday, 9 July, 1980

in two school divisions and two-thirds of the kids live in the other eight school divisions. That is the kind of inequity you are going to see. One answer might be only to equalize industrial and not the whole of the assessment, but we have to remember, we're only partially equalizing, we're not equalizing the total assessment.

When the present partial equalization is applied, and it's called the Greater Winnipeg Equalization Levy and its removal will not solve the problems of Winnipeg. The mill rate in all ten school divisions is exactly the same. Residents who are paying throughout the city are doing so because their school boards are spending more dollars for whatever reasons, and that's the thing that's missing in this whole damn equalization thing. There's no accountability for spending dollars, we're equalizing numbers. And there's nothing either to see what's going to happen down the road after the stability of equalization is taken off. And that's why we have a unicity, and that's why we're going to have one school division, and if we want one school division, that's what we should be saying.

I believe that educational services are best delivered through ten school divisions. But we have to be able to share, and if we can't share, there's going to be one down the road because the people will demand it. Because I can tell you from experience that we cannot survive. The alternative to partial equalization is full equalization, one school division, and Mr. Chairman, Mr. Minister and gentlemen, I am convinced the city of Winnipeg ratepayers would rather spend their education dollars teaching children than creation of another huge bureaucracy.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Marshall. Any questions from members of the committee for Mr. Marshall? Thank you, sir.

Mr. Schroeder.

MR. SCHROEDER: Thank you, Mr. Chairman. I had also received a letter from the Manitoba Association for Children with Learning Disabilities. It's dated July 8th. It deals with a correction to an answer to a question which I had asked during their presentation. Could I have that filed?

MR. CHAIRMAN: File it with the Clerk and all the members of the committee will get a copy of it.

Shall we proceed then on Bill 31? Clause by clause, page by page? Page by page, we'll try it and if we have to break it down . . .

Mr. Schroeder.

MR. SCHROEDER: Yes, Mr. Chairman, on Page 1, Section 1(9) could the Minister advise as to what a statement of standing is?

HON. KEITH A. COSENS (Gimli): I didn't quite hear the question, Mr. Chairman.

MR. SCHROEDER: Section 1(9) indicates that program means a series or group of courses leading to a statement of standing. A statement of standing is, as far as I am aware, not defined. I am just wondering what your understanding is.

MR. COSENS: The statement of standing of course is the statement of students' academic standing as to grade level, whether it be a Grade 9 standing, Grade 10 standing, etc.

MR. SCHROEDER: This would be a statement of standing from the local school.

MR. COSENS: That's correct.

MR. SCHROEDER: I have nothing else on Page 1.

MR. COSENS: Mr. Chairman, can I just expand on that for the honourable member, that same statement is forwarded to the Department of Education and it could be a statement that came from the departments as well, if it was requested by a student at some time in their life.

MR. CHAIRMAN: MR. Schroeder.

MR. SCHROEDER: Just further to the Minister's answer then, the statement of standing would deal only with the specific marks, it is not something we heard during the hearings about students' records, it just deals with students marks then.

MR. COSENS: No, Mr. Chairman, it's academic standing.

MR. CHAIRMAN: Mr. Walding.

MR. D. JAMES WALDING (St. Vital): I had a different item on the same page, if Mr. Schroeder is finished.

Mr. Chairman, as I mentioned when I spoke on the bill in second reading, I have a concern about this bill taking away present voting rights from some Manitobans. I would like to ask the Minister under 1(5) where it defines an elector, whether he can tell the committee how many people will lose their rights by way of this bill?

MR. COSENS: Mr. Chairman, this bill does not change the voting rights from the previous School Act. If the person is not a resident elector then they are not entitled to vote in school board elections. This is not a change from the previous Act so we are not disenfranchising anybody in this Act in comparison to what existed in the old Act.

MR. WALDING: Mr. Chairman, with that assurance from the Minister, I wonder if I might move an amendment under 1(5) and . . .

MR. CHAIRMAN: Can we have copy to print out some copies of it, Mr. Walding?

MR. WALDING: Mr. Chairman, I might just say as a preamble that I drafted this myself. It wasn't done by legal counsel. It is probably not drafted properly. I believe the intent is there and I would be willing to have it redrawn properly if it is accepted by the committee. I have a copy, Mr. Chairman.

I move that the words, "entitled to vote under The Local Authorities Election Act" in the first and second lines, be deleted and replaced by the words and figures," who is (a) a resident of the school division or school district; and (b) a Canadian or

Wednesday, 9 July, 1980

other British subject; and (c) is of the full age of 18 years; and (d) not disqualified under any other provision of this act."

Mr. Chairman, just in explanation of it, those are the words that are used in the present Public School Act and indicate that those people who are entitled to vote are those loyal subjects of Her Majesty who are properly domiciled in this province.

MR. CHAIRMAN: Mr. Desjardins.

MR. LAURENT L. DESJARDINS: Mr. Chairman, I don't have any objection to the amendment, except there is one thing I think that we've been staying away from lately, it's the question of British subject. We've gone with Canadian citizen especially in a situation such as this.

MR. WALDING: Mr. Chairman, just in answer of that. That's exactly the point that I was attempting to make at the beginning, that if that particular term is deleted, it will in fact take away the right to vote that is presently being enjoyed by some Manitobans. Now I suggest to members, and I did in the House, that the right to vote is probably the most fundamental right that we have, and on that is built all of the other rights that we have. What we are speaking of here is not visitors to this country or people here on a work permit, we are speaking of those landed immigrants who have come from other commonwealth countries, who recognize the Queen as the head of state, and who are in fact Her Majesty's royal subjects. Now, their children go to school the same as everybody else's, they pay taxes the same as everybody else. I'm suggesting it's a fundamental right that people should be able to make the choice of who shall run their school systems.

MR. CHAIRMAN: Any further comment? Those in favour of the motion, please signify in the usual manner.

A COUNTED VOTE was taken, the results being as follows: Yeas, 4; Nays, 6.

MR. CHAIRMAN: I declare the proposed amendment lost.

Page 1 pass; Page 2 pass; Page 3 pass; Page 4 amendment for Page 4.

By the way, may I put on the record while the amendments are being distributed, a letter to Mr. Cosens from W. J. Brown, Executive Director of the Manitoba Division of the Canadian National Institute for the Blind has all been circulated and the members all received their copies.

Mr. Steen.

MR. WARREN STEEN (Crescentwood): Yes, Mr. Chairman, on Page 4 of the bill, the amendment is: that Subsection 5(2) of Bill 31 be amended by striking out the words and figure "the question as to whether anything to which reference is made under subsection 1 should be done" in the first and second lines thereof and substituting therefore the words and figure "any matter to which reference is made in clauses 1(d)(e)(f) or (g)."

MR. COSENS: Mr. Chairman, if I can just explain the necessity for this amendment, on careful consideration of the wording it would appear that the word "as to whether" if you follow through with the wording as it's stated in the Act now, that particular wording certainly does not follow the intent of the clause. It could follow from that particular wording that the Minister then would have the power to negate what might be done in 5(1)(a), (b) and (c), those particular actions, and that is not the intent of the clause at all.

The intent is that the Minister would have the power to follow through with any of those things stated in (d)(e)(f) and (g) on his own initiative, but with the wording that exists there now, there is some concern that it infers that it would be negating what would be done by those in 5(1)(a)(b) and (c).

MR. CHAIRMAN: Any questions? Pass as amended, Page 4. Page 5 pass; Page 6 pass; Page 7 pass; Page 8 pass; Page 9 pass; Page 10 pass; Page 11 pass; Page 12 pass; Page 13 pass.

Mr. Walding.

MR. WALDING: On the qualifications of candidates for trusteeship, I have another amendment for that section along the same lines as the previous one that I read, and I wonder if the Minister would now like to give us an explanation. He said, first of all there was no change from the last Act and that no one is going to lose their right to vote. And yet by voting down the same words that are in the old Act he is, I think, admitting that he is changing the qualifications to conform to the local authorities Election Act where the criteria are in fact different from that.

Now, given that that is in fact the case, can the Minister now tell us how many people will lose their right to vote because of this bill?

MR. COSENS: Mr. Chairman, again I am informed that the Local Authorities Election Act has exactly the same qualification as existed in the old Public Schools Act, or the present Public Schools Act would be a better way of stating it.

MR. WALDING: Mr. Chairman, I believe that if the Minister looks at the Act, he will find that the words are "a Canadian citizen or other British subject". Now, I took those words directly from the present Public Schools Act, not from the Local Authorities Election Act, which is different, and I realized what the Minister is doing. He is trying to make this Act conform with the Local Authorities Election Act. Now, that change was made about 1970 and I was opposed to the change at that time because it in fact took people's voting rights away from them. Now this government is extending that and robbing well, I don't know how many people. It might be hundreds, it might be thousands. I know when the federal government did it, they disenfranchised people by the tens of thousands, perhaps into the hundreds of thousands of people resident in Canada who previously had the right to vote, were, in one sweep, had that right removed from them.

I noticed that the government has another Act before the Legislature right now having to do with voting rights in provincial elections, where they intend to do the same thing again and, Mr.

Wednesday, 9 July, 1980

Chairman, I believe it's wrong. You can read the Minister's introductory remarks there, they are talking in glowing terms of making it easier for people to extend their franchise and improving the democratic process. Mr. Chairman, in this Act and the other one that's before the House, they are doing exactly the opposite. It's an anti-democratic move that the government is making.

I am requesting that the Minister, as a Conservative who is supposed to be concerned with people's individual rights, civil liberties and the right of people to choose, he is taking away that right from people who now enjoy it. And I say enjoy it advisedly, Mr. Chairman, because I believe they do and I believe it's appreciated, and I believe it's one of those things that make people appreciate the value of living in this country and persuade them to go on and become citizens.

MR. CHAIRMAN: Mr. Walding, would you read your amendment into the record please?

MR. WALDING: Yes, Mr. Chairman. I will. I move that, in Section 22(b), that the words "as defined in the Local Authorities Election Act" in the first and second lines be deleted and replaced by the words "or other British subject".

MR. CHAIRMAN: All those in favour of the amendment as proposed?

MR. WALDING: Mr. Chairman, there may be some others who wish to quote on it. The Minister may wish to defend his action in this regard, too.

MR. COSENS: Mr. Chairman, as I have stated before . . .

MR. CHAIRMAN: Mr. Cosens, Mr. McGill has the floor. Mr. McGill.

HON. EDWARD MCGILL (Brandon West): Mr. Chairman, I have a great deal of sympathy for the position being taken by Mr. Walding, but I think this matter really came to the attention of British subjects who had not, for one reason or another, taken out Canadian citizenship when the federal government first made it a requirement that they obtain Canadian citizenship before being qualified to vote federally. I question whether there are a great number of people who are interested in exercising their franchise who have not, by this time, made that adjustment. I know it was an upsetting difficulty at the time that the federal requirements for the voting rights were changed. I think what this Act is intending to do is not to be inconsistent with the requirements for qualifying to vote in federal and provincial elections, and I question really whether this year, and in the one or two years where there may be some people who still have not made this adjustment to qualify under the federal Act, whether there will be a very great number of people who will be in difficulty as a result of this wording.

I think there is merit in achieving some universality in the requirements for voting, either in school boards or municipally or provincially or federally, and I think we are working toward that end.

MR. COSENS: Mr. Chairman, I was merely going to add that The Municipal Act of course also follows The Local Authorities Election Act, and we are merely bringing this Act into line with what holds in that case.

MR. WALDING: Mr. Chairman, in reply to the Minister and to Mr. McGill, I would suggest to them, with all due respect, that to make a mistake a second time does not correct the first one, and if it was wrong to do in the first place, it is twice as bad the second time.

Mr. McGill is not correct when he says that it was the action of the federal government that brought this to the fore, and he should know that he was a member of this House in 1970, I believe it was, when changes were made to The Local Authorities Election Act by the previous government. I recall the matter very well because there was fair bit of publicity at that time and there were a number of people who made representations to this committee or whatever the appropriate committee was, it might have been Law Amendments. I recall it very clearly because I was one of them who presented a brief to the committee at the time. Because of the publicity that came about the government of the day made some modification to it. They said that this provision would only come in in a certain number of years time.

The Minister is right that the federal government made this change, Bill of Rights notwithstanding, which is supposed, I understand, Mr. Chairman, to protect people's rights in this country. We have a Bill of Rights on the statutes that I am sure honourable gentlemen opposite supported very much when it was introduced some 20 years ago. It didn't give any protection.

The Minister says that there probably won't be many people left now who would be affected by this. That may or may not be true and we haven't had any figures to show it. I am going to suggest to the gentlemen opposite, too, that there probably would not have been very many people affected by the government's provision to set up an election commission that had the power to find people guilty of election acts either. That was very quickly withdrawn by gentlemen opposite when it was pointed out to them what an infringement of civil liberties it was.

I am suggesting to the committee that this is an infringement of people's civil liberties too, and I repeat, Mr. Chairman, what we are talking about here is the term "British Subject" means roughly, people from other Commonwealth countries. It's Commonwealth countries who recognize the Queen as the head of state, and I will remind all members of the oath that they took, the Oath of Office, when they became first elected, which said, I swear true allegiance to Her Majesty, Her heirs and successors; not to a quarter of a million square miles, or to the Conservative government, or to the Lieutenant-Governor, but the head of state of Canada and that's the Queen. What we are speaking of here are people who already bear allegiance to the Queen, who is the head of state. In no way can it be claimed that they are not loyal subjects, and as loyal subjects I'm suggesting, Mr. Chairman, as taxpaying residents of Manitoba, they ought to be able to continue the right to have a voice in this selection of the school board.

Wednesday, 9 July, 1980

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: I just would like to ask a question. Is it a fact that under the current Education Act a British subject who is not a Canadian citizen but is a resident of Manitoba can vote for school trustee elections? Is that correct?

MR. COSENS: Yes, it is. Mr. Chairman, I am informed that's correct.

MR. SCHROEDER: And under the proposed Act a British subject who is not a Canadian citizen, but is a resident of Manitoba, would not be able to vote. Is that correct?

MR. COSENS: That's correct, Mr. Chairman.

MR. CHAIRMAN: Any further debate? Mr. Desjardins.

MR. DESJARDINS: I'd just like to ask a question, I don't know if anybody can answer it here. What is the situation in England and other Commonwealth countries, can a Canadian vote in England, for instance?

MR. WALDING: Yes, they can, and they can hold office and there have been some very distinguished Canadian Members of Parliament in Westminster, even now.

MOTION presented and defeated.

MR. CHAIRMAN: Page 13 pass.

MR. WALDING: What was the vote, please?

MR. CHAIRMAN: Put them up again, please.

MR. CLERK: Opposed 6. For 3.

MR. CHAIRMAN: Page 13 pass; Page 14 pass. Mr. Desjardins.

MR. DESJARDINS: I wonder if I can make a suggestion, of course, it is up to the committee. If the people that have amendments maybe can say what page and we can pass five or ten pages together, instead of calling out one.

MR. CHAIRMAN: (Pages 15 to 22 were read and passed.) Page 23 Mr. Schroeder.

MR. SCHROEDER: Yes, Section 41(1)(e), could the Minister explain why it is that where Section 194 applies, resident electors are not entitled to examine and inspect financial reports, etc.

MR. CHAIRMAN: Mr. Cosens.

MR. COSENS: Mr. Chairman, we are talking about military school districts in this case.

MR. SCHROEDER: Section 194 deals with the making of regulations.

MR. COSENS: Mr. Chairman, I am informed this is the wrong reference, this should not be section 194, or at least it would appear to be the wrong

reference. If you just can wait one minute we will check out what the proper reference should be.

MR. SCHROEDER: Mr. Chairman, I would be prepared to come back to it later on if there is . . .

MR. CHAIRMAN: Well, we might as well correct it now, because it is on this page.

MR. DESJARDINS: Mr. Chairman, may I move that there is no argument on that, it is just the question of the right section. Could we move the correction be accepted as amended?

MR. CHAIRMAN: Is that agreed by the members of the Committee? When the correct section is we'll amend it and insert it instead of 194, Mr. Schroeder.

MR. SCHROEDER: Yes, on the understanding that that exception deals with military schools.

MR. DESJARDINS: Mr. Chairman, may somebody from the government make the I don't think the amendment has been made, or have you made the amendments? Don't we need an amendment?

MR. SCHROEDER: It is just a correction of a number as I understand it.

MR. WALDING: Can we come back to it just for clarification when it has been found, Mr. Chairman?

MR. CHAIRMAN: Okay. We will leave 23 then. Page 24 pass.

MEMBERS: No, no.

MR. STEEN: It's at 41(8). Is yours before that Mr. Walding?

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Under 41(1), Mr. Chairman, where it says that every school shall, I would move that a new subsection be added immediately following 41(1)(p), and that is 41(1)(q) screen every pupil entering the school system in that division or district for physical, mental, emotional or learning disability.

Perhaps if I can give a word of explanation, we had numerous delegations before the Committee speak of the need for early identification of the various disabilities, whether they were physical or learning disabilities or whatever, and members will probably recall Mr. Henteleff saying that this should be done at an early age, even as young as 6 months to 3 years.

This amendment recognizes that children of that age are outside of the responsibility of the school division, that some of them may be identified at those early ages, some might miss that by. This is intended that there shall be for the future a screening formula whereby all children coming into the school system and that would, we expect, be nursery or kindergarten or grade 1, whichever is the soonest, that there would be a process set up where all children would be screened for physical, mental, emotional and learning disabilities. That might not cover sufficient categories and we would be flexible on that, but what the intent of this motion is to set

Wednesday, 9 July, 1980

up a screening system to identify children who have special education needs, so that children won't slip by into the higher grades or even upper grades and then be found to have a learning disability which could possibly have been treated if it had been identified at an early enough stage. That is the intent of this amendment and we will be amenable to changing of the wording of it if it is not sufficient to what we intend.

MR. CHAIRMAN: Mr. Cosens.

MR. COSENS: Mr. Chairman, I have no problem with the spirit of the amendment in that certainly our government subscribes to the idea of screening at an early age in the system. In fact, we are bringing in a pilot program this fall in several school divisions to test out the best system of student screening. We are looking at the kindergarten and grade 1 age level. We are not proof positive to this point as to what is the best system of screening. We have looked at what has been attempted in some other jurisdictions. There are some contradictions in what is being done. There are some approaches to the problem of screening that other jurisdictions are not completely happy with. We are not to the point as yet where we are absolutely proof positive of the best system. This is the reason that at this point we are approaching the whole business of screening on a pilot basis.

For that reason I would not be prepared to enshrine this in the legislation at this time. It is quite possible that a year or two hence that an amendment to the Act may take place that would, at that time when the government of the day has settled on a screening program for the complete system, that they feel would meet the needs and do it in the proper way.

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Mr. Chairman, we have heard a great deal about this over the last several days of the committee sitting and if in fact there are questions as to which system of screening should be used, I would say that is something that could be taken care of in this amendment. That is, the amendment isn't saying what specific system of screening is to be used. It is simply a matter of asking for screening. If you can find better methods of screening we would be most happy if they were applied, but I would suggest that this particular amendment wouldn't tie us into a position where we had to use one system as opposed to another, other than if the Minister is saying that this may be too late, then he might have a valid point there. That is, by the time that they are at age 6, maybe three years or four years have gone by past the point where they could have been caught, either in this system or in the Department of Health and Social Development or some other system.

Possibly if the Minister could expand on what he means by system of screening?

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, I agree with the last speaker. The Minister is saying, yes, we want to

screen. Now we are talking about the type of screening, so therefore the intention is there, but he seemed to agree, I think, that were we receptive when we had delegations, so I wonder if the Minister would consider this compromise. Could we pass this with the understanding that this would be proclaimed only at a later date when it's decided by the Lieutenant Governor-in-Council? It's a new act. We would have that there, which would certainly clearly show our intention, and when you are satisfied that the screen is being done, then you can proclaim it. Would that be acceptable to the Minister on that understanding?

MR. COSENS: Mr. Chairman, through you to Mr. Desjardins, I could probably live with that type of compromise. Certainly it's the intention of this government to eventually have a universal screening program across the province. Once again, there is the problem of the method of delivery of that particular screening program. Perhaps two years down the road the decision may be that it should be handled by the Department of Health with young people at age three, and it then would not be a responsibility of the school system. That is why I have some reservation, Mr. Chairman, in this regard that we are certainly at this point saying that it will be the school system that will do it.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, I do sympathize with the last two speakers and I would be prepared to withdraw this amendment if there were a way in which all children could be screened at a much earlier age with the assurance that none would fail to be screened. The intent of this amendment is to say that at least this is the bottleneck through which all children shall go and none shall escape it, even if they come in from another province, in Grade 2 or Grade 3, the intent is that they would be screened, so that from some point in the near future hence forward we could say that at least we have caught all of these disabilities.

We have heard that ideally somewhere between six months and three years it should be done, but if some other system can be set up that would supercede this I would be quite happy for the responsibility not to be within the school system. But until that is there, this is suggested and I would not reject my colleague's suggestion that it not be proclaimed until sometime in the future when proper screening methods can be set up, although I will say that it was my understanding that these sorts of things were to be taken care of following Bill No. 58 that we passed some three years and not proclaimed. I think it was Bill No. 58.

MR. DESJARDINS: Mr. Chairman, following in the same we agree on so many things, I wonder then if it was done to take care of the concern of the Minister, if a word was added, screen every pupil entering the school system in that division or district, who have not previously been screened, and that would cover those if later on decide that . . . Because if the Department of Health do it, it won't be universal. It is practically impossible unless you have them at

Wednesday, 9 July, 1980

schools. There is no way that you can say you are going to bring all your three-year-old children. Some won't go to kindergarten, some will, and it is not possible to have. We've tried that in the Department of Health on vaccination, inoculation and this thing, and it is very very difficult. If this was the case, and if its done later on, that would take care of that. At least our intention would be in the bill. And again, with the understanding that this would not be proclaimed at this time. That would cover your concern if it is done somewhere else, then it's all right, and if not, well then you would be able to do it at that time and nobody would be without it, at least when they start school at the very latest.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Mr. Chairman, with the endorsement in principle of the idea of an eventual screening process being put in place, either by the department of the education or possibly by another department in government, would it not be the safer way to proceed to consider an amendment to the act when such a screening process has been through the pilot period and has been achieved and some understanding has been gained as to the best method of procedure? Would it not be safer to leave that for an amendment to The Public Schools Act at a subsequent session?

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Yes, Mr. Chairman. It seems to me that the suggestion of Mr. Desjardins makes a great deal of sense to me. If we add in the words or words to the effect that we will only be screening those in the public school system who had not already been screened previously, surely we are leaving ourselves open to nothing at a later date other than possibly removal of a section that we won't need any more once all the kids getting into the system have been screened by that time, but it would seem to me that will be some time down the road.

I was just looking at the brief which we received tonight from the CNIB, on page 2, at the top of the page it should also be understood that visual impairment is not and should not be restricted to within legal blindness only. Children with visual impairments outside of legal blindness can have serious learning problems as well which are attributable to visual impairment. Provision to ensure comprehensive vision screening for all children should be included with The Public School Act. And just further up on the page was a sentence that I wanted to read in. "It should be understood that there may be as many or more children who are visually impaired than are now known to the CNIB."

So we are talking about even people with a handicap which we lay people would assume would be easily picked up by parents, by relatives, by the school system, the CNIB says that there are at least as many who have not been detected as those who have been detected even with that type of an impairment, and it would seem to me that there is some urgency in having this type of provision put into the act. I think that the accommodations

suggested by Mr. Desjardins would satisfy the concerns expressed by the Minister.

MR. CHAIRMAN: Any further comment?

MR. COSENS: Mr. Chairman, as I say, I have no problem with the spirit of the amendment. In fact we are moving in this direction. Once again I have a problem with timing. Mr. Desjardins suggests that can be overcome by not proclaiming the section. That may well be, although really then all we are doing is stating intent in this case in the act and not saying at what point it will be achieved.

Mr. Chairman, the other problem, and I keep coming back to it, is the problem that we may encounter if the delivery of this particular screening is done by another department of government.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, and to the Minister, I think that with the permission of the mover, if we did add those who have not previously been screened, I think that would take care of the problem that you might have. I think that this quite important, I mean for the people who are concerned with this also, it lets them know that we are going in this direction and also it will give time for the people, because it's not just a question of the government deciding, it might be that this might take a while to get the proper apparatus or whatever and the qualified people to do that. So I think this is usually, well usually, I shouldn't say usually, but this is often done in this manner to educate the people, for one thing, in the community of what's coming and also to give them a chance to get ready.

So with these two provisos, if we add, for those who have not previously been screened, that will take care of the concern if it's done by somebody else, because if somebody else does it they should do it in the first year, at least I think the Minister suggested it might be done earlier. Then secondly, that this will be proclaimed by an Order-in-Council by the Cabinet when they have got everything ready. I can't see any chance that we're taking at all, Mr. Chairman.

MR. CHAIRMAN: Any further discussion?

The motion before us is the proposed amendment of Mr. Walding.

Mr. Walding.

MR. WALDING: Mr. Chairman, before we take the vote, I believe my colleague suggested changes to the amendment that would be quite fine with me.

MR. CHAIRMAN: There are two amendments. Okay, as amended.

MR. WALDING: I am saying that I would have no objection to those two principles going into this.

MR. CHAIRMAN: Mr. Balkaran will read the amendment as proposed then.

MR. A. BALKARAN: Clause 41(1)(q), as proposed by Mr. Walding and amended by Mr. Desjardin would now read, "screen every pupil, who has not previously been screened, entering the school system

Wednesday, 9 July, 1980

in that division or district for physical, mental, emotional or learning disability”.

A COUNTED VOTE was taken, the results being as follows.

MR. CLERK, Jack Reeves: Yeas, 3; Nays, 0.

MR. CHAIRMAN: I declare the amendment passed.
41(8) Mr. Steen.(Interjections)
Mr. Walding, proceed.

MR. WALDING: Mr. Chairman, on 41(4) I move that the word “appropriate” be added immediately following the word “for” in the first line thereof, so it would read, “Every school board shall provide or make provision for appropriate education . . .”

MR. COSENS: I wonder, Mr. Chairman, if Mr. Walding would define appropriate education.

MR. WALDING: I recognize the difficulty, Mr. Chairman. There was some difficulty in drafting it, but again, it follows from the concerns expressed by numerous delegations before us, again having to do with special needs education. I believe the concern was there that merely the right to go into a school building or sit in at classes would not necessarily be appropriate education for children with special needs, and that certain differences of approach, different surroundings, different individuals, perhaps even difference in materials would be needed according to the special need of the child. That is the intent of the amendment, and as I mentioned earlier, it may not be precise in expressing what we want, but I believe that the intent of it is quite clear and is clear to any of those members who listened to the many groups who came and made that point to us.

MR. SCHROEDER: Yes, I would agree with what the Member for St. Vital has just said, and I would add that we’ve heard, over the last few days, and even with that brief from the CNIB, that there are a number of kids out there who apparently aren’t getting all of the services right now that they require in order to obtain an appropriate education. In the last 10 or 20 years great strides have been made in terms of discovering what is wrong with some of the kids who weren’t making it in the system. I refer especially to the submissions of the people from MACLD, there were a number of examples provided of children who had problems and with some adjustments, possibly some special training for a short period of time, they were able to take their place in the system. And what this type of provision would do is entitle our children to an education which would be appropriate to their needs. It is one thing to take up a seat in a public school for 10 years and not be able to read at the end of it. That may well be an education, it may well be that is all that kids are entitled to under existing legislation. We are saying that we are now passing a new Act that kids should be entitled to more. They should be entitled to an education which is appropriate to their needs, and if some children need more assistance than others, then they should be entitled to that by the system. And if we don’t give it to them, I think Mr. Kovnats said it very well the other day, we can’t

afford not to give it to them. I think we should be passing this amendment tonight.

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

MR. COSENS: Mr. Chairman, I can say to the two previous speakers that I think the idea that the school divisions are not offering what we would call appropriate education is one that I cannot subscribe to. I think that is the aim and the goal of all parts of the system to provide the best level of education that they can, the program that is most suitable to each individual child. Whether in fact we are talking about special needs children or whether we are talking about the so-called normal child, all children are supposedly receiving, and I’m sure once again it is the goal and the aim of every school division to provide the best programming we can for all children in their particular division. By the addition of the word “appropriate” here, we would not be clarifying this issue at all.

MR. STEEN: Mr. Chairman, by adding the word “appropriate” each division might define what appropriate is slightly different from the previous division. I think adding that word is clouding the issue rather than keeping it good and simple and straightforward.

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Just in answer to the previous speaker, I suppose that without the word “appropriate” we could have each school division interpreting the word “education” in a different manner and arriving at a different standard of education. Of course, I suppose that brings up the whole area of what exactly the rights of the students in the system are in terms of their education; and if they are not receiving what they or their parents feel to be an appropriate education, what their remedies under the existing legislation and whether the proposed legislation provides any additional means of appeal. We did hear a lot about appeal procedures and there must have been suggestions from five or six different groups with respect to that issue itself, that if the parent feels that his child is not receiving an appropriate education, are there any mechanisms for appeal in Bill 31 which would be useful to the parent which weren’t present in the old Education Act?

MR. COSENS: No, Mr. Chairman, there is no formalized appeal procedure in this Act that was not present in the old Act. At the present time, under the present Act and certainly under Bill 31 as its proposed, parents do have recourse to appeal to their school division and, after having appealed to the school division, if not satisfied, they appeal to the Minister. In fact, this does happen on occasion; the case is investigated and actions taken. But once again, Mr. Chairman, I cannot see that we can legislate perfection and I think the member, Mr. Steen, has touched on a rather significant point here that what would be defined by one school division as appropriate may well not be defined in the same way in another. I think what we have to strive for is not

Wednesday, 9 July, 1980

legislation stating what perfection is, we have to strive to provide the supports and the services that will, in fact, provide the best level of programming possible.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, in reply to the Minister and to Mr. Steen who said that different school boards might have different interpretations of "appropriate". The "appropriate" here doesn't refer to a particular class of disability. It refers to a particular child. The intent here is that an education appropriate to that individual child shall be what is needed. It simply would not apply in any comparison between school divisions because the child would only be at one school division. Mr. Chairman, I think we have to recognize that special needs education has come a long way in the last few years. The situation as it stands today is a great improvement over what it was just three, five years ago. I give the Minister some credit for this, as well as school boards and a general acceptance, I believe, by the population of what is needed. I believe that those groups that came to us speaking of this recognize that simply by writing words in a statute is of itself not going to change anything, that what is required is the will and intent of the government and of school boards to see that we move towards the most appropriate education for individuals. I suggest that the acceptance or otherwise by the government of this amendment will indicate quite clearly what the intention is for the future of special education.

MR. CHAIRMAN: The proposed amendment of Mr. Walding.

A COUNTED VOTE was taken, the result being as follows.

MR. CLERK: Yeas, 3; Nays, 4.

MR. CHAIRMAN: I declare the amendment lost.
41(8) Mr. Schroeder.

MR. SCHROEDER: I have an amendment to 41(5).

MR. CHAIRMAN: Read it into the record, Mr. Schroeder, please.

MR. SCHROEDER: That the words "including transportation" be inserted after the word "provision" in the second line thereof.

The purpose of the amendment would be to entitle students who are being sent by a school district into another school division to transportation by their local school board to the place of education in another division.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, I believe it was this section and 43(6) appear to be contradictory and this was pointed out to us by one or more delegations coming which would seem to limit transportation from a point no closer than half a mile from the residence of the pupil. We would see a deletion of 43(6) as going along with this amendment. If it were accepted, we would propose to delete 43(6) so as to

remove the apparent contradiction. I believe the intent of this amendment is apparent.

MR. COSENS: Mr. Chairman, the regulations that apply to the transportation of pupils take care of the particular cases that I believe are referred to here. To remove 43(6) and so on would certainly create a completely new picture in the transportation area. We are looking at transportation of students across the province, we're in 43(6), if the honourable member notes, we are dealing with students who have a lane that they walk down of some half-a-mile perhaps to the roadway and this type of thing. If we were to delete 43(6) then we are doing away with that type of provision and we would have school buses travelling down country lanes all across the province.

MR. WALDING: Mr. Chairman, if it would be the let me start from the other direction. 43(6) would appear to me to say in the Act that no school bus can come . . .

MR. CHAIRMAN: Let's stick with 41(5) if we can.

MR. WALDING: Well, Mr. Chairman, I believe the two things go into together and I am pointing out an apparent contradiction of them to follow up from what the Minister said. 43(6) would seem to suggest that no school bus can come closer than half a mile to a residence to pick up a child, yet the Minister is saying that for some particular needs, and I believe we are talking about special needs again here, that a school bus can come right to the door.

Now I believe that a regulation cannot permit something that the Act itself says cannot happen, and that is the reason why we were suggesting that 43(6) be deleted from there to allow a school bus to pick up a child right at the door.

MR. COSENS: Mr. Chairman, 43(6) does not prevent that happening. It says, "No school board shall be required to . . ." It doesn't say that they will not, it says that they shall not be required to do that.

MR. DESJARDINS: The department or the Minister can't say . . .

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: I am sorry. Just for clarification, the Minister then is saying that it is left strictly to the school division, the department could not establish a program for retarded children, handicapped children. I mean they would have to be at the mercy of the board. At least if you had something subject to the regulation or something like that in there. In 43(6) it seems to negate anything else.

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Yes, Mr. Chairman, I think there is some confusion here possibly on both sides. Going back to Section 41(5), under that Section school boards shall make provision, shall, it is not a question of may. It is a requirement to provide for a pupil to attend at a school in another school division for a program which is not provided in the home district.

Wednesday, 9 July, 1980

What we are saying is that if you are requiring a school division to provide a program in a district other than its home district for a student, that that requirement is totally meaningless if you don't also require the school division to provide the transportation. I thought that was clear enough for me not to have to comment on it but, as Mr. Walding pointed, out we were hoping that we could delete Section 43(6) in tandem with Section 41(5).

The rationale for that is if you go to Section 43(1), Section 43(1) states that no school board is required to transport children who have to walk less than a mile to school and we are not quarreling with that excepting for special cases. Then you move on to Section 43(6), it says that "No school board shall be required to extend a transportation route beyond the boundaries of the school division or school district." Okay, no school division shall be required to extend a transportation route beyond their district. Now that, we have said all through the hearings, is in direct contradiction to any regulation which would require that very same school division to bus kids into another school district. You can't have it both ways. You can't say in the Act you cannot require the school board to transport kids into another district and then require that very same school board in your regulations to transport kids into another school district.

What we are saying is we want that removed in tandem with the addition requiring transportation under Section 41(5).

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, I was going to say more or less what Mr. Schroeder did, and perhaps legal counsel can advise us about the apparent contradiction here of the Minister attempting to do something by regulation that is prohibited by the Act itself. That doesn't seem right.

MR. CHAIRMAN: I don't know how we will deal with legal counsel. We were in a problem with the press the other night by letting legal counsel get involved, and I don't whether to do it by leave or how we are going to handle it but I don't want to get blasted again for letting the committee get out of order.

MR. WALDING: Mr. Chairman, I am not asking legal counsel to involve himself in a political debate or give a political opinion. All I want to know is the Statutes regulation.

MR. CHAIRMAN: Who is going to judge whether it is political or not?

MR. WALDING: You will be, Mr. Chairman, you are the Chairman.

MR. CHAIRMAN: If Mr. Balkaran can leave his words with somebody else, I think we . . .

MR. DESJARDINS: Mr. Chairman, let's not play games. The gentleman is here to advise committee. There has been a request by committee to give us a legal interpretation, not to take sides or talk about policy, just a legal interpretation and we are entitled to that.

MR. CHAIRMAN: With the permission of the committee, Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, I think Mr. Schroeder has a point when he says, as you read 43(6) that no school board shall be required to provide transportation etc. and then by regulation you go on to say that they can do just that. So you have a prohibition in the statute which is removed by regulation. My suggestion would be, if government wants to retain 43(6), preface that subsection with the words "subject to the regulations."

MR. CHAIRMAN: We're dealing with the other one there.

MR. BALKARAN: But we haven't got there yet.

MR. CHAIRMAN: We haven't got that far yet.

MR. WALDING: No, but they go together, Mr. Chairman, we want to understand them both.

MR. SCHROEDER: In view of the fact that we haven't gotten there, we'll talk about that when we get there.

MR. CHAIRMAN: 41(5) is amended by Mr. Schroeder, that the words "including transportation" be added immediately after the word "provision" in the second line thereof. Any further debate?

QUESTION put on the amendment, MOTION defeated.

MR. CHAIRMAN: 41(8). Mr. Steen.

MR. STEEN: Mr. Chairman, my motion is that subsection 41(8) of Bill 31 be struck out and the following subsection be substituted therefore:

"Appointment of Auditors. 41(8). Each school board shall annually appoint an auditor who shall be a chartered accountant or an auditor approved by the Provincial Auditor and in determining whether a person is qualified to be approved for appointment as an auditor, the Provincial Auditor shall have regard to that person's (a) education, (b) training in accounting and auditing, (c) practical experience in auditing, and no person shall be appointed as an auditor who is not a member in good standing of an incorporated body of accountants in Canada which requires of its members and has power to enforce a high standard of professional conduct."

MR. CHAIRMAN: Mr. Cosens.

MR. COSENS: Mr. Chairman, in this particular clause 41(8) there had been some concern expressed by other associations of accountants that they were not being considered adequately for auditors positions with school boards across the province. What we have done here then is to adopt the wording found in The Municipal Act in regard to auditors and have added through the amendment the fact that education and training in accounting and auditing, as well as practical experience in auditing, would be taken into consideration. It's my understanding that certain groups of accountants do not necessarily have auditing experience as part of

Wednesday, 9 July, 1980

their training and they do pick up that type of experience after they graduate through working with a firm that does a great deal of auditing. And I'm also informed that having picked up that experience, they then are qualified, to provide that service. So we have made this particular change to try to accommodate that type of person.

MR. DESJARDINS: I think the Minister explained my concern. I certainly go with the intent of this motion. I had thought it odd that we talked about people who are members in good standing of an incorporated body of accountants, that did not have a B.C. but apparently this is the case. They are in good standing but they have had no experience.

MR. COSENS: That's right.

MR. CHAIRMAN: Any further questions?

MR. COSENS: Perhaps we could go back, Mr. Chairman, to that other section.

MR. CHAIRMAN: Page 23 as amended pass. Mr. Balkaran will explain that. Proceed, sir.

MR. BALKARAN: Mr. Chairman, in clause (d) after the word "where" if the words "a regulation made under" added. First line clause (d) "a regulation made under" after the word "where". So it would read "In the case where a regulation made under Section 194 applies" not section 194 but a regulation made under Section 194.

MR. CHAIRMAN: And what about (e) then. Same.

MR. BALKARAN: Same change in (e) after the word "where" "a regulation made under" is added.

MR. CHAIRMAN: Clarified. Okay. Page 23 as amended pass. Now page 25, any amendments?
Mr. Balkaran.

MR. WALDING: Mr. Chairman, I don't think that we passed the amendment on 41(8).

MR. CHAIRMAN: Oh, as amended, I'm sorry.

MR. WALDING: No, the amendment.

MR. CHAIRMAN: Oh, pass the amendment. I'm sorry. You're right, Mr. Walding.

MR. CHAIRMAN: Those in favour of the amendment of Section 41(8) as proposed by Mr. Steen.

QUESTION put on the amendment, MOTION carried.

MR. CHAIRMAN: Page 25. Mr. Steen.

MR. STEEN: 41(11), Mr. Chairman, if there are no amendments prior to that. Hearing of none my Motion, Mr. Chairman, is that subsection 41(11) of Bill 31 be amended by adding "thereto" at the end of Clause (a) thereof, the word "and" and by striking out Clauses (c) and (d) thereof.

MR. CHAIRMAN: Mr. Cosens. Do you wish to explain to the Committee?

MR. COSENS: Mr. Chairman, (c) and (d) in 41(11) really apply to 41(12) to the supplementary report and I understand that they also appear in The Municipal Act in this way and really are misplaced. What we are really doing here is just correcting our placement. They do not apply in 41(11).

MR. WALDING: I am not sure I understand, Mr. Chairman. Is 41(11) referring to the annual financial report of the school board?

MR. COSENS: It applies, Mr. Chairman, to the audited report, the 41(12) applies to the supplementary report.

MR. WALDING: In that case, Mr. Chairman, why should the auditor not give his opinion as to whether the balance sheet and statement of revenue and expenditure present fairly the financial position of the school division?

MR. COSENS: Well (a) and (b) are retained, Mr. Chairman. I think that satisfies; it's only (c) and (d) that we are referring to.

MR. CHAIRMAN: Delete (c) and (d) from 41(11) and add to 41(12). Page 25 as amended pass;

MR. STEEN: I'm not finished yet, Wally.

MR. CHAIRMAN: Mr. Steen.

MR. STEEN: Mr. Chairman, my motion is:

THAT subsection 41(12) of Bill No. 31, be amended by striking out the word, "and" at the end of clause (a) thereof, and by adding thereto at the end of thereof the following clauses:

(c) Whether the funds of the school division have, to the best of his knowledge and belief, been paid and disbursed only under authority granted by an Act of the Legislature or under authority of a resolution or bylaw of the division made under the authority of an Act of the Legislature; and

(d) Whether any irregularity or discrepancy in the administration of the affairs of the school division came to his notice in the course of his examination.

Thank you.

MR. CHAIRMAN: 41(12) as amended pass. Mr. Walding.

MR. WALDING: The same as (c) and (d) from the previous section; they've just been moved down a section?

MR. STEEN: That's right, that's all. They were misplaced.

MR. WALDING: Agreed.

MR. CHAIRMAN: Page 25 as amended pass. Page 26 Mr. Schroeder.

MR. SCHROEDER: Mr. Chairman, I have an amendment to Section 43(1). I just have two copies of it. It's written out.

Wednesday, 9 July, 1980

I move that it be amended by adding thereto, at the end thereof, the words as follows: "and, further, transportation from home to school shall be provided regardless of distance, for those students who are unable to walk to school because of physical or other handicap".

I believe that amendment is self-explanatory. The provision itself requires a school division to provide school transportation for those pupils who would have more than one mile to walk in order to reach school. This amendment does not change that in any way excepting for those students who are unable to walk to school for physical or other cause; and based on the submissions we heard and the advice the committee received over the last number of days, we are informed that, in fact, students who are unable to walk, for whatever cause, are currently receiving that transportation, and in fact, putting this into the Act is simply going to provide that right in statute law, even though the children already are enjoying that right de facto.

MR. CHAIRMAN: Mr. Cosens.

MR. COSENS: Mr. Chairman, this particular provision exists now under the regulations. We pay grants to school divisions for transportation of handicapped students, those who cannot walk to school portal to portal, under regulation 170(77), and really what the member is suggesting is that we then take that regulation and put it into the Act.

MR. SCHROEDER: Of course, once we pass this Act, at the time we pass this Act, there are no regulations. We will be passing new regulations pursuant to this Act, one would presume. It would seem to me that now would be the appropriate time to decide what we should have in the Act and what rights students have and I think this is one of the rights which we should not be able to take away from students by regulation. I would like to see it right in the statute so that no future Minister of Education, who is not as kindly disposed as the current and past ones, will take this right away from students without the opportunity of the Legislature to discuss it.

MR. COSENS: Mr. Chairman, perhaps I could just make a couple of comments. First of all, I remind the member that the old regulations do stay in place until new regulations are written. I think he inferred that as soon as we pass this particular Act that there would no longer be any regulations in place. The regulations remain in place until new regulations are written, so I would dispel that type of apprehension on his part. If his amendment could include, "provide or make provision for", then I think I would have less problem with that particular amendment, and I'm wondering, Mr. Chairman, what his reaction would be to that particular aspect.

MR. SCHROEDER: Yes, I would be quite happy with that, Mr. Chairman, "provide or make provision for", certainly.

MR. CHAIRMAN: Any further discussion?

MR. COSENS: No, Mr. Chairman, as I say really what we would then be doing is putting into the Act what currently exists in regulation and certainly what is the intent of this government. I have no strong exception to this being placed in the statutes.

MR. CHAIRMAN: 43(1) as amended . . .

MR. COSENS: As long, Mr. Chairman, as we can word it in such a way that it says "provide or make provision for".

MR. SCHROEDER: Yes, understood.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, the amendment would strike out the words, "be provided for those" in the second line of 43(1) and substitute the words "provide or make provision for the transportation of".

MR. CHAIRMAN: Agreed, as amended? 43(1) as amended pass. Page 26 as amended pass. Page 27, any amendments?

MR. COSENS: Yes, 43(6), Mr. Chairman. I believe it was to read "subject to the regulations". Is that correct?

MR. BALKARAN: It's the beginning of the sentence.

MR. COSENS: The beginning of the sentence.

MR. WALDING: There would appear to be two parts to this. Firstly, a school board transporting students across the boundary of a school division and secondly, the point about "half a mile from the residences of". Now, my question is, by putting those words subject to the regulations, will that then permit a school board to transport a student across the school boundary?

MR. COSENS: It does now.

MR. WALDING: I'm concerned about the regulation permitting something that is prohibited in the Act.

MR. BALKARAN: But it is allowed by the regulations now.

MR. WALDING: In both of those . . .

MR. BALKARAN: I shouldn't be answering that, I'm sorry.

MR. CHAIRMAN: Carry on.

MR. BALKARAN: It is.

MR. COSENS: Mr. Chairman, I don't think we completed 43(1). Could you read that amendment again please?

MR. CHAIRMAN: Mr. Balkaran, we'll revert back to 43(1).

MR. COSENS: Read perhaps the complete clause.

Wednesday, 9 July, 1980

MR. BALKARAN: The clause would read, "subject to the provisions of this Act, under regulations, in all cases where the transportation of pupils is required it . . ." that would be the school board, sir? I'm sorry, Mr. Chairman, but the word "it" is causing some difficulty there and I would wonder if the Minister would give me some guidance as to what is meant by "it", is this the school board?

MR. COSENS: Transportation. Transportation shall be provided.

MR. BALKARAN: Oh yes, that's right.

MR. CHAIRMAN: Read it again, Mr. Balkaran.

MR. BALKARAN: No, it still doesn't . . . Who is to make the provision, the school board? Well, that's what I was saying, that "it" should be "the school board shall provide or make provision".

MR. CHAIRMAN: Mr. Balkaran, proceed.

MR. BALKARAN: In the second line, strike out the words, "it shall be provided for those" and substitute "the school board shall provide or make provision for the transportation of".

MR. COSENS: No, but there is more to it than that. Mr. Schroeder's amendment and his wording is not included.

MR. BALKARAN: It thought it was decided just to make this change . . . Oh, these words are to be added.

MR. COSENS: At the end thereof.

MR. BALKARAN: Well then, Mr. Chairman, I suggest that you just put the amendment of Mr. Schroeder to a vote and just add it on.

MR. CHAIRMAN: Section 43(1) as amended by Mr. Schroeder.

MR. COSENS: Mr. Chairman, could we hear what the amendment is then, the complete wording? I think that is our problem.

MR. CHAIRMAN: Okay, Mr. Balkaran.

MR. BALKARAN: I'll read the whole subsection including Mr. Schroeder's amendment. "Subject to the provisions of this Act and the regulations, in all cases where transportation of pupils is required, it shall be provided for those pupils, who would have more than one mile to walk in order to reach school; and further, transportation from home to school shall be provided regardless of distance for those students who are unable to walk to school because of physical or other handicap".

MR. COSENS: Not "provided", it shall be . . .

MR. SCHROEDER: Obviously we need some amendment to that and I would prefer to have my amendment read "and further, provision for transportation from home to school shall be made regardless of distance for those students who are

unable to walk to school because of physical or other handicap".

MR. COSENS: Yes, Mr. Chairman, I think that has dealt with the wording adequately.

MR. CHAIRMAN: Would you read it again then, Mr. Balkaran, please? 43(1).

MR. BALKARAN: 43(1) as it's printed, Mr. Chairman. And you add at the end thereof "and further, provision for transportation from home to school shall be made, regardless of distance, for those students who are unable to walk to school because of physical or other handicap."

MR. CHAIRMAN: 43(1) as amended pass. Page 27 pass as amended, subject to regulations Mr. Schroeder.

MR. SCHROEDER: Mr. Chairman, at least first of all on Section 43(6) a question. We have on 43(1) a statement that "no school board shall be required to provide transportation for those who have less than a mile to walk." 43(6) says you don't have to deposit or pick up children at a point closer than a half-mile from the residence of the subject . . .

MR. CHAIRMAN: Well, we've already gone into that subject to regulations.

MR. DESJARDINS: But shouldn't it be subject to 1 now, 45(1)?

MR. SCHROEDER: Well, why have it a half-mile in one spot and one mile in the other?

MR. DESJARDINS: Mr. Chairman, could you have instead of "subject to regulation", now that we've amended 43(1) "subject to 43(1)". Would that answer the . . .

MR. BALKARAN: It still doesn't take care of the fact that the regulations authorize transportation outside the jurisdiction.

MR. DESJARDINS: Well, subject to 43(1) and the . . .

MR. BALKARAN: It will be subject to the regulations in Subsection (1).

MR. CHAIRMAN: And Subsection (1).

MR. DESJARDINS: Yes, and subsection (1).

MR. CHAIRMAN: Page 27 as amended then pass; Page 28 pass; Page 29 pass; Page 30 pass;(Interjection) 29, I'm sorry.

MR. SCHROEDER: Mr. Chairman, Section 48(1)(r). The school board may decide who shall be school visitors. Now school visitors I understand were defined in some old Act, but they're not defined in this Act and if it just means who can come into the school, then I would refer the Minister back to Section 41(1)(i)(e) which entitles any member of the public to attend at the school, to look at certain

Wednesday, 9 July, 1980

records, of course subject to the regulations under Section 194. So I'm just wondering what this means, if anything.

MR. COSENS: Mr. Chairman, it's an attempt to provide the school boards with the authority to prevent people who they may deem to be undesirable from entering the school, or loitering in school premises. It's an attempt, I suppose, to protect the welfare of students.

MR. CHAIRMAN: 29 pass.

MR. COSENS: Mr. Chairman, could I mention that in 41(1)(e) I think it was referred to by Mr. Schroeder, that has to do with looking at the financial report. You wouldn't go to the school to look at the financial report, that would be found in the school board offices.

MR. SCHROEDER: So we really are looking at two different cases. Well, I would suppose that in a number of school divisions you would have the school board offices located in a school somewhere.

MR. COSENS: I think that would be very much the exception, Mr. Schroeder.

MR. WALDING: I seem to recall that MLAs were specifically designated as school visitors in the old Act and I'm wondering just how many decades that goes back, that it was necessary to say that an MLA can go into a school. It looks like one of the horse and buggy things from 80 years ago and (Interjection) I question the very insistence of deciding who shall be a school visitor. I mean if there are undesirable people that a principle doesn't want to cross the threshold, surely he has the authority to say, you're not allowed in here.

MR. COSENS: Mr. Chairman, as I understand it, he does not have that authority.

MR. SCHROEDER: Is the Minister saying that if someone comes into the school and if the school board has not said that this individual cannot be in the school, that the principle can't ask that individual force that individual to leave the school?

MR. COSENS: Well, certainly, yes, Mr. Chairman, he can. That particular power can be delegated to him by his employing body, the school board.

MR. CHAIRMAN: Page 29.

MR. SCHROEDER: Yes, Mr. Chairman, section 48(4) indicates that a board may suspend or expel from a school any pupil who upon investigation is found to be guilty of conduct injurious to the welfare of the school. Does the Minister not feel that that should be defined in some way? I'm thinking of, for instance, I was recently made aware of a situation where a high school had a student newspaper published and approximately half of the material in it was censored. Now somebody could have suggested that the particular type of material published or attempted to be published would have been injurious to the welfare of the school. It would seem to me that type of situation should not be one which would attract

expulsion. Does the Minister not feel that there should be some definition of the type of heinous crime required for expulsion.

MR. COSENS: Mr. Chairman, it becomes very hard to define and I think we have to place some trust in people who are employed with expertise to carry out particular functions, whether it be administration or the instructional function, that they will use proper judgment. In cases where proper judgment is not used, of course, there is recourse to the school board and then I suppose beyond that appeal can be made to the Minister.

MR. CHAIRMAN: 29 pass. Page 30 pass; Page 31. Mr. Steen.

MR. STEEN: On page 31, Mr. Chairman, motion is that section 52 of Bill 31 be amended by striking out the word "annual" in the first line thereof.

MR. COSENS: Mr. Chairman, perhaps a word of explanation. It is felt that the word "annual" is really unnecessary here and in fact may restrict flexibility of the school boards in operating their particular school divisions. By the removal of the word it provides more flexibility and (Interjection) that's right.

MR. CHAIRMAN: Page 31 as amended pass; 32 pass; 33 pass; 34 pass; 35 pass. Mr. Walding.

MR. WALDING: 56(6). I wonder if the Minister would give us an explanation of this. I note that it follows other subsections dealing with the apportioning of wards. There is a formula suggested with a representation quotient and I wonder if the Minister would explain this particular section or does it suggest that this could be undemocratic?

MR. COSENS: Mr. Chairman, the problem that we encounter here is using the population formula in its strictest sense. It does discriminate against certain school divisions where you have an urban component and a rural component. The concern in that case is that the rural component would not be adequately represented and we have attempted here to make provision that in those particular instances they could retain that ward system outside of the population quotient. In other words, they have a choice of following the population formula or existing as they now do, with the strict ward system outside of the population formula. There are certain school divisions, if we were to follow the population formula strictly, that would lose a certain amount of representation from areas of the school division.

MR. WALDING: Well, Mr. Chairman, the Minister speaks about strictness in apportioning wards and I would refer him to 57(5) which allows a figure to be set 25 percent greater or 25 percent less than the quotient and that in itself gives a ratio of five to three. If the Minister is saying that even that is somehow unfair, then it comes down to, I suppose, the philosophical question of representation by people and is one person's vote to be approximately equal to another person's vote. Do you suggest that one trustee is representing a certain amount of real

Wednesday, 9 July, 1980

estate, or is he representing people? When it comes down to that, Mr. Chairman, I suggest that all of our democratic system is based on elected representatives representing people and not real estate. If everyone is to have a vote, that only makes sense if one person's vote is approximately equal to another. What I am suggesting is that the Minister here is drifting away from that very long-standing democratic principle.

MR. COSENS: Mr. Chairman, I'm not drifting away at all. I would give two examples to the honourable member, of Brandon and Selkirk I believe are two cases in point where, if we were to follow the population formula in the strictest sense, we would be diminishing the number of trustees that represent the people of those particular school divisions, which would appear to me to be less democratic and by the provision that we have here, those two school divisions would be able to retain their present number of trustees and the rural areas that make up a considerable part of those two school divisions would retain their representation. Those are the two cases in point that I would ask the honourable member to consider, but there are as well others, I would imagine.

MR. WALDING: I do consider them and I know that that's a matter of concern to the those people who live in a more sparsely populated area. But would there be any reason why the size of the or the number of trustees could not be increased, so as to keep the same number in the more sparsely settled area and simply provide more in the more densely populated area, to keep that principle of approximate representation by population?

MR. COSENS: We have certainly left the alternative here, Mr. Chairman, so that the school divisions can make their choice. Actually we have not closed the door on either alternative. If they wish to follow the population basis in the strictest sense, they certainly may do so. They don't have to pass the by-law. But if they feel that that would discriminate against the representation that they presently have, then they are quite free not to pass the by-law.

MR. WALDING: Mr. Chairman, I wanted to question 57(8) and 57(9). And that is the matter of changes in ward structure to a referendum. I understand that this provision was in the previous PSA, and put in at a time when there were annual elections for school boards which meant that if it were decided to go for a referendum because the people in the school division wanted a change, it could be voted on next year and come into effect at the election just one year later. Since that time, we've moved to three-year terms for school divisions which means that shortly after an election if it's wanted to have a change and it's required to go to a referendum, it could be three years before there is a referendum and then following the results of that, it could be a further three years down the line, which means anywhere between three years and six years could pass before the will of the people wishing that provision actually came into effect.

MR. COSENS: Mr. Chairman, this has not been a problem, to my knowledge. I think the apprehension that the honourable member has in this regard is probably not supported in fact by practice. I can't think of any particular case in the last number of years where this held true. And, of course, elections are generally two years in a large part of the province.

MR. WALDING: Mr. Chairman, I first became aware of this, perhaps about three years ago in an urban or suburban school division, where there was some dissatisfaction and some of the residents anyway requested that such a change be made. But on looking into the Act and finding out what was involved, that there would have to be three years before it could go to a referendum and a further three years before anything could happen to it, I believe the people involved just gave up out of impatience. They couldn't wait for six years to have the changes that they wanted brought into effect. The very fact itself that either four years or six years might go by before there is an actual change made is very discouraging for people seeking such a change.

MR. COSENS: Mr. Chairman, I'm not sure where the honourable member gets his three years from. There is nothing in the Act that says the referendum would have to be held every three years or that it would have to wait for three years to be held. There's nothing that stipulates that at all in the Act.

MR. WALDING: Mr. Chairman, I was under the impression that a referendum would take place at the time of the next school board elections. If that is not so, perhaps that is a change from the previous Act, I'm not sure, but I think that answers the question that I had on that, Mr. Chairman.

MR. CHAIRMAN: Page 35 pass; Page 36 pass; Page 37 Mr. Steen. Sorry, Mr. Doern.

MR. RUSSELL DOERN (Elmwood): Mr. Chairman, I would like to speak against Part IV on page 36 and 37 if we're now dealing with that, I want to speak on it and have a voice vote on that section. This is the section which has to do with agreements with private schools and the section alone is to allow the government to make direct grants to school divisions in Manitoba. Now this really is a milestone, in that, never before in our history has a provincial government, well, let's say, at least not for 80 or 90 years, has a provincial government made a direct grant in aid of private and/or parochial schools, and although this mechanism itself does not seem to be significant, namely, that it simply takes the former procedure whereby the government paid money to school divisions and then the school divisions passed it on, so it just seems to be some sort of insignificant alteration. I think it is in fact substantial because it now paves the way for direct aid to private and parochial schools. I predict, Mr. Chairman, that it won't be long before there will be capital grants; and that it won't be long before more and more aid is given; and that this will be the result of mounting pressure on the part of the supporters of these

schools based on the precedent that this government is establishing and the fact that this is the thin edge of the wedge, which is getting thicker all the time.

The disturbing part, in addition to the philosophical question of whether or not the state should provide aid to private and parochial schools or the question further back about whether the state should provide aid to religious orders or to churches, and I'm now thinking in the broad sense, namely, that if a parochial school is church-oriented, that by giving aid to it one is, in fact, giving direct aid to churches of different faiths. Disturbing to me, in particular, is the fact that while the public school system is in fact deteriorating around us, the private and parochial schools appear to be flourishing, or if they're not flourishing, they are not deteriorating. They are either holding their own or flourishing while there is no question that the public school system is not holding it's own but is in fact facing some very serious problems.

I find it personally disturbing that some of the Minister's colleagues seem to be very staunch defenders of the private and parochial school system, I think in particular the Attorney-General, who made a strong plea about the value of private and parochial schools, the superior discipline, the better education, and so on. I wonder whether he in fact ran on that platform in the last election, and I wonder whether the Minister of Education ran on that platform in the last election. I never heard him make any statements or any of his colleagues make any statements about how they were going to undertake a new thrust in this direction.

So I find it disturbing that the Winnipeg School Division, when they come to this Minister as an example and ask for special assistance, they have the door slammed in their face. If the Minister wants to talk about special needs, he can talk about them till he's blue in the face, but I have to tell him that he has been approached time and time again, and I use "special needs" in the broad sense as opposed to only physically handicapped children, I use it in the sense of special requirements for extraordinary circumstances of poor people, of immigrant children, of transient children, and so on and so on and so on, and when these people have come, on behalf of their constituency, to the Minister and ask for special assistance for special needs for two years running, the Minister offered them not a penny more.

MR. COSENS: Wrong, wrong.

MR. DOERN: Well, the Minister can explain how he did in fact give them a penny more but my understanding is that for two years he held the grant and in the third year he provided an additional half million dollars on a request of some 7 million. So, Mr. Chairman, I look at the papers, all of us have seen that there has been a crisis in education in the past year or two. We've seen some extensive public concern; we've seen some extensive public meetings, petitions, problems; we've seen mass layoffs in the teaching profession. We're in a period now of retraction, I suppose, whereas in the Sixties there was expansion. In the last few years there has been some slowdown and we see that the teaching profession is cutting back, there are fewer opportunities. We read frequently in the paper of

dozens and dozens of teachers being eliminated in the various school divisions because of declining enrolments. I do not believe that the Minister is addressing those problems. I do not believe that he is providing sufficient funds to meet the costs of inflation. I know that at the higher levels of university and community colleges that he is failing to provide sufficient funding for that level as well.

So on one hand we have the public school system, which we are responsible for as legislators and public representatives, in trouble, and you have fewer students, you have fewer teachers, you have fewer schools, you have fewer classrooms; and on the other hand, the Minister seems intent on enriching the private and parochial school system.

I have some figures here, I think it's very clear. I've asked the Minister time and again for figures. I have some figures from him but I still don't have what I had wanted. I simply read into the record a few figures from 1972, 1973 up to 1979, 1980, so this is for the past seven years and the pattern is very clear. It's a slow but sure increase.

Seven years ago there were 44 schools and today there are 55 private and parochial schools in Manitoba, so there is an increase there, I guess, of 25 percent or whatever. In terms of students, there were 7,200 students seven years ago, there are now 8,300 students, so there is an increase of 15 percent in students; and in terms of teachers, there were some 335 teachers seven years ago and today there are some 455, so that's up about a third. I think the impression is clear that there has been progress in terms of expansion.

If you look at the public school system, we see declining enrolments and declining opportunities for teachers and others.

So I simply say, in conclusion, Mr. Chairman, that I speak against this section and I vote against this section. I think that while the Minister is nurturing the private and parochial school system, he is starving the public school system because he is not providing adequate funding for his main responsibility, if not his only responsibility. I would like to remind him that is his main responsibility, the Manitoba public school system.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, I also wish to speak on this section. Needless to say, I disagree completely with the remarks of my colleague. I find his words, as his dress, obscene. And, Mr. Chairman, I think the important thing here that the first thing that we should think of is not endangering the public school system.

Secondly, we must recognize the parental rights in education. I think I have, even if I'm a member of the minority, I have a word to say, all my children will be educated. I don't think that I have to leave that in the hands of Mr. Doern, not more than I would try to be bold enough to tell him how he should educate his children. I believe in equal opportunity and that was mentioned by all the members of this committee. I believe in equal opportunity for all children.

I find it ridiculous to compare, to say because there are problems in the public schools, if there are any and there will be, and there always will be and

Wednesday, 9 July, 1980

here always were, when you're dealing with so many children, no matter what government is in power and they will always want more and more and that's the way our system works. But to say this is caused by the private schools because they're progressing is the same thing as for a sports minded person to say, well, let's dissolve, let's wreck the Yankees a few years ago when they won so many pennants, or the Montreal Canadians. That's not the way to go. You go if somebody is progressing, you look at what they're doing and you build up the league or the teams or the system; you don't tear it down.

And, Mr. Chairman, this is so unjust, to say, well, all right, they should have more money; at the expense of who? At the expense of other people. Aren't we citizens of Manitoba? Don't we count? Don't we have a right to educate our children? We're receiving more. The private schools and the parochial schools are getting less, way less money than the public schools, and if they are such a success that my honourable friend is concerned because they are progressing so well, why doesn't he instead look at what's going on and maybe they can borrow a leaf from their book, if that is the case.

I don't think the public schools are that bad or are suffering that much. The comparison doesn't stand up. It's just like saying, well, if we spend less money on health in the north, we'll be able to give more to the people in the south. They are Canadians, they are Manitobans, and they have a right to be educated. If the system is not in danger and if they are following the prescribed curriculum, there's nothing wrong. It shows complete ignorance to say that these schools, parochial schools, are church-oriented. What is a church? What do they preach? This is not going to make a church any richer. It is a certain group in society who feel that there is more education than just trying to teach how to make the bucks. That is important but that is not the only important thing.

There are a lot of things that you have to look at. You'll have to face the reality of life, the problems in life, and this is an education that we try to give our students in parochial schools. If other people do not want that or want less of that or want to emphasize in the material part of it and the dollar sign, that's their business. But, Mr. Chairman, I commend the government for making these changes this year. The only change there was, of course I'm going to support it, was in effect, going along with the amendment that I made last year in this committee that it was out of order because it was dealing with money.

The member that just spoke tried to put words in the mouth of the Manitoba Teachers' Society, to say that they were against it. What they said, if there is a grant, if the senior level of government decides to make a grant, to make some money available to them, why should we have the responsibility of financing it out? And they are saying they agree with this amendment. Now they are saying that as far as the public school system, where they can help it is in the shared services. That's all they said. Some members might be, and some of the school trustees might be against that. This is something that they've . . . And to say to somebody that you run on that, are we asking that question on every single item that is brought in, on any piece of legislation? For the

edification of the members of this board, I ran on that. One of the main reasons I came into politics was to try to correct this injustice and it was a gross injustice that was perpetuated for a hundred years or so and finally somebody has the guts to do something about it.

I commend them and I commend all the members of the House that have tried to arrive at something. And to say that maybe they will be asking more, I would imagine that they will. Any group, any pressure group, we've heard, and the member himself, the delegation of people on day care, and they said, we'll always ask for more, we'll never be satisfied. We won't get all we want, all we ask for, but the minute that we keep being militant is the time we go down. I think that I will be satisfied, for one, and I serve notice, and I don't play games, that I will be satisfied when there's parity between the two groups, when there is equal opportunity for both, providing of course, and I'll repeat this, that I do not want to endanger the public school system.

Now this is something that was brought in by the former government, of which the last speaker was a member. They did it in a way that became the question mark as to were they doing it legally? It was made legal last year, that's all, and this year they're doing the next step of saying, well, if it was legal, we might as well do it ourselves. This government, although I do not agree with them in all instances, have the mandate to do it and I don't think they have to be reminded, it's certainly the right of every member to remind them if they want, that they'll have to stand or fall on their record and all their records, not only on this legislation. I have no fear of saying that I will continue to be part of my campaign, I couldn't dissociate myself from this if I wanted to and I've been fairly successful so I have no hesitation in supporting this and I disagree very very strongly with the words of the last speaker.

MR. CHAIRMAN: Mr. Cosens.

MR. COSENS: Mr. Chairman, I'd like to address my remarks basically to the changes that have resulted in this particular area and perhaps not address some of the remarks made by Mr. Doern, who has ridden that particular hobby-horse before and I know that he has a blind spot here and he also denies the history of this particular area. I remind him that the shared service legislation has existed for some years in this province and under his particular government for a number of years, aid was provided to private schools in a very questionable way, a veey questionable way. Five school divisions did avail themselves of that method of funding private schools, that was questioned, and questioned very seriously by legal minds in this province.

In 1978 this government clarified that particular legislation by making it possible for private schools to receive financial assistance for children receiving instruction in the private school. In other words, what we did was, we legalized what had been going on for a number of years in a questionable manner. We did not increase the amount of money that was provided for assistance to private schools. That formula has not changed, Mr. Chairman. It will not change under this particular Act. Private schools are not receiving

Wednesday, 9 July, 1980

more money today than they were receiving three years ago or four years ago, at all.

The only change that we are making in this particular Act under 60(5), is that, rather than the money to the private schools going through the school board's hands and then to the private school, in other words, the school board being a conduit for those funds, the money will go directly from the provincial government to the private school. And this, Mr. Chairman, is at the request of the Manitoba Association of School Trustees, who have said that they don't want to be the conduit, that they don't want to become the bookkeeper in this particular process. By resolution, at several of their conventions, they have made that particular request to the government and we have acted on it in this particular Act and that, Mr. Chairman, is simply what is taking place. I'm not going to respond to the member's remarks about the problems in the public school system. I think Mr. Desjardins did that quite adequately.

If the Member for Elmwood feels that we can somehow solve the problem of declining enrolment, then I wish he could give us the solution. It's called not enough babies being born, Mr. Chairman, and if he has a solution for that, I'd like to hear it, because that is the problem that bedevils the system at this time. Of course it is creating all sorts of pressures as far as physical accommodation is concerned, it is certainly creating problems as far as staffing numbers are concerned, but these are not problems, Mr. Chairman, that have resulted from the action of any particular government. They resulted, I would suggest, perhaps from lifestyles in our society and it's a problem that we will have to cope with to the best of our ability. But certainly I don't think it reflects on any particular school system, the fact that less children are being born in our society. It does create problems though and will keep creating problems well into the late 1980s.

So I say again, Mr. Chairman, that the only particular change in this Act as far as private schools are concerned is in the method that the moneys that they will receive are paid and rather than the school boards being a conduit for those funds, that money will now go directly from the provincial government. Again, I remind you, Mr. Chairman, and members of the committee, on the request of the Manitoba Association of School Trustees, the Manitoba Association of School Business Officials who, through resolution, have petitioned us to make this particular change.

I would suggest also, Mr. Chairman, that there is a slight amendment, a word change, in 60(5), the word "prescribed" in the first line of part (a) should be changed to "approved". Do you have that particular amendment?

MR. CHAIRMAN: Mr. Doern.

MR. DOERN: Mr. Chairman, first to my colleague, Mr. Desjardins, I must say, at first I didn't recognize him. I thought he was a Hawaiian tourist and I want to say to him that he and I have debated this matter, I guess, since 1966. We debated it in 1967 in my riding, in front of my constituents, at my political peril, and I imagine that 14 years from now, or 13 years from now, we'll still be debating it. He'll still be

maintaining his position and I will be maintaining mine, and I do not object to him fighting for what he believes in and I'm sure he . . .

MR. CHAIRMAN: May I just, if I may, try and bring debate back before the bill that's before us and the sections that are before us, if I could.

Mr. Doern.

MR. DOERN: Mr. Chairman, I intend to speak in the terms that I am. I'm speaking on the principle, I'm speaking on the section. The section has to do with changes which are fundamental in terms of the financing of private and parochial schools and I am not in favor of the degree of funding and the manner of funding of private and parochial schools that this government has undertaken.

I wanted to say to Mr. Desjardins in passing, I don't know if he meant this but he said something about the Teachers Society, trying to put words into the Teachers Society's mouth. I think he must have been talking about the school divisions complaining about the fact that funds were passed to them and then that they had to pass it on. I want to tell him that the position of the Teachers' Society and I read from their brief of July 1980 is that they said that, "it is the policy of the Society that assistance only be provided through shared services," that they are obviously not in favor of direct funding but they are in favor of the shared services concept, which was well established in Manitoba.

Mr. Chairman, I want to say to the Minister that if he had problems with what the New Democratic government had done, he suggested that the New Democratic government had done things which were not correct in his view. If he's the Minister and he thought they weren't correct, he should have eliminated them. He's now telling us that he thought they were incorrect and he's legitimizing them and extending them and expanding upon them. That strikes me as a peculiar position. If he didn't like what was done, then he should have had some changes made.

I also want to say to the members of the Conservative Party that when a resolution came before this House, the House in the 1970s, that they voted 18 to 1 against even a study of the question. They were so bitterly opposed to aid to private and parochial schools, they couldn't even countenance a study, they couldn't bear the thought, because that study might have led to some funding of private and parochial schools, so they shot that down. And then when they become the government they bring in measures which they never discuss, they never talked about during an election campaign. I say they have no mandate to do what they are in fact doing. They were 95 percent against it; now they are 100 percent in favour of private and parochial schools, which seems to me that they are now standing on their head.

The other points that I make, Mr. Chairman, is to the main question which is, is this government a staunch supporter of the public school system which to me is the fundamental question. Is this Minister a staunch defender of the public school system? I say he is not. I say his government is not because they are not coming up with the dollars. They are not keeping abreast of inflation and they are, at the

Wednesday, 9 July, 1980

same time, channelling some of their funds into an alternative school system.

Mr. Chairman, I simply say in conclusion that, sure the Minister says the problem is the birth rate. He says you tell me the answer, you tell me how to increase the birth rate and all our problems will be solved. I want to tell him that's not the only problem. It is not the only problem, the declining birth rate. The other alternative, the other problem that this government has that they are not tackling is out-migration. There are people leaving this province with families and, in particular, the people who are in their twenties and thirties and their early forties, that is always the problem area in Manitoba and there has been a steady increasing flow of people outside this province. Ten thousand people left last year. You want pupils, you want students to fill your classrooms, and you want taxpayers; you better tackle the economy. You better do something about the fact that Manitoba is in an economic doldrums. So I'm not sure that our government can do much about the birth rate, but I am certain that our government can do a lot about economic prosperity which I believe will keep a higher number of people, taxpayers and students in the province of Manitoba.

MR. CHAIRMAN: Mr. Doern, you have ranged very widely from the subject matter that's before the committee. I hope that the rest of the members will stay in Part 4 of the Act that's before us, otherwise we'll be here the rest of the summer.

Mr. Steen.

MR. STEEN: Mr. Chairman, I just want, through you, to Mr. Doern say that at a public meeting held at the St. Ignatius School, which is a private school in the Crescentwood area, the question was asked of the candidates of the three major parties, did they support shared services? I believe I was the only one of those three that said they did and I said that if we became the government that I would do everything in my power to convince my colleagues to clarify the matter that they had in obtaining funds from the Winnipeg School Division. So when you ask whether, sir, whether certain candidates who ran in the last election stood for shared services or did not stand for them, I can tell you that I did at a public meeting.

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Mr. Chairman, it would appear that we are heading away from shared services here in direct grants, but I would like to ask either the Minister or Mr. Balkaran about the wording of Section 60(5). It doesn't make sense to me. I read it and somehow it seems the first line, for instance, the Minister may pay to the private school by way of grants under the regulations. Shouldn't it be the Minister may pay funds to the private schools by way of grants? That's No. 1. It seems there is nothing referring to money in there anywhere. It seems like incorrect English.

Secondly, we say in the first paragraph that the Minister may pay some funds to the private schools if he is satisfied that (a) and (b) exist, both (a) and (b). Then we go on in that very same section to say, or, that is the Minister may pay to the private school by way of grants under the regulations, etc., where

the Minister is satisfied that, and then there is an "or" after paragraph (b), satisfied that or in respect of any of the matters mentioned in clauses (a) and (b) and the provisions of Parts I and IX authorizing the making of regulations respecting grants and authorizing the making of grants apply thereto, mutatis mutandis. I would suggest that is very very confusing English. I would hope that something will be done about it and I would also hope that the Minister would explain exactly what that last paragraph of Section 60(5) means.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, following on from what Mr. Schroeder said. My colleague from Elmwood said at the opening of his remarks that there will be no grants for capital purposes to private schools and that he thought this might come at some time in the future. I'd like to ask the Minister whether 60(5) would allow or does allow the Minister to make capital grants to private schools?

MR. CHAIRMAN: Mr. Doern.

MR. WALDING: I'm asking the Minister, Mr. Chairman.

MR. CHAIRMAN: Well, I was just taking them in order. The Minister.

MR. COSENS: No, Mr. Chairman, it does not, that is not the practice at the present time. I suppose a government could make that particular decision and make that provision in regulations to do that, but that is not the practice nor our intention at this time.

MR. WALDING: Mr. Chairman, I read in that whole section and it's a long one but it starts off with the Minister who may make grants, and then it says, the provisions of Part I and IX authorizing the making of regulations respecting grants apply thereto. Which I presume means thereto, under this Part IV. And if you turn to Section 9 to see what the section is that applies, you will find, for example, 172 which says that the Finance Board may make grants in respect of, and (g) says construction of schools or improvements or addition to schools of capital nature. Now that's a bit convolutive there, Mr. Chairman, but I'm suggesting that if you follow it through, the sections enumerated there, it would seem that regulations can be made having to do with a number of different grants and Part IX deals with grants and levies; that it would seem to be able to be construed as the ability to make grants to private schools.

MR. COSENS: Mr. Chairman, I have to admit that this is a rather complicated section, but the provisions, Parts I and IX apply not to the children receiving instruction in the private schools, but those in the private schools who would go to the public school to receive instruction. The old shared service concept where the instruction is supplied by the public school, the moneys are still paid to the public school and, hence, the reference to the Public Schools Finance Board who does pay all of the grants that go to the public school system. Once

Wednesday, 9 July, 1980

again, Mr. Chairman, where the children from the private school are receiving instruction in a public school, then those funds are paid by the Public Schools Finance Board to the public school division board.

MR. WALDING: To follow up on that statement, Mr. Chairman, it would seem that 60(2) deals with agreements in the public schools. 60(6), under which this wording occurs is headed "Grants to private schools" and the paragraph begins, "The Minister may pay to the private school by way of grants". If this payment at the end of the section applies to payments to public schools or to school divisions, it would lead me to ask why it is under the heading of Grants to private schools, and why the paragraph begins in that manner?

MR. COSENS: Mr. Chairman, there may be good reason here to clarify the wording and perhaps we could ask the legal counsel to take a look at that now and suggest a clarification.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, I have some difficulty because 60(5), the first line speaks of grants to private schools, and I don't know how you can change that heading to anything else but "Grants to private schools". But as you read on, the reference to Parts I and IX, there is only a reference to say that those parts authorizing the making of regulations respecting grants apply with respect to the grants to private schools.

MR. CHAIRMAN: Mr. Doern.

MR. DOERN: Mr. Chairman, I have a concern there, too. I don't know if my colleague is finished or not.

MR. CHAIRMAN: Mr. Schroeder and then Mr. Desjardins.

MR. DOERN: No, is Mr. Walding through?

MR. WALDING: I'm not sure that I had finished, Mr. Chairman. I'm just looking back over Part IX and I find it has to do with balance assessment, equalized assessment, foundation programs and things of that nature. It's headed "Grants and levies to school divisions", none of which would seem to have much relevance in grants to private schools. It would then seem odd why the provisions of Part IX and the regulations under them apply to grants to private schools, since grants to private schools are paid on a different basis than those to public schools.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, I wonder, to Mr. Walding and the Minister, Mr. Balkaran, would that improve the situation if the last paragraph, if there was a way that you could work it under 60(2), because, you see, the heading is "Grant to private schools" and it could be misleading. If this was worded under 60(2), which is an agreement with the school board, I think that would improve the situation.

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: It seems that we all agree that there should be some changes made. I would suggest that we just take Part IV and put it to the end of the program and continue on, and maybe in the meantime, counsel could come up with something and we can get on with the program.

MR. DESJARDINS: Mr. Chairman, as a member, I'll agree to this on one condition, that it's not going to reopen all the discussion on the principle of Part IV just for clarification of that section. I would hope that this is what the member means, that we don't reopen the whole thing on Part IV again.

MR. CHAIRMAN: Mr. Doern.

MR. DOERN: Mr. Chairman, I just want to say that I would concur with an examination of that section to be held aside because I read that exactly as indicated by my colleague, Mr. Walding, that this to me means that there can be, in fact, direct grants for construction or renovations of schools. So if that's what the Minister wants he should say so, and if not, he should change the wording.

MR. COSENS: No, Mr. Chairman, that is not what we want at all. We're attempting to clarify this section so that it can apply where the services are offered also in the public school.

MR. CHAIRMAN: It is agreed then, we set aside Part IV until a later Mr. Doern.

MR. DOERN: Then why are we doing it here?

MR. CHAIRMAN: 60(5), yes.

MR. DOERN: Mr. Chairman, just one brief comment here. I wanted to reply to something that was indicated by the Member for Crescentwood. He said with some pride that he had taken a public stand in favour of shared services and I commend him for taking that stand in public, but I have to tell him that he doesn't know what is in this bill. This bill does not continue shared services, it eliminates shared services. This bill, in fact, is a bill that has direct funding of private and parochial schools and spells the end of the Roblin government's program of shared services. So I think that we can obviously count on him to sustain that position and he should also vote against this section if he got elected on the basis that he was for shared services, he is obviously in opposition to Part IV.

MR. WALDING: Mr. Chairman, I had a suggestion that we'd approve this section and just lay it over this one part of it, that's not satisfactory to me. Even though I've made this suggestion of a change in 65 I'm still opposed to Part IV and I want the opportunity to vote against it.

I also had a couple of other questions on private schools, as such, not directly under 60(5). I wonder if I might just raise those with the Minister? Again, while they're working on it. Mr. Chairman, I notice that private schools are defined, either in this Act or in 19, as "those private schools that are entitled to receive public funds." There seems to be no

Wednesday, 9 July, 1980

definition at all of any private school that is not eligible to receive public funds. There is a considerable vagueness throughout the Act as to what the status of those are. It would seem that the Minister is setting up two classes of private schools, those receiving public aid and those not. I wonder if he would care to comment on this matter and just what is the status of those private schools who do not wish to receive public money. Are they not subject to the same restrictions and criteria for teaching certain subjects and certification of teachers and other things of that nature?

MR. COSENS: Mr. Chairman, in Bill 19(1)(g) under definitions, a private school is defined as "any school other than a public school which provides a curriculum and a standard of education equivalent to that provided by the public schools."

MR. WALDING: Yes, I read that. But then again, under the heading of Grants to Private Schools, it would seem that there is no reference, no requirements for public schools not receiving financial aid to meet any sorts of standards at all. Is this the Minister's intent.

MR. COSENS: Mr. Chairman, I refer the honourable member again to Bill 19(1)(g) where it says "A school which provides a curriculum and a standard of education equivalent to that provided by the public schools." In Bill 31, where private schools are applying for financial assistance, then not only is that addressed, but also the fact that they must have certified teachers.

MR. WALDING: Right, Mr. Chairman, so what definition do we then have for those private schools that do not provide the equivalent standard of education and so do not apply for public funding? Are there no standards for those schools, or is it just not a private school? Is it now to be some other designation, public schools, private schools and elsewhere is a word used somewhere.

MR. COSENS: Mr. Chairman, whether they apply for financial assistance or not, they are still required to provide a curriculum and a standard of education equivalent to that provided by the public schools.

MR. WALDING: Well, Mr. Chairman, again that's not my reading of it. (1)(g) in 19 says "a private school means any school other than a public school which provides a curriculum and a standard of education." Now if there is a school which is outside the public school system that does not provide a curriculum and a standard of education equivalent to that in the public schools, presumably it doesn't meet the definition of a private school, therefore it is not a private school. If it is not a public school and it's not a private school, what is it?

MR. COSENS: Then, Mr. Chairman, if we are to carry that to its logical extension, under the attendance portion, I believe, of the Act, Section 261, then in that case it is not a school and is not providing education to the children and the parents are liable under the attendance policy.

MR. WALDING: Can the Minister then confirm that a parent teaching his or her children at home would also come under the same category?

MR. COSENS: Yes, Mr. Chairman, there will be an amendment in (1)(g) of Bill 19, however, to take into recognition that particular category or situation.

MR. WALDING: Mr. Chairman, under 261, yes, here we have the expression "at home or elsewhere" and it's the elsewhere category that I'm concerned about here. It would seem, well maybe I should ask the question later when we get to 261, that the field representative apparently can certify the elsewhere. And also I believe that the Minister can excuse a child from school under those provisions. So what the Minister is saying is that there can be a third category of standard of school.

MR. COSENS: Yes, that's right. For the home schooler.

MR. WALDING: In other words a standard less than a curriculum and a standard of education equivalent to that in the public schools. This apparently is to be accepted in the future.

MR. COSENS: No. Regardless of whether it is in what we understand as a private school, Mr. Chairman, or whether the child is being educated at home, they must be following a curriculum and achieving a standard of education equivalent to that found in the public school system. I believe the Act at the present time says "a satisfactory standard" under 261(b) and it would be my intention, Mr. Chairman, to amend that so that it would read the same as the qualification for the students in the private school.

MR. WALDING: Okay. Thank you.

MR. DESJARDINS: Before we, I think it was understood unless you were ready with 65, could we take into consideration, instead of changing it again, the amendment that we have in front of us, changing the word "prescribed" to "approved" and then you'll have it all at once.

MR. COSENS: Mr. Chairman, perhaps I can explain the necessity for that. In Bill 19, it says the Minister will approve courses, or may approve courses, and the word "prescribed" is not used and I think to be consistent then we should be using "approved" here as well. It's a minor change, Mr. Chairman, but I think we should be consistent.

MR. WALDING: "Prescribed" is in section (b) as well, do you want to change that as well? Teaching the "prescribed" courses?

MR. COSENS: That's right. That's right. So we would change it in (b) also.

MR. CHAIRMAN: Approved. Mr. Steen.

MR. STEEN: Do you need that read into the record or is it just acceptable the way it is?

MR. CHAIRMAN: It is just a correction. We correct 65(a) at the end of the first line and strike out the word "prescribed", and put in the word "approved" and (b) after the fifth word strike out again "prescribed" in the first line and change to the word "approved". Are you all agreed to that? (Agreed)
Now, Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, I don't know whether members will accept this but in 65 in the first and second line, the suggestion would be to strike out the words "under the regulations" so that it reads "The Minister may pay to the private school by way of grants in respect of instructions etc." and then in the third line from the bottom of the subsection, strike out all the words after the letter (b) and substitute the words "and the Minister may make regulations respecting the making of grants under this subsection."

MR. DESJARDINS: That would take care of the business of capital, it would only be with regard to (a) and (b).

MR. BALKARAN: That's right.

MR. CHAIRMAN: Agreed? Mr. Schroeder.

MR. SCHROEDER: Mr. Chairman, (Interjection) Yes, Mr. Chairman, I still don't follow the logic of this section. What it says is that the Minister may pay grants to private schools with respect to instruction and services where he is satisfied that two things in fact, are in existence. One is that the school teaches a sufficient number of approved courses and the second is that the teachers teaching the prescribed courses to the children hold valid teaching certificates.

Okay, so it says you can make grants if that is the case. What I don't understand is why it then goes on to say "or in respect of any of the matters mentioned, in clauses (a) and (b)." I just don't think it makes grammatical sense, I think it's incorrect logically.

MR. BALKARAN: Mr. Chairman, I think all those words in the last three lines could be deleted and the words I've just read be substituted therefore, if that's acceptable.

MR. SCHROEDER: Yes, so that it would read (a) and (b) and then underneath (b) there would be a new paragraph saying "The Minister may make regulations respecting the making of grants under this subsection." Yes, that would make sense yes.

MR. CHAIRMAN: Okay, as amended Part IV pass; or page 36. Mr. Doern.

MR. DOERN: Well, Mr. Chairman, I don't want to get hung up in technicalities. I think we're agreeing to those changes, now I think we want to vote on section IV as amended.

MR. CHAIRMAN: The proposed Part IV as amended.

A COUNTED VOTE was taken the result being as follows:

MR. CLERK: Yeas 6; Nays 2.

MR. CHAIRMAN: Part IV passed. Part V, Page 37 pass; Page 38 pass; Page 39 pass; Page 40 pass.

Mr. Walding.

MR. WALDING: Mr. Chairman, I just wanted to question 79(2)(e) as to why it is necessary to put a 50 percent amount in that particular section. The Minister has mentioned that he has some pilot passage in Ukrainian. Why should that be arbitrarily, and by the Act, limited to 50 percent, if it should be the wish of the division or at the request of the parents? Why couldn't it be 90 percent?

MR. COSENS: I suppose, Mr. Chairman, through you to Mr. Walding, it very well could be but in the case of the heritage language program that we brought in, that particular pilot program dealing, hopefully not only with the Ukrainian language, but hopefully we will expand it into other languages in the future, it was determined that the 50 percent course would be the ideal and the model that we would follow. At this point, there is no necessity to look at any other particular percentage in regard to those particular pilot courses. There may be at some point in the future a necessity to change that particular percentage.

MR. WALDING: Mr. Chairman, people who are involved with the teaching of French as an Immersion language, some of them say that 50 percent is not enough, it has to be 90 percent entirely in that language other than the teaching of English as a subject. Now I don't know whether that's right or whether the 50 percent is right either, I know that opinions vary on it. But what I am questioning is why it has to be pinned down in this particular section at 50 percent. Why it isn't left more open to the wishes of the parents involved, whether they want it 10 percent, 50 percent, or 90 percent.

MR. COSENS: Mr. Chairman, I suggest to the honourable member that the 50 percent is responding to the wishes of the parents in this particular case and to the particular parameters that were drawn up for this program, based not only on our experience with the French language in the 50-50 but the experience in other jurisdictions of the teaching of languages other than English or French.

MR. WALDING: Mr. Chairman, I'm questioning why it has to be in the Act itself when it's a pilot project on a fairly limited basis. This rather ties it down for the future unless the Legislature itself comes back and says no, it could be 60 percent or it could be 70 percent, or would it not be better for something like that to be in the regulations or simply make it permissible for the teaching of in a language? Would it not serve the purpose if (e) were deleted from there?

MR. COSENS: Mr. Chairman, we must have it in to provide the authority for that type of course to be offered in this province and I can only say to the honourable member at this point that this is certainly filling the particular need in this case and I can see

Wednesday, 9 July, 1980

no necessity for any change at this point. There may fairly well, two or three years in the future, be some necessity to look at a modification or an amendment to that. At this point, I can't see that.

MR. WALDING: Mr. Chairman, I made the suggestion that we really didn't need (e) and the Minister says you need it to authorize the school board to do it. I would refer him to 72(2) itself which says, "When authorized by the school board, a language other than English or French may be used in any school." Now that's surely authorizes a school board to do it on a pilot project or any other basis. All I'm suggesting is, questioning, is why the Minister pins it down at 50 percent. What would be the effect if (e) were deleted altogether?

MR. COSENS: Mr. Chairman, it is necessary, under the pilot program that we have in place at this time, that it be 50 percent. This was the decision of the particular committee drawing up the course, that it would follow those guidelines and we have adhered to that particular guideline and would intend to do so as long as it appears successful and it's meeting the needs and is satisfactory to the parents of the children involved and to the school boards that are using the course.

MR. WALDING: All right, Mr. Chairman, I'm not going to make a big issue of it.

MR. CHAIRMAN: 41 pass. Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, I have a number of amendments. I hope that the Minister and the members of government will keep an open mind on that. I think these are quite important amendments. I would like to have, first of all, in 79(3), the amendment is that the word "may" in the fourth line be deleted and replaced by the word "shall", and that the words "and upon" in the fourth line, all the words in the fifth and sixth lines, and the words "the school board should group these pupils" in the seventh line, be deleted.

Mr. Chairman, it seems to me that this has just caused more problems than are necessary. It states here that they can have French as a teaching language for those whose parents desire them to be instructed in a class where English or French is used. Now why do we have to say "may" and then let the onus, if it's clear, according to this, that this is what the parents want and the students also enrolled in these classes, why do we have to say then upon a petition? You start petition, the onus is on them, and it has in the past, caused nothing but trouble. I can say, Mr. Chairman, that I was one of the members that was quite instrumental in the wording and the preparation of Bill 113 and of course, after a few years, you see some of the changes and I don't think that this is helpful at all. I think that we can go, it already states that this is what the parents want and why take that in two steps and just cause more problems than needed. I would suggest that we consider this resolution. If it helps, I can say the way it would read now, it would say, "Where in any school division or school district there are 23 or more pupils who may be grouped in a class and whose parents desire them to be instructed in a

class in which English or French is used as the language of instruction, the school board shall group those pupils in a class for instruction provided for the use of English or French as the case may be as the language of instruction in the class."

MR. CHAIRMAN: Mr. Cosens.

MR. COSENS: Mr. Chairman, I'm just examining the wording. It certainly is not counter to what in fact is happening and just on first reading I don't see a great deal of problem with this at this point. I'd just like a minute to examine it. Perhaps someone else may have some concern with it.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, just one question arises from this. The amendment suggests that the instruction will be in one language or the other. There is another option at the moment that is being exercised by the choice of some parents and some school boards and that is to have a bilingual instruction. It would seem that the amendment precludes that and I wouldn't want that option taken away from those parents who now want it and I wonder if the mover would consider an amendment, "English or French or both", to add the words "or both or bilingual" or words to that affect so as not to preclude that option.

MR. DESJARDINS: I don't think that my amendment precludes anything that was in that section. The only thing that it changes, it says that it will be done and you don't have to sign a petition. And of course, if they're not wanted, the school division would still have the right to bring this program the way they have it now. I don't think it would change anything with that.

MR. COSENS: Mr. Chairman, that is a concern that I have just on first reading of the amendment that it precludes the petition of the parents as suggested by Mr. Desjardins.

MR. DESJARDINS: I have no objection to including the added words of my colleague, Mr. Walding.

MR. COSENS: Mr. Chairman, I don't see any real problem with the amendment. It is really following what is being done in practice. I think I could support the amendment.

MR. CHAIRMAN: Why don't we get it correct then, because we're adding after the words "English, French or both" in the third line, right there, "or both" and then again in the second last line. It's in there two or three places.

MR. DESJARDINS: Yes, but we're deleting all that.

MR. COSENS: Mr. Chairman, I would be rather concerned if we were not to leave the right of petition there.

MR. DESJARDINS: Well, that's the purpose of my amendment. You would just change the word "may" to the word "shall".

Wednesday, 9 July, 1980

A MEMBER: From "may" to "shall", that's all.

MR. DESJARDINS: All right, if you want to change the word "shall" and if you want to . . . but the petition in that case won't be needed except if there is a debate on the type of . . .

MR. COSENS: I think, Mr. Chairman, if I can suggest to Mr. Desjardins, if you don't leave that right of petition there, it more or less precludes the opportunity for parents to make their wishes known.

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Mr. Chairman, it would seem to me that on a reading of the section after the amendment, that although we don't then talk about a petition, there would be obviously be a right to a petition because the section would read that "Where there are parents of more than 23 pupils who desire that their children will be educated in either English or French, that there shall then be a class." Now if there is any question as to whether there are 23 or not, then obviously there would be a petition which would determine the matter. And if there were the parents of 23 children who said we are desirous of this course, then that would end it, it would seem to me.

MR. BALKARAN: Mr. Chairman, I can see what Mr. Schroeder is talking about, but the 23 or more upon the desire of the parents, puts the school board in a position where they shall group those pupils. If there are less, it can still group them if there is a petition and if you didn't have that in, then those . . .

MR. DESJARDINS: No, not under this clause. There is another clause later on that the Minister may, but under this clause you must have 23.

MR. SHCORDER: Oh, I see, that clarifies it, okay.

MR. DESJARDINS: Mr. Chairman, I have another one.

MR. CHAIRMAN: Just a minute, wait until we get this one straightened out.

Okay, Page 41 as amended pass.

MR. BALKARAN: There's just one change, Mr. Chairman. The word "may" in the fourth line, after board, is changed to "shall".

MR. WALDING: Mr. Chairman, I believe it was also our intent to put the words "or both" in after "English and French" where it comes in.

MR. BALKARAN: It doesn't matter. I don't think it's precluded even without the words "or both".

MR. DESJARDINS: It's not in there now, if they don't want all French, well there won't be 23 pupils whose parents want them to and if they want a different program, worked by the school division, if there are 23 then that's it.

MR. WALDING: Well, I'm afraid that it might be used by the opponents of the bilingual course by saying that it doesn't say in here that you can have it

bilingual, therefore it's not possible. By putting those words in it indicates that . . .

MR. BALKARAN: Mr. Chairman, in construing statutes, generally, for instance, you have a provision that might say the Minister may do (a) or (b) and the courts have consistently held that doesn't preclude the Minister from not doing both.

MR. DESJARDINS: That hasn't been a problem now. It's been a battle but not a . . .

MR. CHAIRMAN: Agreed? On page 42.

MR. DESJARDINS: Page 42, yes I have another one, a new section 79(3)(b). The following new subsection 79(3)(b) be added on; it would read "where in any school division or school district, there is a sufficient number of classes where English or French is used as the language of instruction, and which may be grouped in a public school, the school board shall group those classes in a public school and the administration/operation of such public schools shall be carried out in the same language as the language of instruction" and 79(4) I won't read it as this time, it would be passed only if (3) is accepted. It's just a number now.

Mr. Chairman, I think this is probably the point of contention. Something that is quite important. I am suggesting that we go one step further. When Bill 113 was passed it was felt that that was automatic, that there was this section that if you had enough students to have a class, you'd have a class and if you had enough classes to have a school, you'd have a school. And this is what is suggested here. That's probably the most important amendment that I have and it's caused nothing but problems so far. It seems that at times we say, well it's up to the school division and the school division at times has agreed to that and then there's a block somewhere. It is always those people that want this that have caused divisiveness, there's a fight every time there's a school going on.

Now I'm not suggesting that automatically there'll be a French school. This is not what I'm suggesting. It will be same as what is being done now for an English school. But when there are a sufficient number of classes, and a school doesn't necessarily mean a building. It could be that a school could be a French school within a building and in the same building you would have the immersion course also, if there's not enough room. But that you recognize the fact that if you have classrooms, that you can have a school. I want it to be clear that I'm not suggesting that every time there's a and the word is sufficient we're not putting in a certain number in and saying then you must build a school or give them a school, but it is recognizing a school which is not recognized at this time.

MR. COSENS: Mr. Chairman, I cannot support this particular amendment. I feel that we have to leave these decisions in the hands of the locally elected people and as a result I would have great difficulty in supporting this particular amendment.

MR. DESJARDINS: Well, Mr. Chairman, then maybe the Minister will answer me a question? If he wants

Wednesday, 9 July, 1980

That he just stated that he wants, if he wants to have that in the school division, why isn't there something done in the Seine School Division, for instance, because it is clear that unanimously there is a recommendation from the board. In the past it's been that when something doesn't work it's the board that doesn't want it. When the board is unanimous in wanting something, there's all kinds of problems. You know, we either recognize the right of these people to have these classrooms and to have these schools or we don't. The First Minister of this province has constantly said that he doesn't think there's a need to enshrine language rights in a constitution, he feels that it's up to the provincial government to act on that and we're not getting any action on this at all. It has caused nothing but problems, any time that there is a need for that it has caused problems. It has caused problems in St. Norbert, it has caused problems all over the place. I'm not suggesting that you start building a bunch of new schools. I'm not suggesting that at all. I'm suggesting, and it seems very simple, I'm suggesting that if there are enough classrooms to have a school, that you group them together and have a school and why can't that be done? I'm not even suggesting that there has to be in a separate building. I'm talking about you're going to have a school, and that's very important, you have to have a school, the language of administration has to be that language if you, for instance, if you're talking about where Français is taught, the language of administration is important, the language that is used in recreation and so on, is also important.

There is no way, when there is such a minority in a province such as Manitoba, that you can go ahead and say well, all right, you can teach in the schools and as soon as you get out of a school everything is in English again. There is no doubt, there is provision in this bill that there'll be sufficient and the Minister certainly has been instructed to make sure that there's enough English. There is no way that I want any people in Manitoba not to have sufficient teaching of English to be bilingual, those that are taking French. And I can't see why the Minister would object to that. He says that he won't put out on what grounds? I think I am entitled to an explanation. What problem would it cause? I am simply stating that if there are enough classrooms you group them together and you have a school, where they could have their own administration and that could be a French school. Now if there are only two classrooms, of course, that's not going to be the case. And as I say again, I don't want to repeat continually but I don't mean by a school, a building. There are certain areas where you have a school, a French school and an immersion school. Or that you could have a French school and an English school, but the administration of these classrooms is done in French.

You know, we go on record as saying all kinds of nice words and we're going to help this thing to come along, we're going to correct the injustice that was brought about in 1890 and even before that, when the schools were pretty close to the parochial school, before the Revolution tranquille in Quebec which separated the question of language and religion and I am asking something which is certainly, I don't think is not reasonable and I can't see what

would cause this problem. And I'm ready, Mr. Chairman, if this might help, instead of the Minister making a snap decision now, that he may regret and that I certainly will regret, I'm ready to propose, in this Section on 79, propose my other amendments that he might have time to look at and discuss with his colleagues, if need be, in caucus or in Cabinet, and see if we can have some change. There has not been one single change in that section.

We're talking about the unity of this country. We make all kinds of promises to Quebec that there's going to be something. Well let's show that we mean what we're saying. Let's bring in these amendments which are not going to be detrimental to anybody. It's not going to hurt anybody. I'm not suggesting that we spend one more cent. I'm suggesting when there are sufficient numbers that you group them in a school; not a new school; not a building. The main thing is the administration and the language that'll be used at recess and so on. It's practically impossible in a province as we have now, where there's television and newspaper and everything is in English to just say, well you're going to have instruction in school and that's it. You need much more than that and there's been a way through, and I'm not certainly going to blame the present government, but there's been an injustice that's been perpetuated for a number of years and that has caused assimilation here. If we go back to the history of Manitoba, the start of Manitoba, we know what the situation was. Now this is not going to hurt anybody. There is just this feeling it seems that everything is going to be political suicide when we bring in anything like that. But anything that was brought in like this was passed unanimously in the House and I can't see, unless the Minister can convince me, that this is going to hurt one single student, or is going to automatically bring in more costs. Are we just going to pay lip service to this, or do we mean to recognize this right, that French will be a teaching language. Or are we going to put all kinds of obstacles in the way that in effect that's not going to be the case.

MR. SCHROEDER: Yes, Mr. Chairman, Mr. Desjardins had previously discussed this matter with several of the members of the committee and it pointed out at that time that frequently, when you have groups of children being taught in French and if you have others in the school, that what happens is, with the administration being partly in English, that whenever there are parent meetings, whenever there are administration meetings, there is always somebody there who can't talk French and that means that the entire proceedings wind up being in English and I can sympathize with him. It seems to me that what he said with respect to 79(3)(b) is something that I could certainly support. He indicates that this doesn't mean necessarily that the entire school has to be taken over, it depends on the number of classrooms and I would suggest, in order to clarify that, I would hope that the committee would consider a slight change to the wording so that the fourth line from the bottom, from there on it would read "the school board shall group those classes in a public school and the administration and operation of such public school, or portion thereof,

shall be carried out that is "or portion thereof" would be new additions to the amendment shall be carried out in the same language as the language of instruction. I'm suggesting that in order to make it clear that it could well be that you could have one school with two separate administrations and two separate groups of students. In fact, those schools exist today and my daughter is attending one, where there is English on one side and French on another side and it seems to work perfectly well.

MR. DESJARDINS: I understand what my colleague is saying but I don't think this is needed because the school doesn't been a building, if you want to define school for the purpose of this section, that's fine, but a school works independently. You know, you have your own principal and so on and this is what I mean, if there are sufficient schools. Now as I say, I'm ready again, Mr. Chairman, if the Minister needs more time to explain my other amendments and then that we go back to that at another date but he can discuss it if we wish.

MR. COSENS: No, Mr. Chairman, I don't think it's a matter of time, at all. I would merely point out to Mr. Desjardins that school boards today have the right to group students for instruction as they see fit and are doing it. And there is provision in the regulations for the language of administration where a particular language of instruction is being used. School boards are making these decisions and are doing these things today. I don't think it's necessary to enshrine this in the Act at all and as a result I couldn't support the honourable member's amendment.

MR. DESJARDINS: Well, Mr. Chairman, if they are doing it today, what is the problem? My reason for bringing this, and let me say, by the way, that this has been recommended by the school trustees, the English as well as French school trustees and the Minister knows that, I asked that question quite clearly, and also by the Manitoba Teachers Society. All the groups, they are backing this suggestion.

Now, the problem is this. That the school boards may, but there's always some people that are against these things, that I might not be that concerned and they start petitions and the onus is always on that small group to do something about it, they don't want to bother anybody else. They want to do their own thing, they're told that they can do it. There's a bill that says that they can do it but there's a fight every time and the Minister knows that. There's a fight every time they do it and then what do you do. You just finished on the private schools saying if you allow something and the grants, instead of saying, the public school would distribute these grants, we will do it. Well, if you want to stand firm and say that you agree with this, well then put it in the Act. And then you won't have the battle at that level. Let's take the flack now if we have to and you won't have the problem that the school division will start counting votes and always being afraid and not act, although they may do it. What is the purpose? I mean do you want them to do it or don't you want them to do it? Or do you want to say, well, you take the responsibility, you take the flack. You don't do that in the private school section, why do you do it here? What is so unreasonable in asking that you

recognize the school if you recognize the classrooms? And if you say in another area that you can go ahead and you can have language of administration.

I am only suggesting that this be done. If this is right, let's do it. This is all I'm suggesting and, of course, they will still have to decide if there are enough schools and if there are enough classrooms to warrant this. They will have to do that and the Minister is saying it's being done now. Well, what is the reason for not supporting that? Do you just want the school division to have to fight that battle and every time this is done, there is always some character, some redneck that comes in and tries to stop these movements. Every time that you try that, somebody that will not affected by it at all. I'm not suggesting where they are going to do it, how they are going to do it, I'm suggesting that, all right, they can do their thing. You are saying, we just carry a step which makes sense. You're saying so many students will all right, we'll authorize you to a classroom and I'm saying so many classrooms authorize you to your school, your policies, your principles. What is so unreasonable in this, Mr. Chairman?

MR. CHAIRMAN: Any further discussion? Page 42 as amended. All those in favour of the amendment as proposed (Interjection) 73, oh, yes. Section 79 on Page 42, (3)(b) as proposed by Mr. Desjardins.

A COUNTED VOTE was taken, the result being as follows.

MR. CLERK: Yeas, 2; Nays, 5.

MR. CHAIRMAN: I declare the motion lost.
Mr. Steen.

MR. STEEN: 79(9).

MR. DESJARDINS: 79(6) and for the record, I'll pass it. I'll move it anyway. Subsection (a) and (b) be deleted and replaced by the following: Where French is used as a language of instruction in any class, English shall be a subject of instruction in such class; and where English is used as a language of instruction, French shall be a subject of instruction.

Mr. Chairman, that is a little more serious one. This is something I am suggesting very clearly that French be a subject in all classes in Manitoba. The First Minister when he was the Leader of the Opposition said this is the only way to go when he was talking about doing anything in this instance. We're trying to promote bilingualism in this country. We hear repeatedly that not enough is done. We also hear by every member of the committee, every member in the House, oh, if I can only speak French, and the courses that I have are not helpful. Both my children, at least, if we can provide French for at least as a subject for my children, I would like that.

I'm suggesting that it is done in other countries. It won't be that difficult that there again, it could be passed if we accept the principle. It's a question of principle. If the Minister wants to hold that again to discuss it, I'm easy, I'm willing and if he wants to pass it and wait till things are ready to go in that direction before it's proclaimed, I'll accept that also,

Wednesday, 9 July, 1980

Chairman. But I think that this is a showing that we're not just paying lip service, we want to do something. And if you think, gentlemen, that we're going ahead and keep this country together by just doing things that don't count, by not making a real effort to do something, you're sadly mistaken and you're going to see the division of this country and you're going to see Canada, our beloved Canada, the way we know it now that it's going to disappear.

R. CHAIRMAN: Mr. Cosens.

R. COSENS: Mr. Chairman, I can appreciate the honourable member's strong feelings on this particular subject. Certainly this government has shown its intention to strengthen our French instruction. We have added seven people, seven staff members, this year to our French Bureau. That's the biggest staff increase of any particular section within the Department of Education, Mr. Chairman. I don't think the honourable member can question our intentions there at all. We are attempting to enhance and strengthen the French instruction that is being offered. We have very close to one-half of the students in this province at the present time taking French. I'm not completely happy.

I may tell him with the core French program that exists today, the expectation of many parents is, if their child takes French in the core program, that they will be able to speak French. Of course, Mr. Desjardins would be the first one to say that you're not going to learn the language taking it 30 or 40 minutes a day. You will gain some acquaintance with the language, some appreciation of it, but certainly you will not gain any amount of fluency in the language at all. So I say to him that certainly we are attempting to strengthen that section but at this point, Mr. Chairman, I could not support this particular amendment.

R. WALDING: Mr. Chairman, I read my colleague's amendment and I understand it to mean that French would be compulsory at all grades up to grade 12. I ask the Minister at what grade is French now a compulsory subject?

R. COSENS: It's an optional subject at this time, Mr. Chairman. It is not compulsory at any particular grade level. However, some school divisions have made the decision that at certain grade levels all children in the division will take French, but it is not mandated by the department.

R. CHAIRMAN: Any further discussion?

QUESTION put on the amendment, MOTION defeated.

R. CHAIRMAN: Section 79(8).

R. DESJARDINS: Mr. Chairman, I would move that Section 79(8) be deleted and replaced by the following section. 79(8)(a) The Minister shall establish a committee hereinafter in this section referred to as the English Language Advisory Committee composed of nine persons, to which may be referred matters pertaining to the use of English as a language of instruction in public schools. 79(8)(b) The Minister

shall establish a committee hereinafter in this section referred to as the French Language Advisory Committee composed of nine persons, to which may be referred matters pertaining to the use of French as a language of instruction in public schools. That, you will recognize, Mr. Chairman, and the Minister. This is reinstating and, of course, if this is passed, we will talk about how these committees will be arrived at. This is reinstating the committees the way they were before.

These committees did not work for one reason. They had to wait until the Minister referred something to them and I don't think that this was the intent to all of the wording. It's the people that prepared Bill 113, they were at fault. It's not the present government. But if you allow and you've noticed that I say, that may be referred matters, that means by the school division and by the school board and by any of these people. This would, in other words, before you have a battle and so on, that these problems you try to iron out these problems in that area. But not wait until the Minister necessarily has to refer something to them, because then you will see that they haven't been active. That is the main reason.

I say that we try to make this thing work. That is not going to be a costly thing. You have people that are concerned with these problems and we'll try to iron it out. I'm not suggesting that this advisory committee then report to the school division. All reports should be made to the Minister and they could give the advice to the Minister. But I think that we reinstate these committees. There's no reason to change them at all. We reinstate these committees with this change that things might be referred, that they could look at all the problems, not necessarily wait till the Minister refers something to them.

MR. COSENS: Mr. Chairman, in regard to the Languages of Instruction Advisory Committee, I was just wondering if the honourable member had read the brief presented by the French Trustees Association and if I can paraphrase what they said in that particular brief. Unfortunately, they didn't present it here orally, they gave it to us in writing, but they say that the Languages of Instruction Advisory Committee has definite advantages over the two committees in the present Act. They appeared to me to be favouring what we have in the Act, what we have proposed in 79(8) as it now reads.

MR. DESJARDINS: Mr. Chairman, in answer to the Minister, I can say that I have discussed that with them. They would much prefer going back to these committees. Now the advantage that the proposed committee would have would still be maintained because if you remember, those two committees would come as one to iron out certain problems. Then you would have the two points of view, but there are a lot of things that wouldn't have to go to that committee. Certain things could be ironed out with their own people. You give the nurses, you give the doctors, you give everybody the right to look at their affairs, to manage their affairs and they would have to be subject to the will of the Minister and the department. But I think a lot of the things they might stop before it becomes another battle, another problem. If there is need to go any further, well then

Wednesday, 9 July, 1980

you call the two together, which becomes the council. I propose that this be retained also. Or, if the Minister wants to have this other committee instead of the council, fine, with some representations from both sides though.

I see that there are some amendments that are being brought forward, but why can't we keep these two committees, providing that they can look at things that might be referred to them. We refuse to pass certain amendments that I've had and said, well, it's up to the school division and so on. The school division might want to bring in some of these things to this committee. The committee, that would be clear, would report to the Minister only. It would be dangerous if they start going back to the school division and they would advise the Minister only and the Minister then would do what he wants with that. If he wants to go back to the school or if he wants to tell the committee to discuss it with the school division, that would be up to him.

This is not something that would be costly. If you're not going to accept some of the other amendments that make it easier, at least let them have some word, some say, and all these things will be done and at least be able to bring some advice to these school divisions and school boards. The Minister wants to keep, if he wants to re-establish the council, which I think would be better because then you have two groups and they would work together, there's no reason that once you know if there's communication and if people talk, most of the time you can iron out your problems. But if the Minister would prefer his committee besides that, I wouldn't object to that providing we keep these committees here.

MR. COSENS: Mr. Chairman, I can't support the two-committee concept. We had it; it didn't work. I'm pleased to see that the French trustees are in fact in their brief supporting the idea of the Languages of Instruction Advisory Committee. I think it will serve that particular function and that these concerns will be referred to it and we will get that type of recommendation.

MR. CHAIRMAN: Any questions?

On the proposed amendment of Mr. Desjardins.

A COUNTED VOTE was taken, the result being as follows.

MR. CLERK: Yeas, 2; Nays, 5.

MR. CHAIRMAN: I declare it lost.

Mr. Steen.

MR. DESJARDINS: I have another amendment on 79(a).

MR. CHAIRMAN: Oh, I'm sorry, Mr. Desjardins.

MR. DESJARDINS: That the words "he may refer" in the third line be deleted and the words "may be referred" be added after the word "schools" in the fourth line. At least I'm saying that we don't make the same mistake. The Minister said it's not working. This one will not work any better if you wait till

something is referred by the Minister. I think that these things have to be . . .

MR. CHAIRMAN: Could we have that again, Mr. Desjardins?

MR. DESJARDINS: That the words, oh, excuse me, that the words "he may refer" in the third line be deleted and the words "may be referred" to be added after the word "schools" in the fourth line.

MR. CHAIRMAN: Mr. Cosens.

MR. COSENS: One of the problems I have here is, that in the amendment, it isn't clear who does the referring. It says "may be referred" by whom?

MR. DESJARDINS: Well, my intent of this, if that could be added on, I would accept that. I think that I might have it here in the . . . I'm talking about the school division and the schools, the people that have problems. I'm not necessarily saying any individual will come in and bother the committee for that.

MR. COSENS: Mr. Chairman, I really can't see that this amendment is an improvement for what is presently stated here.

MR. CHAIRMAN: Those in favor of the amendment proposed by Mr. Desjardins, signify by raising your hands. All those who are opposed to the motion as proposed by Mr. Desjardins, raise your hands.

I declare the amendment lost.

Mr. Steen.

MR. STEEN: Section 79(9). Mr. Chairman, I move that Section 79(9) of Bill 31 be struck out and the following subsection be substituted therefore, "Composition of Languages of Instruction Advisory Committee. 79(9) Of the 9 members of the Languages of Instruction Advisory Committee

(a) two shall be appointed by the Minister from not fewer than 4 persons who are members of l'Association des commissaires d'école de langue française du Manitoba, nominated by the Manitoba Association of School Trustees;

(b) two shall be appointed by the Minister from not fewer than 4 persons who are members of Les éducateurs franco-manitobains, nominated by the Manitoba Teachers' Society; and

(c) 5 shall be appointed by the Minister; for such term as the Minister may determine.

MR. DESJARDINS: Mr. Chairman, I suggest that this not be considered at this time. It's a bloody shame that you have a Department of Education speaking for the Minister who brings in amendments with bloody mistakes like that; goddamn insult.

MR. CHAIRMAN: All those in favor of the motion . . .

MR. DESJARDINS: In favor of what? You're certainly not going to pass that the way it is; we'd be the laughing stock of everybody in Canada if you do.

MR. COSENS: Mr. Chairman, I might say that one of the observations that has been brought to our attention was the concern of some of the French

Wednesday, 9 July, 1980

ciations that the Association of School Trustees should appoint two people and that it was feasible in the original wording of the Act that these people would not necessarily be French trustees. The amendment makes provisions that in fact these people would be members of the French Trustees Association who are part of the parent body of the Manitoba Association of School Trustees; and by the same token, with the teachers. We have proposed an amendment to allay that particular apprehension making sure that the people who will be included will be members of the French Teachers' Association of the Manitoba Teachers' Society.

CHAIRMAN: Mr. Desjardins.

R. DESJARDINS: You should start by taking care in your discussion, not only a Deputy Minister comes from somewhere else that set up the policy policies for this government. Maybe you should look at them and if you have the men working for you, paid for you, they would have something that would make sense, not full of errors like that.

STEEN: A question on my amendment.

CHAIRMAN: Question on the amendment as proposed by Mr. Steen, all in favour signify by raising your hands.

CLERK: One, two, three, four, five.

CHAIRMAN: Those who are opposed, please signify by raising your hands.
The motion passed.
Page 42 as amended Mr. Steen.

STEEN: Mr. Chairman, the next amendment I see is on page 87. Perhaps we could find out from members opposite . . .

CHAIRMAN: Page 42 as amended pass. Mr. Schroeder.

SCHROEDER: Page 47, I believe, is our next . . .

CHAIRMAN: Okay. Page 43 pass. Mr. Walding.

MR. WALDING: Mr. Chairman, I don't wish to make a big issue of it, but Section 81, I believe it is, the present Act says that it shall be the last half an hour every day, and I'd like to ask the Minister why he's amending that into two and a half hours per week. Presumably, such a school in instituting such a thing would have it for one-half day, an afternoon or a morning, and I would raise the question from that as to what would happen to the other children who were left at that particular instruction for the afternoon. I've heard one delegation say it's "Mickey Mouse", I believe the expression was, as to what happens to the other children.

CHAIRMAN: Mr. Cosens.

MR. COSENS: Mr. Chairman, the particular change here I think reflects the fact that the school day has become more flexible, and what we are providing

here is more flexibility in the provision of religious instruction. It's not extending that time of instruction, a half an hour a day equates with two and a half hours per week. It's not additional instruction at all, it is merely putting it in a different context. As far as the alternative instruction that is offered to students not taking the religious instruction, that is the responsibility of the particular school.

MR. WALDING: Mr. Chairman, I said I didn't want to make a big issue of it, I just wanted to know the . . .

MR. CHAIRMAN: Page 43 pass; Page 44 pass; Page 45 pass; Page 46 pass; Page 47 Mr. Walding.

MR. WALDING: Mr. Chairman, we have an amendment to 92(5). I would move that the figure "20" in the eighth line be deleted and replaced by the word and figure "6 consecutive."

The intent here is to get away from this two years or 20 teaching months, which is apparently somewhat vague and provides problems for some teachers, and we bring it down to a six-month time limit which we believe is more in line with the probationary period for other occupations.

MR. CHAIRMAN: Mr. Cosens.

MR. COSENS: Mr. Chairman, there are certainly great problems that are associated with the amendment that the honourable member suggests. Not even the Teachers Society, when they were questioned as to what their reaction was to the 6 months, found any great amount of acquiescence with the 6 months. I would suggest that the 20 teaching months does provide some flexibility that was not there under the 2-year provision before. It now provides for the person who, because of circumstances beyond their control, finds that they teach four or five months and then must cease for a while and then re-enter the teaching profession in that particular school division for a number of months again, they now have that flexibility available to them that was not there under the two-year provision. I see the 20 teaching months as certainly more flexible, and I think accommodating to more part-time teachers.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, I'm not sure I understand how it would accommodate part-time teachers more than at present, but when the Minister speaks of the Teachers' Society, my understanding of their point of view is that there should be this matter of due process available to teachers from Day One rather than having to serve two years with a particular school division before getting that due process. I'm not suggesting that they were very adamant about the six-months' provision in here, that's a suggestion that we are putting forward as to not going as far as to give due process from Day One, but recognizing that two years seems to be more than ample time for that teacher to have completed a probationary period. What we are suggesting is that six months is a reasonable time

Wednesday, 9 July, 1980

for a probationary period and after the expiry of six months that a teacher should be entitled to due process.

MR. CHAIRMAN: Mr. Cosens.

MR. COSENS: Perhaps I can point out to the honourable member that the two years in fact does help many young teachers or beginning teachers. Quite often they encounter some problems in the first year of their teaching experience and the second year allows them to overcome those problems, to cope with some of the mistakes they may have made that first year of practical experience and to really strengthen their particular teaching approach. Anything less would discriminate against that beginning teacher and not give them that opportunity to strengthen that so often happens by the second year.

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Mr. Chairman, I have heard that argument several times from Superintendents, that it takes a while to get a teacher up to snuff, in the first year they are not doing their job and that sort of thing, and I can understand that. I would assume that someone coming out of school isn't as capable of teaching as someone who has been in the system for a number of years, although I think probably at a certain point it seems to me that with some teachers as they settle into the system there may be some deterioration later on as well. But anyway, when you start off with a teacher, bad as he or she may be, and inexperienced as he or she may be, there are all kinds of other people and experiences against which those new teachers can be assessed, and it seems to me that it is not that difficult to determine that although a teacher isn't doing as good a job as one who has been there for three or four years, that this one bears promise and the other one may not.

I think that six months coming out of training should be absolutely sufficient. I think that the suggestion that somehow this carries someone past Christmas, which I understand the Minister made previously, doesn't hold water, because if they don't bear fruit, if they are not doing an adequate job, surely the fact that you can keep them past November and you feel that the teacher is not doing a proper job, doesn't mean you have to keep them past November, you can dismiss them at that time.

I might add that it is my view, that probably the amendment that we have proposed is not exactly the one that we wanted, that is, our caucus position was one of six-months' teaching in Manitoba and that that probation period would be it for the lifetime of the teacher, and I would ask the Minister to comment on that. He says that when people come out of teacher-training school, that it takes some time to evaluate them. What does he say about a teacher who has spent five years in one division and the husband or wife gets transferred to another part of the province, and the spouse tags along and winds up with two further years of probation, does he feel that that is fair to a teacher?

MR. COSENS: Mr. Chairman, once again we are talking about people who may be moving from one

type of teaching situation into one that is completely different, where it has different pressures, different requirements, and this probation period, I suggest, is necessary and does not discriminate against a person.

MR. SCHROEDER: Mr. Chairman, people can move from one type of teaching position into another type of teaching position within a division and not lose their right to a just cause for dismissal. It seems to me that that is not an argument for saying that teachers moving between divisions lose that very same right for a period of two years, or even six months, and if the Minister is suggesting that he thinks that that would be appropriate, a teacher moving from one type of teaching position to another should wind up starting back on probation, certainly it's not in the Act, and I hope I'm not suggesting that you should put it in.

MR. COSENS: Mr. Chairman, I would merely draw it to the honourable member's attention, that when they move to another division they are now working for a different employer and that employer should have the right to evaluate the person in the new situation.

MR. CHAIRMAN: Page 47, 92(5) as amended. All those in favour of the amendment as proposed by Mr. Schroeder, please raise their hands. All those opposed to the motion by Mr. Schroeder, please raise their hands. I declare the motion lost.

Mr. Steen.

MR. STEEN: Page 87 is the next time I'm on, sir.

MR. CHAIRMAN: 48 pass; Mr. Schroeder.

MR. SCHROEDER: Section 93(1), could the Minister explain what days of actual teaching service mean? Does that include, for instance, in-service days?

MR. COSENS: Yes, Mr. Chairman, this would be defined as days of employment, and these days would be counted, whether they were classroom instruction or days of in-service.

MR. SCHROEDER: Mr. Chairman, I move on Section 92(8) that the words in the third line thereof "to have his certificate of qualification suspended by a field representative" deleted from the section. It may not make sense, but if the field representative doesn't have that power it will make happiness.

MR. COSENS: Mr. Chairman, I, as the honourable member knows, have some difficulty with the supposed unhappiness that he refers to. As I have pointed out ad nauseam, that particular power has not been utilized for a number of years and would only be utilized in the most extreme circumstances, where the welfare of the children were in jeopardy. And if the honourable member is suggesting that the field representative not have that power, who is suggesting should have it?

MR. SCHROEDER: Well, Mr. Chairman, where the students are in jeopardy, surely the school board can dismiss the teacher and that will end the difficulty right there. If the school board does not wish to

Wednesday, 9 July, 1980

suspend or fire, the principal or the superintendent can do that. Now the Minister has indicated that here are several remote divisions that don't have a superintendent, but all of them have teachers, other than the particular offending teacher, and certainly all of them have school boards, at least including an official trustee, so it seems to me that this whole bit of nonsense about saving some children from some disaster is really setting up a straw man to knock him down. In fact, our questioning of witnesses before this committee resulted in not one single example of this type of power being required.

Let's go back we're talking here really fundamentally about the whole idea, the whole concept of these field representatives to which the Opposition is opposed. We are saying that we don't like the centralist approach of this government and of this bill on education. In the last ten years there's been a movement away from the old school inspector. They were down to two or three or four when this government took office. We're back up to 16 of them now. They're obviously the people who have had a great deal of influence in terms of preparing this legislation; I've mentioned before that they seem to be the only group that's happy enough not to have appeared in front of this committee to ask for changes, and I suggest that's because they are the people who have had just tremendous power given to them.

MR. COSENS: They are civil servants. Why would they appear before this committee?

MR. SCHROEDER: Teachers were here; there were all kinds of other people here. These people are happy, and I would suggest that the Minister, in saying that somehow this taking a teacher's certificate to teach away because of the protection of some children in an emergency, is just absolutely no reason whatsoever to give the field representative the right of suspension of a teaching certificate.

MR. COSENS: Mr. Chairman, first of all, he is not taking the certificate of the teacher away, he is suspending it, and then it must be referred to a certification review committee who sits on the particular case and reviews it and then makes recommendation to the Minister as to whether the certificate will be cancelled or reinstated. So he does not take the certificate away at all. And further, Mr. Chairman, I'm shocked to hear that the honourable member thinks that civil servants should make presentations to this committee. The field representatives are civil servants. I think it would be certainly contrary to any legislative practice for civil servants to be making presentations to this committee. Let me say further, Mr. Chairman, that I don't think the field representatives would be too concerned about whether they had this power or not. However, the Minister has this power and he in turn must empower someone to carry it out.

Now if the honourable member doesn't want field representatives to have that power, would he like curriculum consultants to have it, or would he like an Assistant Deputy Minister to have it, because certainly I don't think he visualizes the Minister of Education, whoever it may be, rushing out to different parts of the province to evaluate a

particular emergency situation as it regards a teacher's certificate, because this is really what he is saying would happen if the field representatives didn't have this particular power.

MR. CHAIRMAN: Mr. Schroeder or Mr. Walding.

MR. SCHROEDER: I would ask the Minister to address himself specifically to the matter of an example of where this has occurred, where there had to be an immediate suspension pending this kind of a hearing. If the Minister can explain that to us, who knows, we may very well change our minds, but what we are saying is, that without this power there are all kinds of people who can suspend teachers from teaching in a particular school if there is any danger to the students. The principal can't ask a teacher to remove himself from a classroom?

MR. COSENS: That's not taking away his certificate.

MR. SCHROEDER: Mr. Chairman, if you can remove a teacher from the classroom, then surely that is all the power you need pending the hearing of the review committee. If you can remove a teacher from being any kind of an influence on these students during the period of time that it takes to convene a hearing of the committee, then what are you worried about? In many other circumstances in our society, we have people accused of things, and they continue on with their jobs until such time as there is a hearing into their guilt or innocence, and they are presumed to be innocent until there is a finding on the facts. And here, we are not suggesting that if there is a serious allegation against a teacher, which appears to have some reasonable and probable grounds behind it, that the teacher should be allowed to continue in the classroom, but to remove the teaching certificate or have someone come and temporarily remove it doesn't make any sense to me, unless the Minister can give us some specific reason for doing that.

MR. WALDING: Mr. Chairman, my concern is a little different from Mr. Schroeder's, which is a debate I think might come up under Bill No. 19, under 6(2). What we are looking at here is penalties for breach of agreement. This section as I read it refers to an employer-employee relationship between a school board and a teacher, where there is a contractual relationship between the two parties. It says that a teacher who wilfully neglects or refuses to comply with the terms of the agreement is liable.

My complaint about this is that if a teacher wilfully neglects or refuses to comply, then surely it is up to his employer to take the necessary steps, in order to either enforce the contract or see that necessary steps are taken. What this section does, is to allow the school board as one party to the contract to call on an outside person to suspend the certificate, so as to take that responsibility away from them. I am suggesting that the school board as one party to the contract, if it finds the other party in default, the school board has the responsibility to take the necessary action directly with a teacher and not to call in a field representative which this says, to sort of take the teacher away from the process by a side

door, as it were. That's my complaint with this section.

MR. COSENS: Mr. Chairman, I should point out to the honourable member that school boards do not certify teachers, and if the honourable member is suggesting that they then should suspend certificates of teachers, that certainly does not follow. That particular power rests with the Minister, and school boards can certainly fire someone or terminate their employment, but that is a different matter to the suspension of a certificate. They are two separate matters.

MR. WALDING: Exactly. If I may, Mr. Chairman, the Minister has put his finger on it exactly. He says that a school board can fire or take other disciplinary action against a teacher who wilfully neglects or refuses to comply with the terms of the agreement and that certification is something apart and distinct from that. That's exactly the point. Why should the granting or the suspending of a certificate have anything to do with this employer-employee relationship? That's the point we're getting at.

MR. COSENS: I suppose, Mr. Chairman, if I can go back to Mr. Schroeder's point, one of the aspects that he does not mention, is the fact that the person, having been terminated by one school board for some type of conduct that is not acceptable, then, as long as they have a certificate, are quite free to be employed by another board and again carry on the same type of conduct that could be harmful to the students under their jurisdiction. This is the necessity for the certification aspect being addressed.

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Mr. Chairman, could I ask the Minister then whether it is not the normal practice for school divisions to ask previous employers about the record of the teachers?

MR. COSENS: Mr. Chairman, I don't know all of the provisions of The Personal Investigations Act, but I do know that in practice, this does not always happen.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, the Minister hasn't answered my point about the inappropriateness of the suspension of a certificate in a dispute between an employer and an employee. The Minister agreed with me in stating that one really has nothing to do with the other one. We're complaining that one has nothing to do with the other one, yet they are linked in here. We are suggesting that sentence be removed from there so that the school board has to deal with its employee face to face and not have an outside agency remove the teacher by the side door.

MR. COSENS: Mr. Walding, Mr. Chairman, once again, they are only linked in those circumstances where the reason for termination is some extreme misdemeanour or matter of conduct that is prejudicial to the welfare of the students in the class. That is the only point at which the termination and the suspension of certificate becomes synonymous.

There can be all sorts of reasons for termination that may have no bearing on matters that could be prejudicial to the welfare of students.

MR. WALDING: The Minister has said that these are two different things, then why does he insist on linking the two together. A teacher can be terminated and not lose his certification. He can lose his certificate through whatever the particular agency is that's set up in here. It follows from that he must be terminated; he's not allowed to teach any more. But the two things are separate. Why is the Minister insisting on putting that in here? He can have a separate section if he likes that says a teacher whose wording should be unsatisfactory as a teacher should lose his certificate. But why should that be a matter of an employer and employee dispute?

Mr. Chairman, I might argue, when we get to Bill 19 and 6(2), that a field representative should not have the power to suspend a teacher's certificate. I'm not saying that the power should not reside elsewhere in this bill to take away or to suspend a teacher's certificate, what I am saying that it should not intrude into 92, which has to do with a breach of agreement between an employer and an employee. That's the simple point.

MR. MCGILL: Mr. Chairman, with respect to the subject of this section, I think it's entirely consistent with the public interest that a field representative has the authority to suspend the licence, and there are analogies in other sections of our economy. I can think of field representatives in aviation who deal with teachers and who do have authority similar to this. I think of field representatives who are able, if an operator is operating in a manner that is not in the public interest, do have the authority to suspend pending a referral of the matter. It doesn't persuade me that the authority should not be there merely because there are few, if any, instances of this authority having to be exercised. But I do think, Mr. Chairman, that it is entirely acceptable that a representative in the field be able to proceed about his duties with that potential, that if he finds an emergency situation that requires, in his view, immediate action, he can take such action and in due course have his action either confirmed or the certificate reinstated.

So I really don't think and we can use the experience that we've achieved up to this point where this authority has been in the hands of field representatives so far as I am aware, there have been no circumstances that would lead us to think that this is not a reasonable authority for those representatives to retain.

MR. WALDING: Mr. Chairman, I'm trying to be in order and stay in order, but Mr. McGill's remarks had to do with Section 6(2) of Bill 19, which is not before us at the moment and has to do with the granting of the power to suspend the certificate by a field representative. I'm suggesting to the committee, and I've done it two or three times already, that is not what I am speaking of at the moment. I'm speaking of a contractual relationship, an employer-employee relationship between a school board and a teacher. This section has to do with where a teacher is in breach of that contract by wilfully neglecting or

Wednesday, 9 July, 1980

using to comply with the terms of the agreement. What I am suggesting is that it is the school board that should take the necessary action in that case and that they should not be calling in someone from outside to solve their problem for them by suspending a teacher's certificate.

MR. CHAIRMAN: . . . question? Mr. Schroeder.

MR. SCHROEDER: Mr. Chairman, I think somebody had mentioned that we were the only ones concerned about this. I would refer the committee to page 13 of the Manitoba Teachers' Society brief, point 8, the society objects most strenuously to the continuation of the power to suspend a certificate being exercised by a field representative. Inasmuch as the field representative is an employee of the department, he may recommend such action to the minister who has power under Section 6(1) to suspend a certificate. Such power, as the right to suspend a teacher's certificate and to deny the teacher a right to work should not be vested in any civil servant. We note also that the proposed structure of the Certificate Review Committee includes a field I'm sorry, that's where I would cut it.

Clearly, Mr. Chairman, that type of provision has a right to recommend it. A field representative could end up going out there and getting a little bit carried away with some possible dispute between a school board and teachers dealing with even the collective bargaining process, or it could be that a teacher and a field representative don't see eye to eye on some particular area during a dispute with the school board. I don't think that this kind of a power should be given to the field representative at all, but certainly not, as pointed out by Mr. Walding, as a result of a situation with which we're dealing here under Section 92(8). We're dealing with reaches of agreement between the school division and the teacher, and surely that is something between the school division and the teacher. Even if the Minister wanted to give power to his field representative, which obviously he does, to suspend certificates, I agree with Mr. Walding that it should be a separate section. It has no connection with this particular area.

MR. CHAIRMAN: The amendment as proposed by Mr. Schroeder, all those in favour that the words "field representative" be struck out from 92(8), signify or . . .

MR. WALDING: Mr. Chairman, I believe it would make more sense if all of the first four lines down to the word "and" in the fourth line were deleted. I believe it would make it grammatical sense.

MR. CHAIRMAN: Is Mr. Schroeder withdrawing his, or how do I deal with it?

MR. SCHROEDER: Yes, I'll withdraw it in favour of that one. It sounds reasonable.

MR. CHAIRMAN: So we have a motion now by Mr. Walding. Would you repeat it again, Mr. Walding?

MR. WALDING: To delete all the wording down to, and including the word "and" in the fourth line.

MR. CHAIRMAN: On the proposed amendment of Mr. Walding.

A COUNTED VOTE was taken, the result being as follows.

MR. CLERK: Yeas, 2; Nays, 5.

MR. CHAIRMAN: I declare the amendment lost.
48 pass; Page 49 pass; Page 50 Mr. Schroeder.

MR. SCHROEDER: 93(1), I don't have a written amendment here, but I would propose that we go back to the wording of the old Education Act, excepting that we change the words in the old Act from 60 days to 75 days.

MR. CHAIRMAN: On the proposed amendment of Mr. Schroeder.

A COUNTED VOTE was taken, the result being as follows.

MR. CLERK: Yeas, 2; Nays, 5.

MR. CHAIRMAN: I declare the motion lost.
49 pass; Page 50, 49 Mr. Schroeder.

MR. SCHROEDER: On Page 49, Mr. Chairman, I move that Section 96(f), (g) and (h) be deleted. It seems to me that those particular sections are redundant. I refer you especially to Section 41(1)(i) and (j) which I suggest gives the school board ample power to provide instructions to teachers as to what their obligations are. When you read Section 96(f), every teacher shall seize or cause to be seized and take possession of any offensive weapon or dangerous weapon that is brought to school, etc., and (g), deliver or cause to be delivered or provide the parent or guardian of each pupil taught by him, reports of the pupil, again, I would suggest that's covered in Section 41 as to what a school board can do. Admitting classroom student teachers, as referred to in Section 41(1)(j), it would seem to me that the more we can cut out of the Act of duplication, the better off we will be.

MR. CHAIRMAN: Mr. Cosens.

MR. COSENS: Mr. Chairman, I don't interpret this as duplication. Really, they fall under different sections. One is referring to duties of school boards; this one to duties of teachers specifically. I don't see the fact that we are duplicating here.

MR. SCHROEDER: Could the Minister explain why it is that we need this business about seizing offensive weapons in the Act?

MR. COSENS: Mr. Chairman, once again I think that is self-evident, the fact that we are attempting to make schools as safe a place as possible for the young people who are attending. Again, base this on the tenet that we are attempting to be very careful in looking after the welfare of the young people in the

Wednesday, 9 July, 1980

schools. There are cases, of course, that substantiate this.

MR. SCHROEDER: Yes, I'm not suggesting that it is inconceivable that students can come into schools with weapons. I accept the fact that that happens and that's very unfortunate but, when you decided that it would be a teacher as opposed to a superintendent or a principal, I'm sure you had good reason. But other than that, it would seem to me that there would just be procedure. If somebody comes tripping into school with a gun or a knife, or something, one would think that there would be a procedure where you would call the police. They would be the natural people to deal with this, unless there was good reason to believe that nobody was going to get hurt if the teacher was going to do it. But to put this kind of thing into the Act, it just doesn't make any sense to me.

MR. COSENS: Mr. Chairman, if you are going to have prompt action in a situation such as this, then I would suggest that the teacher is the person closest to the student, that comes in direct contact with the student. To suggest that a superintendent, for instance, should perform this function, I think removes that particular situation from immediate action. The superintendent may be at some other corner of the school division, in fact, and not able to take action. I also point out to the honourable member that it says "seized or caused to be seized". Then the classroom teacher can resort to calling in someone else to perform that particular act, if necessary.

MR. SCHROEDER: Would the Minister not agree that teachers, who are pretty reasonable people, would do that; that is cause weapons to be seized if they came into the schools? Whether this section was there or not, they would try, in a reasonable fashion, to disarm the individual who comes in. You surely don't have to spell that out. I'm sure there are all kinds of things that you can think of that could possibly happen. Possibly you should have a section saying that if there is a fire in the school, the teacher should put out the fire or cause the fire to be put out, or something. We can go on and on with silly sections.(?)

MR. CHAIRMAN: Mr. Steen.

MR. STEEN: Mr. Chairman, I would think that, by having this clause in here, that it protects the teacher that does take the offensive weapon away from the youngster. If you didn't have it in and you had a teacher that did take it away and there are lots of teachers that are good-sized persons, a lot larger than your average student, and did take the offensive weapon away and you don't have this section in, who is going to stand behind that teacher if the youngster's parents comes before the principal or the school board? What protection does the teacher have who did take away the offensive weapon from the youngster? But if he is protected by the Act, then I think he is safeguarded.

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Mr. Chairman, if that is the concern, then surely you can put in the good Samaritan type clause that the doctors or anyone have with respect to victims of accidents. That is that if a teacher takes an offensive weapon away from a child, he shall not be held responsible in a court of law for any kind of an assault, common assault or assault to cause bodily harm, battery, or whatever. (Interjection) Or they want the lawyer to do things without prejudice, on every bloody thing they do.

MR. SCHROEDER: That's only in our letters; they're without prejudice.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, just following up from what Mr. Schroeder was saying, I wonder if the Minister would read 41(1)(j) it says the school board shall allow student teachers into the classroom, observing and practice teaching and then read 96(h). I wonder if he could read it. The wording is almost identical and applies to the same situation. Would that not make 96(h) rather redundant?

MR. COSENS: Mr. Chairman, I don't interpret that as a redundancy. In one case we are talking about the school board allowing the student teacher into the school; in the other case, we are talking about the teacher's responsibility in regard to their relationship with the student teacher.

MR. WALDING: Mr. Chairman, the 41(1)(j) goes a little bit further than to be allowed into the school. It does say to attend any classroom of any school, as determined by the school board. So the reference to a classroom is right there. If you took out (h), Duties of Teacher, I could hardly see as a teacher being able to refuse to take in a student teacher into the classroom when Part III empowered the school board to do exactly that thing.

MR. COSENS: Mr. Chairman, I suggest to the honourable member that if he looks at (h), it says for the purpose of practice teaching. That really says more than his reference in 41(1), which could be merely sitting in the classroom observing. Here the Act of practice teaching is stipulated.

MR. WALDING: Mr. Chairman, it's not a big issue. I don't know why we're belabouring this, but 41(1)(Interjection) Okay, Mr. Chairman, 41(1)(j) says for the purpose of observing and practice teaching. 96(h) says for the purpose of practice teaching and observing instruction. Well, this observing instruction, one extra word in there, but the terminology is the same; why this hang-up on the part of the Minister in saying there is something different?

MR. COSENS: Mr. Chairman, I still maintain that is essential and necessary, to have it under Duties of Teacher, where it is clearly set-up.

MR. CHAIRMAN: All those in favour of the amendment as proposed by Mr. Schroeder, please signify by raising your hands. All those opposed please raise your hands. (Pages 49 to 58 were each read page-by-page and passed) Page 59 Mr. Walding.

Wednesday, 9 July, 1980

I. WALDING: A question to the Minister on 0(1), if the Minister can assure us that this provision is still necessary in this day and age, when almost every occupation in the province has the right to strike.

I. COSENS: Mr. Chairman, certainly the Manitoba Teachers' Society has not asked for this to be deleted. I think they still see it as relevant. Teachers in this province gave up that particular right for the collective bargaining and binding arbitration and, as I say, I think it's still necessary.

I. WALDING: Mr. Chairman, it's interesting that the Minister is quite prepared to go along with the Teachers' Society wishes on this particular aspect but on other aspects that we brought up reflecting the Minister wishes he wasn't.

I. CHAIRMAN: (Pages 59 to 83 were each read page-by-page and passed) Page 84 pass Mr. Walding.

R. WALDING: Mr. Chairman, I wonder if the Minister could indicate to us when he expects to satisfy the delegation that was before us this evening and also School Division No. 1 and some of his colleagues on the matter of the Greater Winnipeg Education Levy.

R. CHAIRMAN: Mr. Cosens

R. COSENS: Mr. Chairman, I would refer the honourable member again to the statement of the Minister of Finance during the Budget Speech when he said, and I repeat, that the government is very hopeful that they will complete the Educational Finance Study in this particular calendar year.

R. CHAIRMAN: Page 85 pass; Page 86 pass; Page 87, as amendment Mr. Steen.

IR. STEEN: Mr. Chairman, a motion that subsection 193 (7) of Bill 31 be amended:

(a) By striking out the words and figures subsections (2) and (3)" in the second line thereof and substituting therefor the word and figure subsection (3)"; and

(b) By striking out the words and figures subsections (4) and (5)" in the third line thereof and substituting therefor the word and figure "subsection (3)".

MR. COSENS: Mr. Chairman, I understand the necessity for this particular amendment is to correct some faulty references that were not printed correctly here.

MR. CHAIRMAN: Page 87, as amended pass. Pages 88 to 98 were each read page-by-page and passed) Page 99 Mr. Walding.

MR. WALDING: Section 227, I'd like to ask the Minister whether the present or the old Public Schools Act had in it the provision that no pupil could be a trustee in the school division of which he is a pupil, or is that a new provision in this Act?

MR. COSENS: I believe it's the same, Mr. Chairman, but we'll just check the old Act.

Mr. Chairman, on checking the present Act, there is no reference to pupil.

MR. WALDING: Mr. Chairman, the words "employee" and "pupil" are lumped together within this section. I don't want to quarrel with the word "employee", although some people have suggested that it should be up to the voters to decide if they are prepared to elect an employee of the school division as a trustee. But I do question the word "pupil" and why it is put in there in the first place. To start with, no-one can run as a trustee in a school division until he is the age of 18, when most children have left school.

It would also appear to refer to adults who might be attending adult education classes, and why there should be a prohibition there against any one of those seeking election to a school board is beyond my understanding at the moment. Let us then turn it around and say that in any school division, any adult may go to an adult education course within that division unless he is a trustee, because that is what this would seem to say, that you cannot be a pupil in a school division and a trustee at the same time. Why we should say that trustees can't go to school, maybe they need it as much as, if not more than anybody else.

MR. COSENS: Mr. Chairman, the intent certainly is that it would be a regular day-time student, but really I think pertinent to this whole matter is the question of conflict of interest. School boards, by their very function, have to make decisions that would place a student certainly in a position of conflict of interest if they were acting as a trustee and a student at the same time.

MR. WALDING: Well, Mr. Chairman, I am not sure whether that would apply. First of all, how many pupils would there be in any division who are of the full age of 18 or older to start with. Secondly, there becomes the point that people choose who they want to elect to the school board anyway.

If there is a 19-year-old running for election who is a student in that particular division, then surely the voters can choose for themselves whether they see a conflict of interest there and therefore that is a bad thing, or whether they might consider that the input of a student in the division at the school board level might be very beneficial on a board where the other members have perhaps been absent for many many years.

So I would question that provision and I would like to move that that reference to a pupil there in both lines be deleted.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Mr. Chairman, I would be somewhat concerned about that point as well, unless I could be assured that adult education classes in general are not under The Public Schools Act, but come under the colleges and universities. Is that the case? Perhaps the Minister could make that clear. I am thinking of the number and the popularity of evening classes for adults and I would not want to pass

Wednesday, 9 July, 1980

something here that would prevent the casual attendance of an adult who might also be a trustee. I am reasonably certain in my own mind that this would take place at community colleges or institutions of that type that would not come under this Public Schools Act.

MR. COSEN: Mr. Chairman, perhaps some amendment to the wording could take place here to make provision for day school students; that should pretty well cover everyone in that particular category and not discriminate against the adult who may take one or two evening school courses. That is certainly not the intent of this particular clause.

MR. CHAIRMAN: What was your amendment, Mr. Walding?

MR. WALDING: To the effect that the words having to do with the pupil in this section be deleted. Perhaps the words "and no pupil" in the first line, and "or pupil" in the second line would cover it.

To follow up on the last point if I may, Mr. Chairman, the matter of adults going to adult school is, of course, a concern. But then I have to come back to the point that the Minister made about conflict of interest. Would it merely be a matter of degree if an adult going to adult school were there for less hours in a week than someone going full-time to the regular school and would they not be both a matter of conflict of interest, but perhaps to a slightly differing degree? Where does the matter of degree come into it? Is it so many hours, the maximum; so many hours minimum? Surely you accept one thing as a principle or not at all.

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Yes, Mr. Chairman. It would seem to me that the amendment proposed is a sound one. On reading The Legislative Assembly Act it seems to me that members of this Assembly, for instance, are entitled to partake of ordinary public programs without being considered to be in some kind of a conflict of interest position. Farmers in this Legislature can take part in hail insurance programs, etc. I believe the provision is that as long as the particular member is not taking more than 1/100th of the program, he is not considered to be in a conflict position.

Well, here similarly the pupil wouldn't be taking more than 1/100th of the benefit of any public program in the district. As Mr. Walding says, what is the difference between a guy who takes three evening courses and the guy who takes five regular day school courses? Why should the one be entitled to be a trustee, and the other not? It seems to me that should be something for the voters to decide.

MR. CHAIRMAN: Mr. Cosens.

MR. COSENS: Mr. Chairman, I would be prepared to attempt to limit this to the extent that I would propose a rewording or an amendment that no employee and no pupil in regular attendance at a school shall be a trustee of the school division or a school district of which he is an employee or pupil.

MR. CHAIRMAN: Is that agreeable to the Committee?

Mr. Walding.,

MR. WALDING: Mr. Chairman, it is a help in that it is an improvement, but I am not sure that it overcomes the Minister's objection as far as conflict of interest is concerned. He has pointed out that there could be a conflict of interest from someone taking a course at regular day school. I don't see how he can argue that there cannot be a conflict of interest for someone taking some night school courses.

I would like to see us persevere with the principle that the electors in the division should be in a position to elect a pupil if they so desire.

MR. CHAIRMAN: Mr. Steen.

MR. STEEN: You need, Mr. Chairman, a mover for the suggested amendment by the Minister. I would so move the suggested amendment that the Minister just made.

MR. WALDING: Mr. Chairman, I believe you already have an amendment on the floor.

MR. CHAIRMAN: I have Mr. Walding's amendment.

MR. STEEN: I'm sorry.

MR. CHAIRMAN: So the words "and no pupil", those three words be struck out and "or pupil" in the last line. Is that correct, Mr. Walding?

MR. WALDING: Yes, that is correct, Mr. Chairman.

MOTION presented on the amendment and defeated.

MR. STEEN: At this time, Mr. Chairman, I would move the amendment to this section that the Minister announced a moment ago. I don't have it in front of me, so I can't read it into the record.

MR. BALKARAN: It is adding the words after pupil in the first line, "in regular attendance at a school".

MR. STEEN: So moved, Mr. Chairman.

MOTION presented on the amendment and carried.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: I wonder then if we need to expand the section at the beginning of the Act to define regular attendance, a pupil in regular attendance. Would that be necessary if you used that phrase?

MR. COSENS: I don't believe, Mr. Chairman, that's necessary. I believe that is understood.

MR. MCGILL: Okay.

MR. CHAIRMAN: Page 99 pass. Mr. Walding.

MR. WALDING: If I may, Mr. Chairman, is there a definition of pupil in the Act? I couldn't find it at the beginning.

Wednesday, 9 July, 1980

MR. COSENS: Only resident pupil, Mr. Chairman.

MR. CHAIRMAN: Page 100 pass; Page 101 pass; Page 102 Mr. Steen.

MR. STEEN: Yes, Mr. Chairman. My motion is that subsection 239(1) of Bill 31 be amended by adding hereto immediately after the word "authorities" in the fourth line thereof the word "election". That is my understanding.

MR. CHAIRMAN: 102 as amended pass; 103 pass; 104 pass; 105 pass; 106 pass; 107 pass; 108 pass; 109 Mr. Steen.

MR. STEEN: Mr. Steen, I move that subsection 260(2) of Bill 31 be amended by striking out the word "this" in the third line thereof and substituting herefore the words "the summary convictions".

MR. CHAIRMAN: Agreed?

MR. WALDING: Just a minute. Can we get an explanation. I am looking for the words.

MR. COSENS: Mr. Chairman, I would refer to legal counsel on this particular . . .

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, the subsection as printed refers to a person who is liable to the penalties under this Act. In fact, there is no penalty prescribed in the Act for violation of subsection (1), so we go back to The Summary Convictions Act, which does in fact provide for violation of any statute for regulation for which no penalty is prescribed.

MR. CHAIRMAN: Agreed? 109 as amended pass; 110 Mr. Steen.

MR. STEEN: Mr. Chairman, the motion is that Clause 261(b) of Bill 31 be amended by striking out the words "satisfactory" in the second line thereof, and by adding thereto at the end thereof the words "equivalent to that provided in a public school."

MR. CHAIRMAN: Mr. Cosens.

MR. COSENS: Mr. Chairman, this particular amendment was mentioned earlier, I believe, when Mr. Walding was discussing the different types of private schools and he referred to the home teaching situation, and to again have this particular clause consistent with others in the Act it is necessary to make this change. The amendment then proposes exactly the same wording as applies to the private school.

MR. CHAIRMAN: 110 as amended pass; 111 pass. Mr. Schroeder.

MR. SCHROEDER: I move deletion of Section 265.

Motion presented on the amendment and defeated.

MR. CHAIRMAN: Page 111 pass Mr. Walding.

MR. WALDING: I am a little concerned with 267(1), giving the school attendance officer the power to

enter without warrant all of those things listed here, including any place where children may congregate. I believe that it has been pointed out before that children congregate in a private home. Would this empower a school attendance officer with all of the powers in this Act to enter at any time of the day or night into any private home? It would appear to.

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Yes, Mr. Chairman, just following up on that, I believe one of the delegations suggested the word "public" to be added after the word "other" at the end of the third line, which would allow the school attendance officer to attend without warrant at any public place where children might be gathered or might be employed and would not permit an attendance officer to attend at a private home without warrant.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, I wonder if Mr. Schroeder would prefer to see the word "public" placed after the word "or" in the last line by saying "or any other public place in which children may congregate." Because if you place it where he is suggesting, you would only have public places of employment. It could be a private place of employment.

MR. SCHROEDER: Yes, I agree with that, sure.

MR. CHAIRMAN: Okay, page 111 as amended. Mr. Steen.

MR. STEEN: My question to legal counsel, Mr. Chairman, is he moving the word "public" out of the third line.

MR. BALKARAN: No, no.

MR. STEEN: He is living it there because a factory could be privately owned . . .

MR. BALKARAN: Or public.

MR. STEEN: But he is adding it in front of the word "place" in the line below.

MR. BALKARAN: No, no. It is following the word "or" in the fourth line; the addition of the words "any other public place where children may congregate."

MR. STEEN: Okay.

MR. CHAIRMAN: Agreed? (Agreed) Page 111, as amended. Mr. Walding.

MR. WALDING: Mr. Chairman, I wonder if we might go back to Page 110, for a moment to 263, Sub (2) Jurisdiction of a School Attendance Officer. I wonder, is it intended that those powers should vest in the school attendance officer for the purposes of this Act, or for the purposes of this part. I believe that the old School Attendance Act said for this Act, but then it referred only to that. Part 14 has to do with school attendance.

Wednesday, 9 July, 1980

MR. CHAIRMAN: The amendments proposed by Mr. Walding, agreed? (Agreed)

Page 110, as amended pass; Page 111, as amended pass.

MR. WALDING: Can I just get the wording of the change that we made to 267(1)?

MR. BALKARAN: In the fourth line, after the word "or", you add the words "any other public place where children."

MR. CHAIRMAN: Page 111, as amended pass. Mr. Steen.

MR. STEEN: On Page 112, Mr. Chairman, I have a motion. It's Section 269 of Bill No. 31, be amended by striking out the words, "this Act" in the fifth line thereof and substituting therefore the words, "the provisions of this part."

MR. CHAIRMAN: Agreed as amended, Page 112. Page 113 Mr. Walding.

MR. WALDING: With the reference to access to records, is the access to records confined only to school boards, private schools and municipal council?

MR. BALKARAN: That's what it says, it's limited to that.

MR. WALDING: To that only. All right. Well furnish of information in the next section, I wonder if the . . .

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: No, I was waiting for the next page.

MR. CHAIRMAN: Page 112pass;

MR. WALDING: No, did we pass Mr. Steen's amendment on 269?

MR. CHAIRMAN: Yes, as amended, 112.

MR. WALDING: Has to do with this part no, I wanted then to question 270, Mr. Chairman. "Every individual who is requested by a school attendance officer to provide or furnish such information as may be required." It doesn't say information having to do with the absence or non-attendance of a child. I am just wondering what would happen if a school attendance officer asked my doctor for the medical records of my son because he might want that information. Is he impowered under this Act to obtain such information, or information from anyone else as to anything having to do with a person's personal affairs?

MR. COSENS: Mr. Chairman, again I'll defer to legal counsel on this, because I think we are looking at a legal interpretation here.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, I think that earlier on we made two changes to restrict a school attendant's activities to this part, and if the word "Act" were to be struck out and the word "part" substituted, I think that would limit it to his duties under this part, if that's acceptable.

MR. WALDING: I am not sure that it would, Mr. Chairman. He is empowered to seek information to assist him in carrying out the provisions of this part. That's a pretty broad area and what information that he would use is nowhere defined or narrowed and he could presumably ask for any information having to do with a child, or with a family, or with a district. He is entitled presumably to ask neighbours about a family and claim that it would help him in carrying out the provisions of this part. And of course there is the requirement then that that person shall forthwith provide and furnish the information so requested.

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Mr. Chairman, the part of this, I would assume that we will change that to carrying out the provisions of this part, but that's fine, and then we have the regulations, but then we also have the rules made by a school board, and it does give pretty wide powers to an individual to ask questions of anyone. It would seem to me that although everyone is presumed to know the law, there would be very few people who would know that it would be an offence not to talk to somebody who was a school attendance officer. It seems like awfully wide powers.

MR. WALDING: Mr. Chairman, I raised the matter of medical records a few minutes ago and that matter was not answered. It could well be that a parent could claim that his child was not at school for medical reasons, he had the flu or something, and without producing a note from a doctor. It could seem that such information having to do with a child's medical records could be quite pertinent or could be seen to be quite pertinent by a school attendance officer. Would this section of the act give the school attendance officer the right to demand a copy of the child's medical records, or the family's medical records from a doctor, or hospital? Mr. Chairman, let me ask the Minister whether he intended that school attendance officers should have those sorts of powers under this part or any part?

MR. COSENS: Mr. Chairman, we enter a very difficult area here as to where you draw the line as to who they should have the power to interview so that they can gain the required information and who they should not be able to approach in this regard. Certainly I have not been aware of this being abused in the past and no indication that it would in the future. I certainly at this point am open to suggestion if there is some way of legally wording this that would protect against an abuse, I am quite open to that suggestion. As I say, I am not aware that it has been abused in the past. I have to concur with the honourable member that in reading it from a layman's point of view, I certainly would interpret that they have very wide ranging powers in this regard. And I might say, Mr. Chairman, that I

Wednesday, 9 July, 1980

would be very concerned that we would limit these powers to the extent where they were not able to carry out their particular function effectively. I think that would be a great mistake and of course would be so rather be harmful to the students involved.

MR. WALDING: It is mandatory according to this section that anyone who is asked must provide information. It is not a matter of who the attendance officer may ask or interview, he can ask questions of anybody he wants to or interview anybody he wants to. It's only this provision here, that that person must simply or furnish the information. I am sure that there are other individuals or other occupations in society who make in certain investigations or ask questions without that legal provision being there to force the person to provide the information.

MR. COSENS: Mr. Chairman, perhaps I could just add that this is not new. We have not changed the wording from the present act, and perhaps on that basis the fact that we have been operating this type of clause for many many years and it obviously has not been abused. In our representations that were made to this committee, both in October and a few days ago, this was certainly not an area that was brought to our attention as one that we should change, which more or less would imply to me, Mr. Chairman, that it has not created difficulty in the system to this point.

MR. BALKAREN: Just a minute, Mr. Chairman, would the Minister accept the word change of "Act" to "part"?

MR. COSENS: Well I see no problem, Mr. Chairman, in changing it to "part", and it would read in carrying out the provisions of this part."

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, that's fine as far as it goes, and the Minister says that it's been there a long time and hasn't caused any problems. I wasn't aware that it was there until I read it in this Act. I suspect the Minister wasn't aware that it was in the old Act either and perhaps that goes for other people too. But now that we have spotted that it is here and it is a potential danger, are we justified in leaving it in there and hoping that it won't explode?

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Yes, Mr. Chairman. I agree with Mr. Walding, that we have noticed it and I think there is a little bit of unease in passing a law that says somebody has to talk to somebody. Ordinarily, and we are dealing with sort of getting into quasi-criminal law here, we're dealing with the Summary Convictions Act and our general principles of law are that if a person in authority comes to see you, you don't have to say anything to them, and now here, people who could theoretically be incriminating themselves, parents, for instance, must speak to the school attendance officer. I'm not saying that they shouldn't, but certainly, Mr. Walding points out that, for instance, a doctor might be put in a very difficult position or a hospital administrator or other people,

social workers, various people, and I would suggest that we consider adding in somewhere, the terminology that no person shall refuse to provide information without reasonable excuse, and then it would be up to a judge to decide if the person didn't. After all, the sanction is, if you don't provide information, you take the person to court, and you have him convicted under the Summary Convictions Act.

The purpose of this type of an amendment would be to allow a judge then, to determine whether the person had a reasonable excuse not to give the information.

MR. COSENS: Mr. Chairman, subject to the opinion of legal counsel, that sounds reasonable to me. I could accept that, if it's acceptable as far as the legal aspect is concerned.

MR. BALKARAN: I wonder if Mr. Schroeder could repeat the words he used a moment ago. Unless he has a reasonable excuse, is what you were saying?

MR. SCHROEDER: Yes. Something to the effect that every individual who is requested by a school attendance officer to provide or furnish such information as may be required by the school attendance officer to assist him in carrying out the provisions of this part, the regulations and the rules made by a school board shall forthwith provide or furnish the information so requested, unless he has a reasonable excuse not to do so.

MR. CHAIRMAN: Agreed?

MR. COSENS: Except, Mr. Chairman, I don't know if you use the word, reasonable excuse, or whether you just say, has reason not to do so. Again, I'll defer to the legal people in that regard as to what the best wording is.

MR. SCHROEDER: Well, when using those words I was thinking of Sections 235 to 237 of the Criminal Code dealing with situations where frequently the courts are required to determine reasonable excuse in another situation.

MR. BALKARAN: Mr. Chairman, with all due respect to the Minister, if we simply said, unless he has reason not to do so, he could have any reason.

MR. COSENS: That's why I defer to you, sir.

MR. BALKARAN: But if you said, unless he has a reasonable excuse not to do so, then that's a little clear that it may very well have to end up in court and the court determines whether or not he had that reasonable excuse.

MR. CHAIRMAN: 112 as amended pass; 113 pass Mr. Schroeder.

MR. SCHROEDER: Yes, Mr. Chairman. Here again, I suppose that this probably came in from the old Act, but Section 272(2), in any prosecution under this Act, a certificate in the form as set out in Schedule C, or to the like effect purporting to be signed by an employee in any school is prima facie evidence of all matters stated therein without proof of the signature

Wednesday, 9 July, 1980

or the qualification of the employee by whom the certificate was made.

Now, that certificate concerns me somewhat in that if you look at Schedule C, and I'll read in John Doe's, etc., "this is to certify that I, the undersigned, am a school attendance officer in Evergreen School Division and that John Doe is a pupil on a record of attendance kept for the Evergreen School, and the said John Doe has been absent from that school without justifiable cause from the 1st day of June, 1980 to the 14th day of June, 1980, both days inclusive."

Okay. The point is that all he has to do is sign that, without even stating that he has reasonable and probable grounds to believe that what he is signing is true. Based on this certificate we have no knowledge that there has been any investigation. All the school board has to do is file this document in court and that document itself is evidence that the child, not only was not in school, but was not in school and did not have any justifiable cause to be away from school. Now, of course that certificate is rebuttable by evidence by the parents, but it seems to me that it is a certificate that doesn't state enough. I believe that the certificate should, if it is going to be receivable in evidence to state that there was no cause, then the certificate should also state that the person signing the statement has personal knowledge of the facts involved. I think that is extremely important, that the person involved has some personal knowledge and states so in that certificate.

MR. COSENS: Mr. Chairman, is Mr. Schroeder suggesting some additional wording to Schedule C?

MR. SCHROEDER: I don't have specific wording. As the Minister is aware, we have been fairly busy last week and just haven't had time to come in with wording for every particular area, but I think Legislative Counsel would be able to find the wording for something for an employee to state that in fact there is personal knowledge, that there's been some inspection of what has happened and that he knows that the kid isn't at home sick or away visiting his grandmother or whatever.

MR. BALKARAN: If he's sick, that's not justifiable cause. If he is ill, Mr. Schroeder, he's away for good reason not justifiable cause.

MR. SCHROEDER: Exactly, Mr. Balkaran, but how does that certificate state, other than saying, without justifiable cause, that the person who is signing it has any knowledge as to the facts?

MR. COSENS: Mr. Chairman, again, I would defer to legal counsel, but is Mr. Schroeder suggesting that words should be added to the extent that, following investigation of the circumstances, etc.?

MR. SCHROEDER: Yes.

MR. BALKARAN: I wonder if Mr. Schroeder will accept, if he takes a look at Schedule C, the seventh line, "that the said John Doe has, to the best of my knowledge, been absent without justifiable cause".

MR. SCHROEDER: How about, "and that I have personal knowledge that the said John Doe has been absent from that school without justifiable cause" Then you're not dealing with heresy.

MR. BALKARAN: All right, then in that very line I was just talking about, after the word "and", you insert the words "I have personal knowledge that".

MR. SCHROEDER: Yes. That would make me happy.

MR. COSENS: I have no problem with that, Mr. Chairman. I think we can accept that amendment.

MR. CHAIRMAN: 112 as amended pass; 113 as amended pass; 114 pass; 115 pass; 116 pass; 117 as amended pass; 118 pass; 119 Mr. Walding.

MR. WALDING: Mr. Chairman, I would just like to bring the Minister's attention to Section 8 of Form 1 which says that "I will be faithful and bear true allegiance to Her Majesty, etc., her heirs and successors according to law". I remind the Minister that he is preventing some of Her Majesty's loyal subjects from taking that particular oath of allegiance.

MR. CHAIRMAN: 118 pass; 119 pass; 120 pass; 121 pass; Preamble pass; Title pass; Bill be reported.

MR. WALDING: Mr. Chairman, no, we don't want the bill to be reported. We would like to vote against that.

MR. CHAIRMAN: All those in favour the bill be reported, please signify in the usual manner, raising your hands.

A COUNTED VOTE was taken, the result being as follows: Yeas: 5; Nays: (inaudible)

MR. CHAIRMAN: Bill be reported.
Is there agreement, do you want to deal with 119?
Committee rise.