



Fourth Session - Thirty-Fifth Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE

on

LAW AMENDMENTS

42 Elizabeth II

*Chairperson
Mr. Bob Rose
Constituency of Turtle Mountain*



VOL. XLII No. 11 - 7 p.m., TUESDAY, JULY 13, 1993

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

Members, Constituencies and Political Affiliation

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

Tuesday, July 13, 1993

TIME — 7 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRPERSON — Bob Rose (Turtle Mountain)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Ducharme, Praznik, Hon. Mrs. Vodrey

Mrs. Dacquay, Mr. Gaudry, Ms. Gray, Messrs. Helwer, Plohman, Rose, Santos, Sveinson

WITNESSES:

Bill 34—The Public School Amendment (Francophone Schools Governance) Act

Philippe Le Quéré, Private Citizen

MATTERS UNDER DISCUSSION:

Bill 25—The Public Schools Amendment Act (4)

Bill 34—The Public Schools Amendment (Francophone Schools Governance) Act

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Mr. Chairperson: Order, please. Will the Standing Committee on Law Amendments please come to order.

When we recessed this morning we had been hearing public presentations on Bill 34, The Public Schools Amendment Act (4), and we had completed public presentations on Bill 25.

We will continue this evening first with public presentations on Bill 34, and then clause-by-clause consideration of Bill 25 and Bill 34.

I would like again to inform the committee that we have simultaneous translation in this committee for the public presentation section. Translators are available if you do not already have them. There are headsets I believe available at the back for members of the public if they wish to have a headset.

I would also remind public presenters and committee members that during the simultaneous translation portion if you would speak slowly and

clearly so that the translators can clearly pick up what you are saying, and also if you are referring to a specific page in the written presentation to identify it by page number or letter or whatever.

You have the list of the persons remaining to present to Bill 34. It is also available at the back of the room. We have three presenters left. If there is any other person in the audience who wishes to present to Bill 34, could they please identify themselves to staff at the back of the room and their name will be added to the list.

We will now proceed with the completion of public presentation of Bill 34. I will call Antoine Hacault.

Philippe Le Quéré. Mr. Le Quéré, your written presentation is being distributed. You may begin when you are ready.

Bill 34—The Public School Amendment (Francophone Schools Governance) Act

M. Philippe Le Quéré (Private Citizen) : Mon nom est Philippe Le Quéré.

Monsieur le président, Madame la ministre de l'Éducation, Monsieur le député de Saint-Boniface, députés membres du comité législatif, Mesdames et Messieurs: C'est un honneur pour moi de comparaître devant le comité législatif d'audiences publiques pour le projet de loi 34, Loi modifiant la loi sur les écoles publiques (Gestion des écoles françaises), et je vous en remercie.

Je tâcherai d'être aussi bref que possible, et je me contenterai donc de toucher seulement certains points qui m'apparaissent d'ordre vital pour le meilleur fonctionnement de la division scolaire francophone au Manitoba. A mon avis, ces quelques points sont fondamentaux pour une éducation en langue française de qualité au Manitoba.

Je ne parlerai pas non plus de l'historique du dossier de la langue française au Manitoba, laissant ainsi le soin aux historiens, aux politicologues et aux juristes d'en faire une analyse

qui sera à jamais écrite dans les annales de l'histoire de la province du Manitoba.

J'apparais devant ce comité à titre personnel, en ma qualité de citoyen canadien, de contribuable de langue française vivant au Manitoba. Enfin, je m'adresse au comité législatif comme parent d'enfants d'âge scolaire, bref comme un ayant droit.

A mon humble opinion, quand même bien le projet de loi 34 comporte plusieurs lacunes, des oublis ou des manques de précision, il est impératif qu'il soit adopté lors de la présente session de l'Assemblée législative afin de créer une division scolaire francophone au Manitoba. Et, je dis cela en me référant, en premier lieu, au calendrier de mise en oeuvre dont les échéances ne font que se rapprocher chaque jour à grand pas. Si des amendements ou des propositions d'amendement iraient jusqu'à mettre en péril le passage du projet de loi, personnellement je me résignerai à le voir être adopté tel que rédigé. Quitte à y apporter des améliorations au fur et à mesure des années. A mon avis, la responsabilité du gouvernement du Manitoba envers la communauté franco-manitobaine est de respecter la décision de la Cour suprême du Canada en créant, durant la présente session de cette législature, une division scolaire francophone au Manitoba.

Ceci étant dit, j'aimerais soulever cinq points qu'il me semble important de rectifier afin de permettre à la division scolaire francophone de démarrer sur le bon pied. Les suggestions que je suis sur le point d'énoncer n'ont de valeur constitutionnelle, juridique ou administrative que celle que des experts en ces matières daigneront bien leur accorder; ayant indiqué auparavant que je ne suis ni juriste, ni expert en ces matières, et bien loin de moi l'idée de prétendre l'être.

Les cinq points qui me préoccupent sont les suivants :

* (1910)

1) la création conséquente de l'enseignement en langue française dans les deux systèmes divisionnaires parallèles; 2) le transport des élèves; 3) le financement; 4) le pouvoir absolu accordé au ministre de l'Education; 5) le droit de vote aux élections.

1) La création conséquente de l'enseignement en langue française dans deux systèmes divisionnaires parallèles : je pense que le fait de

maintenir un enseignement en langue française dans le système scolaire déjà existant ne pourra contribuer qu'à une plus grande confusion chez les ayants droit, quant à savoir, pour ces derniers, d'opter pour un enseignement dans la division scolaire francophone ou dans la division scolaire déjà existante dans le système actuel.

Je pense que la communauté francophone du Manitoba, sous l'égide du gouvernement provincial et par le truchement du ministre de l'Education, est déjà dotée d'institutions administratives et académiques qui sont bien à même d'assurer une éducation en langue française de qualité au Manitoba. Je réfère entre autres au Bureau de l'éducation française, à la Direction des ressources éducatives françaises, et bien entendu, au Collège universitaire de Saint-Boniface.

Il est donc déjà acquis, sinon démontré clairement, que les francophones produisent déjà un enseignement en français de qualité. Personnellement, je ne pense pas que les francophones veuillent avoir le monopole exclusif de l'enseignement en langue française au Manitoba, comme cela semble être craint par certaines personnes. Au contraire, je crois que les francophones désirent ardemment participer à l'amélioration de la qualité de l'enseignement au Manitoba. En confiant aux francophones la responsabilité de l'enseignement en langue française par l'entremise d'une division scolaire francophone, la distinction des différents programmes offerts à la population manitobaine sera non seulement plus nette, mais elle aidera surtout à combattre l'assimilation.

Il ne faut pas confondre intégration et assimilation. En intégrant une division scolaire francophone responsable à part entière de l'enseignement en français au Manitoba dans le système d'éducation, c'est permettre aux ayants droit de la minorité linguistique officielle de combattre l'assimilation. L'assimilation est le fléau qui mène un peuple à perdre sa langue, et la langue d'un peuple est son identité.

En conclusion sur ce point, je recommanderai respectueusement au comité, et à Madame la ministre de l'Education, de considérer le transfert graduel de la totalité des responsabilités de l'enseignement en langue française au Manitoba à la division scolaire francophone. Si cela n'est pas envisageable dans le cadre du projet de loi 34, il

serait peut-être alors possible de l'intégrer dans la réforme scolaire éventuelle au Manitoba.

2) Le transport des élèves : je dois avouer que pour un sujet aussi essentiel que le transport des élèves et, pour le moins, un sujet aussi primordial tant il occupe une part importante dans les prévisions budgétaires d'une commission scolaire, je fus déçu. Déçu mais surtout inquiet. Il n'y a, dans la projet de loi, que l'article 21.30, composé de deux paragraphes et demi, qui traite d'un élément aussi nécessaire et coûteux que le transport des élèves.

Non seulement il y a un élément monétaire dans un service de transport scolaire, mais il y a surtout un élément de sécurité vis-à-vis des enfants. Je pense qu'il est indispensable pour les enfants de pouvoir non seulement communiquer avec le conducteur ou la conductrice de l'autobus, mais ils doivent surtout être en mesure de pouvoir comprendre les consignes qui leur sont données.

Je suis inquiet que le projet de loi ne donne pas plus de précisions, que de dire qu'il doit y avoir une entente entre la commission scolaire de langue française et les commissions scolaires cédantes au sujet du transport des élèves ou au sujet de l'utilisation partagée des autobus scolaires existants.

A mon avis, il serait plus sage de prévoir le transfert d'un nombre adéquat d'autobus scolaires et du personnel qui s'y rattache à la commission scolaire de langue française. Dans les situations où le nombre des élèves à transporter serait moindre, alors une entente entre les commissions scolaires pourrait être justifiée.

Un autre aspect inquiétant, à mes yeux, de ce dit accord entre les différentes parties, est qu'il n'y a aucune garantie minimum de service puisqu'en cas de litige ou de différend, le ministre de l'Éducation jouit d'un plein pouvoir décisionnel dont les décisions sont finales et obligatoires. Mais je reviendrai plus loin sur les pouvoirs ultimes du ministre de l'Éducation.

Je pense que la loi devrait prescrire la garantie d'un certain minimum au sujet du transport des élèves. Il ne faut pas que la loi soit aussi vague qu'elle l'est actuellement.

3) Le financement : à mon opinion, la formule de financement est une formule viable à court terme. Il faut commencer avec quelque chose et j'entrevois avec cette formule un outil de démarrage.

La formule étant que la commission scolaire francophone recevra des commissions scolaires existantes une somme égale à leurs recettes totales d'impôt foncier, divisée par le nombre d'élèves fréquentant les écoles publiques de ces commissions scolaires, et multipliée par le nombre d'élèves résidents de ces commissions scolaires existantes inscrits aux programmes de la commission scolaire de langue française.

Je ne pense pas qu'il soit bon de penser que cette formule puisse être utilisée pour une période au-delà de trois ans. Cette formule va poser de sérieux problèmes de planification budgétaire. N'ayant aucun contrôle sur les revenus, la commission scolaire de langue française est donc à la merci des décisions des commissions scolaires existantes.

Il y aura également certains problèmes d'homogénéité financière pour les programmes. Prenons, par exemple, la situation où nous avons deux élèves assis côte à côte en classe mais qui résident chacun dans une division scolaire existante différente. Pour un peu que les deux commissions scolaires de résidence de ces deux enfants comprennent une différence dans le nombre de la population payant de l'impôt foncier, ou dans le nombre d'élèves fréquentant les écoles publiques des divisions scolaires de résidence, nous pourrions très bien voir l'un de ces deux élèves être attribué un revenu de 1,00 \$ et l'autre 1,50 \$. Ces chiffres sont évidemment fictifs pour fins de discussion. Par contre, il sera attendu que le même programme coûtant la même chose soit offert aux deux enfants.

Je recommande donc respectueusement au comité, et à Madame la ministre de l'Éducation, de considérer un amendement à l'article 21.33 afin d'investir la commission scolaire de langue française du pouvoir de percevoir de l'impôt foncier. Et je suggère également qu'un amendement soit apporté à l'article 21.34(b) afin de faire de la formule de financement, telle que définie par le dit article, une formule temporaire pour une période ne dépassant pas trois ans après la date de la première rentrée scolaire.

* (1920)

4) Le pouvoir absolu accordé au ministre de l'éducation : gouverner, c'est diriger, et diriger c'est agir. Ayant dit cela, je comprends que l'on veuille reconnaître un certain pouvoir décisionnel au ministre puisqu'après tout, c'est une responsabilité

gouvernementale qui est confiée de façon démocratique à un individu au travers du processus d'élections générales.

Néanmoins, je pense qu'il est essentiel de songer qu'un ministre est également le gardien ou la gardienne de la loi qu'elle administre dans l'exercice de ses fonctions.

Mais pour cela, il est nécessaire que la loi soit claire et précise. Mon inquiétude à ce sujet est principalement une impression de droit de veto que l'on semble donner au ministre. Plusieurs domaines d'importance financière et autre sont sujets à des accords entre la commission scolaire de langue française et les commissions scolaires cédantes. Or, en cas de désaccord la loi semble être très vague. Sauf erreur de ma part, il faut aller dans les règlements pour y comprendre qu'en cas de désaccord entre les parties concernées, c'est le ministre qui tranche et dont la décision est finale et obligatoire. C'est énorme. De donner un tel veto au ministre sur des commissaires scolaires, eux aussi élus démocratiquement par le biais d'élections publiques, c'est un pouvoir énorme.

C'est respectueusement que je demande donc au comité, et à Madame la ministre, de bien vouloir peser le bien-fondé d'un tel pouvoir.

Je pense que ce pouvoir décisionnel absolu devrait être accordé au ministre pour une période transitoire ne dépassant pas une période de trois ans après la date de la proclamation de la loi.

5) Le droit de vote aux élections : à mes yeux, il est indispensable que chaque membre de la communauté francophone du Manitoba puisse participer de plein droit au processus de la commission scolaire de langue française.

En limitant le droit de vote aux personnes décrites dans l'article 21.36, deux catégories de contribuables francophones sont pénalisées — le groupe de 18 à 30 ans et le groupe de 55 ans et plus.

Je ne pense pas qu'il soit juste d'exclure les personnes qui n'ont pas d'enfants d'âge scolaire. Et c'est ce qui est fait par la loi 34, en appliquant à la lettre la définition d'un ayant droit.

De nouveau, et sauf erreur de ma part, il faut encore aller dans les règlements pour réaliser que le ministre de l'Éducation a le pouvoir énorme de décider qui a le droit de vote.

La loi est la loi et elle doit demeurer la loi. Quant à moi, c'est à la loi de préciser qui a le droit de vote

et qui n'a pas le droit de vote. A mon sens, il est antidémocratique de remettre le droit de vote d'un citoyen dans les mains d'un ministre.

Je suis convaincu que les principes fondamentaux démocratiques, qui touchent directement l'égalité des individus et leurs droits collectifs ou individuels, doivent appartenir au corps de la loi et non dans les règlements donnant une discrétion décisionnelle à un ministre. Ce privilège démocratique qu'est un droit de vote lors d'élections publiques doit être préservé par la loi. Il ne doit pas être sujet à la discrétion du ministre dont le bon vouloir est influencé de façon systématique selon les priorités politiques du parti politique au pouvoir.

C'est donc respectueusement que je suggère au comité, et à Madame la ministre, de bien vouloir considérer un amendement aux règlements afin d'y supprimer le sous-article 21.43(v) dans son intégrité, et de considérer également un amendement à l'article 21.36, afin que la loi accorde également le droit de vote aux francophones n'ayant pas d'enfants d'âge scolaire; les critères d'identification de ces personnes peuvent s'effectuer au travers de leur éligibilité aux élections et au paiement de leur impôt foncier à la commission scolaire de langue française.

J'aimerais conclure ma présentation en exprimant le vœu personnel que ce projet de loi ne soit pas utilisé pour rouvrir la crise linguistique des années 1980. Il ne faut pas non plus permettre à certains individus d'en faire une guerre entre la commission scolaire de langue française et les divisions scolaires déjà existantes.

C'est un projet de loi qui contient énormément de potentiel pour répondre aux besoins des Franco-manitobains et des Franco-manitobaines. C'est un projet de loi qui permet également au gouvernement de satisfaire de façon minimale aux exigences de la Cour suprême du Canada.

J'ai relevé cinq points qui me préoccupent personnellement et il ne serait pas juste de ma part de ne pas dire également que j'ai aussi remarqué dans le projet de loi 34 certains points qui me plaisent. Certains de ces points ont d'ailleurs été soulevés par le député de Saint-Boniface (M. Gaudry). Comme, par exemple, le fait que le gouvernement semble avoir retenu les grandes lignes des recommandations du rapport Gallant; l'établissement de comités scolaires locaux; la création d'un programme d'accueil qui pourrait

enchaîner sur la mise en place éventuelle de certains programmes de francisation entre le programme français d'immersion et le programme français; et la création d'un comité d'admission.

J'ai l'espoir de voir un jour la question francophone au Manitoba être dépolitisée. J'ai confiance que la création de la commission scolaire de langue française au Manitoba est un pas dans ce sens.

Je vous remercie, Monsieur le président, pour m'avoir offert l'occasion d'exprimer mon opinion personnelle sur le projet de loi 34. C'est avec mes salutations respectueuses que je remercie Madame la ministre, le député de Saint-Boniface et le comité législatif pour leur attention.

[Translation]

My name is Philippe Le Quéré.

Mr. Chairperson, Madam Minister of Education, the honourable member for St. Boniface, honourable members of the standing committee, ladies and gentlemen, I am honoured to appear before the standing committee on The Public Schools Amendment (Francophone Schools Governance) Act, Bill 34, and I thank you.

I will try to be as brief as possible and will only touch on certain points I feel are essential for improving the Francophone School Division operations in Manitoba. It is my view that these few points are fundamental for quality French-language education in Manitoba.

I will not address the background of the French-language issue in Manitoba either; instead, I will leave this task to historians, political scientists and lawyers, whose analysis will go down in the history of the province of Manitoba.

I appear before this committee on a personal basis, as a Canadian citizen and French-speaking taxpayer living in Manitoba. Finally, I address the standing committee as a parent of school-age children; in short, as an entitled person.

In my humble opinion, even if several deficiencies, oversights or lack of details may be found in Bill 34, it is imperative that it be passed during the current session of the Legislative Assembly in order to create a Francophone School Division in Manitoba. I say this by first referring to the implementation schedule, for which the time lines are drawing rapidly nearer with each passing day. If the amendments or amendment proposals went as far as to jeopardize the passing of the bill, I

would personally resign myself to seeing it pass as is and making gradual improvements to it over time. I feel it is the responsibility of the government of Manitoba to the Franco-Manitoban community to respect the Supreme Court decision by creating a Francophone School Division during the current legislative session.

This being said, I would like to raise five points I feel need to be rectified in order for the Francophone School Division to get off on the right foot. The only constitutional, legal or administrative value in the suggestions I am about to make is that which the experts in these fields might deign to attach to them. Having already indicated that, I am neither a jurist nor an expert in these areas, and far be it for me to claim to be one.

The five points of concern to me are as follows: (1) the consequent creation of French-language instruction in the two parallel school divisions; (2) transportation of pupils; (3) funding; (4) the absolute power granted to the Minister of Education; (5) voting rights for elections.

* (1910)

(1) The consequent creation of French-language instruction in the two parallel school divisions. I think that to continue French-language instruction in the existing school system will only contribute to greater confusion for entitled persons as to whether they should choose instruction in the Francophone School Division or the school division which already exists within the present system.

I think that Manitoba's Francophone community, under the aegis of the provincial government and with the aid of the Education minister, already has administrative and academic institutions capable of ensuring quality French-language education in Manitoba. I am referring, among others, to the Bureau de l'éducation française, the Direction des ressources éducatives françaises, and, of course, the Collège universitaire de Saint-Boniface.

It has therefore already been established, if not clearly demonstrated, that Francophones are currently producing quality French-language education. Personally, I do not think that Francophones want to have exclusive monopoly of French-language education in Manitoba, as seems to be feared by some people. On the contrary, I believe that Francophones strongly wish to participate in the enhancement of the quality of education in Manitoba. By entrusting the responsibility of French-language education to

Francophones via a Francophone School Division, the distinction between the different programs offered to Manitobans will not only be clearer but it will work against assimilation, in particular.

Integration must not be confused with assimilation. To integrate a Francophone School Division which is entirely responsible for French-language instruction in Manitoba into the school system enables the entitled persons of the official linguistic minority to fight assimilation. Assimilation is the scourge that causes a people to lose its language, and the language of a people is its identity.

To conclude this point, I respectfully recommend that the committee and Madam Minister of Education (Mrs. Vodrey) consider the gradual transfer of all responsibilities for French-language education in Manitoba to the Francophone School Division. If this is not conceivable within the framework of Bill 34, it might perhaps be possible to incorporate it into the eventual Manitoba school reform.

(2) Transportation of pupils. I must admit that for a topic as essential as the transportation of pupils, inasmuch as it has an important place in school board budget estimates, I was disappointed—disappointed, but especially concerned. In Bill 34, only S. 21.30, consisting of two and one-half paragraphs, deals with an issue as necessary and costly as the transportation of pupils.

Not only is there a monetary component in a school transportation service, but more important, there is a safety factor with respect to children. I think that it is absolutely necessary not only for children to be able to communicate with the bus driver, but more important, they must be able to understand directions given them.

I am concerned the bill gives no more detail than to say that there should be an agreement between the French-language school board and the provider school boards about the transportation of pupils or the shared use of existing school buses.

In my opinion, it would be wiser to contemplate the transfer of a suitable number of school buses and related staff to the Francophone school board. In situations where there are only a few pupils to be transported, then an agreement between the school boards could be warranted.

In my view, another aspect of concern with respect to the said agreement between the different parties is that there is no minimum guarantee of

service, since in the event of dispute or disagreement the Minister of Education has full decision-making powers and such decisions are final and mandatory.

I believe the legislation should specify the guarantee of a certain minimum with respect to the transportation of pupils. The legislation should not be as vague as it is at present.

(3) Funding. In my opinion, the funding formula is a viable short-term formula. We must start somewhere, and I see this formula as a start-up tool.

The formula stipulates that the Francophone school board will receive an amount equal to the total received from property taxes, divided by the number of pupils attending the public schools of these school boards and multiplied by the number of pupils resident in these existing school divisions and who are attending a program provided by the Francophone school board.

I do not think it wise to think that this formula may be implemented for a period exceeding three years. This formula will pose serious budget-planning problems. With no control over revenue, the Francophone school board is therefore at the mercy of the decisions of the existing school boards.

There would also be problems of financial harmonization for the programs. Let us take, for example, the situation where we have two pupils seated beside one another in the classroom, but who each live in a different existing resident school board. Inasmuch as these two school boards have differences in the number of persons paying property taxes or in the number of pupils attending the public schools of the resident school boards, one of these two pupils could very well be attributed a revenue of \$1 and the other \$1.50. These figures have obviously been invented for discussion purposes. On the other hand, it is to be expected that the same program be provided to both pupils, at the same cost.

I therefore respectfully recommend that the committee, and Madam Minister of Education (Mrs. Vodrey), consider an amendment to S. 23.33, in order to vest the Francophone school board with the power to collect property tax. And I also suggest that S. 21.34(b) be amended to make the funding formula, as defined by the said provision, a temporary formula for a period not exceeding three years after the date of the first return to classes.

* (1920)

(4) The absolute power granted to the Minister of Education. To govern is to administer, and to administer is to act. Having said this, I understand the desire to give the minister certain decision-making powers, since, after all, it is a government responsibility which is entrusted in a democratic manner to an individual through the general elections process.

Nevertheless, I think that it is essential to also consider ministers as being keepers of the law they administer in performing their duties.

However, for that to be so, the law must be clear and precise. My concern is mainly the impression that the right to veto seems to be given to the minister. Several areas of financial and other importance are subject to agreements between the Francophone school board and the provider school boards. In the event of disagreement, the law appears to be very vague. Unless I am mistaken, the regulations must be consulted to see that in the event of dispute between the concerned parties, it is the minister who intervenes and whose decision is final and mandatory. This is enormous. To give the minister such a veto over the school boards, who are also democratically elected through public elections, is an enormous amount of power.

I therefore respectfully ask the committee and Madam Minister to weigh the validity of such power.

I think that this absolute decision-making power should be granted the minister for an interim period not exceeding three years after the date of enactment.

(5) Voting rights for elections. As I see it, it is essential for each member of Manitoba's Francophone community to be fully entitled to participate in the election process of the Francophone school board.

By limiting voting rights to those person described in S. 21.36, two categories of Francophone taxpayers are penalized, those aged 18 to 30 and those 55 years and older.

I do not think it fair to exclude persons with no school-age children. This is what Bill 34 does, by applying the definition of an entitled person to the letter.

Once again, and unless I am mistaken, the regulations must be consulted to ascertain that the Education minister has the enormous power of deciding who has the right to vote.

The law is the law and should remain the law. In my opinion, it is the law which must specify who has the right to vote and who does not. To my mind, it is antidemocratic to place a citizen's right to vote in the hands of a minister.

I am convinced that the fundamental democratic principles touching directly on the equality of the individual and his or her collective or individual rights must belong to the body of the law and not to regulations granting decision-making discretion to a minister. The democratic privilege of the right to vote in public elections must be preserved by the law. It must not be subject to the discretion of a minister whose good intentions are systematically influenced by the political priorities of the political party in power.

I therefore respectfully suggest to the committee and to Madam Minister to consider an amendment to the regulations which would remove paragraph 21.43(v) in its entirety and to also consider an amendment to S. 21.36, so that the law also gives voting rights to Francophones with no school-age children. The identification criteria for these persons may be defined via their eligibility to participate in elections and the paying of their property tax to the Francophone school board.

I would like to conclude my presentation by expressing my personal desire that this bill not be used to reopen the language crisis of the 1980s. Certain individuals must not be permitted to start a war between the Francophone school board and the existing school boards.

This is a bill which contains enormous potential to meet the needs of Franco-Manitobans. This bill also enables the government to minimally satisfy the requirements of the Supreme Court of Canada.

I have raised five points of personal concern, and it would not be fair for me not to add that I have also observed certain points in Bill 34 which I like. Moreover, some of these points have been raised by the honourable member for St. Boniface (Mr. Gaudry), for example, the fact that the government seems to have respected the broad lines of the Gallant report recommendations: the establishment of local school committees; the creation of a "programme d'accueil" which could lead to the eventual implementation of some francization between the French-immersion program and the français program; and the creation of an admissions committee.

I hope to one day see Manitoba's Francophone issue depoliticized. I am confident that the creation of the Francophone school board in Manitoba is a step in this direction.

Thank you, Mr. Chairperson, for having given me the opportunity to express my personal opinion on Bill 34. I also wish to respectfully thank Madam Minister, the honourable member for St. Boniface and the standing committee for their attention.

Mr. Chairperson: Thank you very much, sir. Do any of the committee members have any questions or comments for Monsieur Le Quéré?

Hon. Darren Praznik (Minister of Labour): I only have one question, sir. It arises from your proposal that the Francophone school board has the right to levy taxes against a population. That was obviously an issue that myself and the Minister of Education (Mrs. Vodrey) considered. I am curious to know how you would divide commercial taxes, how you would actually determine who paid to what school division, which is a fundamental administrative problem.

I know it is easy to say, in theory, each school division should have a tax base—but a simple question. Burns Meats, for example, to whom do they pay their taxes, to whom does Zellers, Safeway, to whom does any commercial property? Which school division do they pay their taxes to when you have literally two jurisdictions over the same property? I do not know how you would propose to handle it. I am curious because it is an issue that we wrestled with in putting together this legislation.

Mr. Le Quéré: I do not pretend to have the answer, but I would say maybe we could have a look at the way they do it in Ontario and maybe just start by asking the different businesses to make a choice and then make decisions on that.

Hon. Rosemary Vodrey (Minister of Education and Training): I would just like to thank you very much for your presentation and the way you have categorized your concerns in a way that was really quite easy for us to understand your issues. I also thank you for the recommendations that you have put forward with the issues that you have identified.

I just have to say we appreciate your time. Thank you very much.

Mr. John Plohman (Dauphin): I would just like to ask a couple of questions. One is the one dealing with the parallel systems, two separate systems

offering français programming as is envisaged in this bill.

You said that it would cause confusion and perhaps result—if I heard you correctly—dilution and assimilation, perhaps as a result of not having this in the exclusive jurisdiction of the Francophone division. Would you like to see it phased in, as you had indicated, over, say, a five-year period, similar to what is happening in Saskatchewan? Do you feel like that is a reasonable approach? Are you familiar with that?

Mr. Le Quéré: No, I am not familiar with what is happening at the present time in Saskatchewan; however, I think that it is imperative that the Francophone School Division be in a position to be fully responsible for the education in the French language in Manitoba.

Mr. Plohman: You make no comments on costs. Do you feel that would also be more cost-efficient to do it that way?

Mr. Le Quéré: In what terms?

Mr. Plohman: Well, not having to offer it in both divisions at the same time.

Mr. Le Quéré: Yes, I am of the opinion that it would be cost-efficient to have only the Francophone School Division to offer the French program, the français program.

Mr. Plohman: That is the concern that we have. I am just wondering whether you agree with it, and I think that is what you have indicated, that it would be more cost-efficient.

Secondly, you have concerns about the transportation provisions in the act and that they are not specific enough and detailed enough to ensure that there is adequate provision made for independent transportation and decision making with regard to transportation. Is that correct?

Mr. Le Quéré: That is correct.

Mr. Plohman: Thirdly, the member had asked earlier about the financing model that you had proposed, that there be the provision to levy property taxes. Is that the only alternative that you would look at for financing for this bill? Are there others?

For example, would you agree with the Teachers' Society who suggested maybe an alternative would be to have the Francophone division fully funded by the province, as opposed to

having the provisions of transfer of per-pupil grants as presently envisaged?

Mr. Le Quéré: Well, I am not familiar with what MTS has proposed or put forward. What I would say is I would like to see the Francophone School Division at the same level as the other divisions.

By having the way to finance the school division the way it is written in the bill, I am of the opinion, I fear that the Francophone School Division is being penalized and maybe the subject of restrictions or other matters important to the existing school divisions.

When we think in terms of budget, and if I am not mistaken, Bill 24 said that the Francophone School Division must present a budget in advance to the minister. Well, they will have to wait for the existing school divisions to decide how much they are going to levy for taxes. They will not be able to present a budget until the existing school divisions will have set up their own budget, and I fear that may be a problem.

So like I say, I do not pretend to have all the solutions, of course, but it seems to me it would be fairer for the Francophone School Division to start on the same basis of taxing or financing of the existing school divisions.

* (1930)

Mr. Plohman: You have concerns about logistical considerations with regard to how it would work with regard to presenting a budget, but also would you say that your major concern is that you would like to see that the Francophone division has a source of income which they have control over as opposed to being dependent on decisions made by other school divisions or by other levels of government.

Mr. LeQuéré: Well, I think everybody would like to have control of their source of income.

Mr. Plohman: That is the reason for the proposal though.

Mr. LeQuéré: That is one of the reasons, yes.

Mr. Plohman: As far as the minister's powers, how do you think these issues should be resolved if they are not resolved by the minister?

Mr. LeQuéré: How are they being resolved right now? In Bill 34, I would say an arbitration committee should probably be the best solution, or an apolitical board. I heard this morning some suggestions of the senior judge in Manitoba and

most probably there would be enough resources in Manitoba to appoint a competent arbitration board.

Mrs. Vodrey: Mr. Chair, just a couple of comments in closing. The issue of the parallel system—I would just remind you that this was a decision to allow for choice in Manitoba. As you know, we are all legislators here. We represent Manitobans and ideas come forward. We understand and have understood from Manitobans that Manitobans have wanted, in some cases, the right to remain within their existing school divisions. So I just wanted to give you the information regarding the underlying reasons for the choice but, while respecting the choice, we have ensured that we have met the constitutional obligation of exclusive control of the school division. So we have looked at exclusive control versus a monopoly right to allow for Manitobans to make that choice.

In the area of transportation, as you know, having looked at the bill, the new division will bring forward a transportation plan. That transportation plan may allow for negotiation for some of the direct transfer of buses which you have spoken about, or it may, as you also said, allow for some sharing of resources and for school buses. In that case, we will be looking for the work of the board, for the board to do its work in terms of its plan and what it would bring forward.

In the area of finance, I just would like to make a couple of comments as well and just remind you that the financing for schools must appear to be fair to everyone. In doing that, there would be, perhaps, four ways in which the school division would receive its funding; one, through the funding formula which applies to all school divisions, and then with the transfer of the special levy being the second way, and then understanding that when the school division presents its budget and the province is able to look at it, in fairness to all divisions, where there is a requirement, the province does have the right under The Public Schools Act then to make a special grant and to make sure that what is legitimately required and in fairness to all divisions, that is possible. The fourth method of funding is, in fact, the money that will be made available by the federal government and which we are negotiating for.

I just wanted, in your thinking about the financing issue and with the thought that you had provided so far, to make sure that you understood the potential

of four ways for that funding to appear to the Francophone School Division.

With that, those are my comments, and I thank you again for your time.

Mr. Chairperson: Thank you very much, Monsieur Le Quéré, for your presentation this evening.

We will now call Mr. Sidney Green. Last call, Mr. Sidney Green. Antoine Hacault. Last call, Antoine Hacault.

That completes the list of public presenters on Bill 34. Before we move to clause-by-clause consideration, I would ask the committee if they still require the simultaneous translation.

An Honourable Member: No.

Mr. Chairperson: Hearing no requirement, I would on behalf of the committee thank the translators very much for their services in this committee today.

Bill 25—The Public Schools Amendment Act (4)

Mr. Chairperson: We will now move to consideration of Bill 25. Before we move into clause-by-clause consideration of Bill 25, do the members of the committee have any opening statements or comments?

Hon. Rosemary Vodrey (Minister of Education and Training): Mr. Chairperson, I am pleased to provide a brief rationale for Bill 25, which is an amendment to The Public Schools Act.

As I have stated before in this House, Bill 25 takes much of what already exists in Manitoba Regulation 118/91 and proposes to transfer it into the body of the statute. Legal counsel for the department has advised that the structure of governance in place in the Frontier School Division No. 48, which Bill 25 describes, should be outlined in The Public Schools Act. Counsel believes this is necessary because the structure of governance in Frontier School Division is different from that which is in place in other school divisions. It is an indirect method of trustee election with a three-tier system comprised of local school committees, area advisory committees and, finally, the school board itself.

Mr. Chair, this format for election works very well in Frontier School Division. It allows for direct community participation in a geographically large school division at the local level all the way to the

school board level. It enjoys the support of the community and the school division, and I recommend that the bill be adopted. Thank you.

Mr. John Plohman (Dauphin): Just a question to the minister, has she considered the suggestions that were made this morning by the Teachers' Society in their submission, and can we expect any amendments to the bill?

Mrs. Vodrey: Mr. Chairperson, we certainly took very careful note of the recommendations that were made this morning by the Manitoba Teachers' Society. We found that we were not able to support the recommendations. However, I do have two minor amendments which may address one part of the issues which were raised this morning.

* (1940)

Mr. Plohman: Maybe the minister could give some rationale for not accepting some of those. I am not suggesting that all of those amendments are necessary, but perhaps some of them would have improved the wording of the bill and its operational—[interjection]

The member for La Verendrye (Mr. Sveinson) is commenting on this. This is an appropriate time to ask some questions of the minister.

I think I would like to clarify a couple of points on the amendments made, just from the perspective of the minister's decision not to introduce any of those.

For example, the suggestions about, act at all times in good faith in a fair and reasonable manner—does the minister think that is covered some other way? They made that several times. They suggested it and the minister has rejected it. I just wanted to know what consideration was given.

Mrs. Vodrey: Mr. Chairperson, we did look at it seriously. We checked with legal counsel. We were advised, first of all, that that particular wording was very difficult to interpret and may have no particular meaning within the context of this particular legislation. That wording has been drawn from another act, The Labour Relations Act, which deals with other types of relationships. Within this act, it would in fact be very difficult to extend its meaning and to interpret its meaning.

Mr. Plohman: Another one that was suggested dealt with interchanging the word "shall" in place of "may" with regard to the local school committees. Does the minister see any difficulty with that? Why would she have rejected that one?

Mrs. Vodrey: The word "shall" to "may"—may, as it exists now, again, was reviewed with legal counsel. We did look at the whole bill, and the word "may" is consistent within the whole Public Schools Act. It reflects the protocol and what is referred to elsewhere.

As the member knows, we are looking at a major reform of The Public Schools Act, and this issue may come up at that time. At that time, we may be asked to consider it throughout the bill.

Mr. Plozman: One of the recommendations that was made was regarding evaluation, and 17(10)(b) deals with recommendations respecting the need to evaluate, whereas the Teachers' Society has suggested developing jointly with the area superintendent, the superintendent and the teachers' division association, policies for the evaluation of administrative and teaching personnel as well as general criteria and procedures to be followed on those evaluations.

That seems one of the stronger recommendations that they made. I wonder whether that is not much more clear in the act than what is there presently in terms of the role of the committee and what the minister would see as the role of the local committees.

Mrs. Vodrey: Mr. Chairperson, I would point out to the member that in the case of Frontier School Division, the local school committees are elected. Therefore, they are individuals who wish to participate within a great deal of the work of that school division.

However, in terms of a professional evaluation, the local school committees, the area advisory committees may in fact recommend the performance of an individual be evaluated. If that recommendation is accepted, then the evaluation would be conducted by the area superintendent or the chief superintendent and, therefore, the evaluation would be a professional evaluation. May I say, that is the practice now.

Mr. Plozman: We certainly support the concept which was introduced by way of regulation a number of years ago of the local advisory committees and regional committees in terms of their function in governance of the Frontier School Division, as well as the election of the school board. Also, we feel there should be some delineation of responsibilities between administrative and general guidance and governance by elected people

versus administrating, actually doing the administrative functions that staff are hired to do.

So we think there is a delineation there and that should be made quite clear in the bill so that, as the minister says, the evaluation is done by professionals with certain guidelines. What was suggested here seemed to be consistent with that by way of their suggestion and that is why I asked the minister about it. However, it is clear that any of these amendments are those that are the prerogative of the minister and of the government and we point out where some of those could have been positive and leave it to the minister's discretion for the final decision.

Mr. Chairperson: Does the critic for the second opposition party have an opening statement? No. Thank you.

The bill will now be considered clause by clause. During the consideration of a bill, the Title and the Preamble are postponed until all clauses have been considered in their proper order by the committee.

Clause 1—pass.

Clause 2.

Mrs. Vodrey: Mr. Chairperson, I have an amendment.

THAT the proposed subsection 17(1), as set out in section 2 of the Bill, be amended by adding the following definition in alphabetical order:

"**chief superintendent**" means the person appointed as the chief superintendent of the northern school division; ("surintendant en chef")

[French version]

Il est proposé que le paragraphe 17(1), énoncé à l'article 2 du projet de loi, soit amendé par adjonction de la définition suivante dans l'ordre alphabétique:

"**surintendant en chef**" La personne nommée à titre de surintendant en chef de la division scolaire du nord. ("chief superintendent")

Motion agreed to.

Mrs. Vodrey: I have another amendment.

THAT the proposed subsection 17(10), as set out in Section 2 of the Bill, be amended in the part preceding clause (a) by adding "or the chief superintendent, as the case may be," after "area superintendent".

[French version]

Il est proposé que le paragraphe 17(10), énoncé à l'article 2 du projet de loi, soit amendé, dans le passage qui précède l'alinéa a), par adjonction, après "surintendant régional", de "ou le surintendant en chef, selon le cas".

Motion agreed to.

Mr. Chairperson: Clause 2 as amended—pass; Clause 3—pass; Clause 4—pass; Preamble—pass; Title—pass. Bill as amended be reported.

Bill 34—The Public Schools Amendment (Francophone Schools Governance) Act
(continued)

Mr. Chairperson: We will now move to consideration of Bill 34. Does the honourable minister have an opening statement?

Hon. Rosemary Vodrey (Minister of Education and Training): I am honoured this evening to submit to the Law Amendments committee for its approval Bill 34, The Public Schools Amendment (Francophone Schools Governance) Act.

It is truly an historical moment in that, upon enactment, Bill 34 will give the Francophone community in Manitoba control over the education of their children for the first time since Manitoba joined Confederation. I would like to acknowledge the perseverance of all the members of the Francophone community who have devoted their time and their energies through the last hundred years to ensure that the French language was taught to their children, both outside and within Manitoba's education system.

I wish the Francophone community success in creating a school division responsive to their needs and dedicated to the preservation and the development of the French language and culture in Manitoba.

Thank you, Mr. Chairperson.

* (1950)

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

Mr. John Plohman (Dauphin): Certainly there was a response required to the Supreme Court decision, and we find that in the form that this government has chosen with Bill 34, perhaps with amendments, and I would like to ask the minister about that before we get into the clause by clause.

However, I think one of the observations I do want to make in light of what happened this

morning with the presentations that were made is that the minister could certainly have had a more detailed and exhaustive consultation process and give and take on the details of the draft bill as it was being put together, which would have perhaps resulted in a better piece of legislation than what we see before us. It would obviously be the case I would think over a number of years that there will be a number of amendments to this bill, changes, as it evolves, to meet the concerns that perhaps were expressed even today, not necessarily those that arise over the period of years.

Naturally when we are looking at a whole new area, there are bound to be things that are overlooked, and it stands to reason that there would have to be changes over a period of time. However, in the meantime, we have to try to achieve the best possible solution. What I am saying at this particular time is that the minister could well have done a better job of developing the legislation in consultation with a number of groups in order to ensure that it more accurately reflected what was required.

Having said that, I would just like to ask the minister whether she has given any consideration to any of the amendments that were recommended and whether any will be forthcoming tonight dealing with Bill 34?

Mrs. Vodrey: We certainly paid attention to the presentations this afternoon, as we have paid attention to the individuals during the long consultation process which began during the Gallant task force committee and their report which followed and the discussions which have taken place in the years since that task force has reported.

I do have six amendments which I would like to bring forward this evening. The amendments will be dealing with some of the issues brought forward to correct in the French version some of the language, also deal with concerns regarding the French Immersion program and also deal with an issue raised by the Teachers' Society as well today. We do have some amendments to bring forward which I believe are responsive to some of the concerns which were raised today.

Mr. Plohman: Is the minister saying there was only one out of those amendments that arose as a result of the presentations today, the one by the Teachers' Society, or are there others that have

been prepared since the presentations were made?

Mrs. Vodrey: Mr. Chair, there have been amendments which were prepared for this evening from discussions which occurred even before some of the presentations this morning, as you knew. The members of the group who presented did present their concerns and we did take them seriously. There have been four which have been developed since the presentations this morning as well in our effort to truly be responsive to the community while being fair to all Manitobans.

Mr. Plohman: Mr. Chairperson, I did note also that the group did say that they did not have any input into various drafts of the bill prior to it coming forward. There was no give and take on that draft, on the specifics in the draft. That is the point that I was making here.

I want to ask the minister whether she has any more up-to-date information on the costs of the division? The minister may recall there was a number of areas that were outlined as containing costs which were not quantified by the group, and I wondered whether the minister has any estimate of those at the present time, because they did say, I believe, that there was some work done on costing of those various components?

Mrs. Vodrey: The work done that the presenters this morning referred to was the work done in the Manitoba task force on Francophone schools governance appearing in the Gallant report.

There was, as the member will notice, in the beginning where the people who participated in the task force were named, that there was a special task force—sorry, I believe it is at the end—a special working group on financial arrangements. When the Gallant report was released, the work of that working group would appear on page 27 in the area of cost implications.

Mr. Plohman: There is no update to those. Those are the final figures or the best estimates that the minister has at the present time?

Mrs. Vodrey: At the moment those are the numbers which have been prepared. That working group did run a simulation of costs. Now what we are looking at is how many families with children will be registering within the new Francophone division, and we will look at those numbers.

We will also have to look at the needs of those children who are registered within that division.

When we have those numbers, then the school division will be able to prepare their budget, and we will be able to look at the costs which the school division will then put forward for their first year of operation.

I would remind the member as well that in the implementation process, government will be supporting the elected members of the school board in the first year when there are no students.

Mr. Plohman: The minister mentioned the registrations and that she is awaiting those registrations, the number of students registering. Is there any information on that at the present time as a result of the initial work that has been done up to this point in time?

Mrs. Vodrey: I expect to be able to comment quite soon on phase one. Phase I, as the member knows, was the fast tracking or the 13 schools, and then the Phase II or the second part will take place in the fall. Following that we will have then an accurate, at least, estimation of those parents' intention of registering their child for the Francophone School Division.

Mr. Plohman: Is the minister considering a suggestion that was made that the information not be released on the Phase I so all eligible parents would be able to vote in the second phase, as was suggested by, I believe, the Teachers' Society this morning?

* (2000)

Mrs. Vodrey: There certainly are issues which have been raised on both sides regarding the release of any information, whether that be numbers or whether it be simply by community, and I am going to be looking at those issues and then I will be making a decision.

Mr. Plohman: Has the minister considered any changes with regard to the provisions on parallel programming as outlined in the bill?

Mrs. Vodrey: No, we have not considered changes in the area of parallel programming. Government's policy was that choice was a very important matter, and in recognizing the needs of Manitobans we have not reconsidered that particular area.

Mr. Plohman: Has the minister any proposals with regard to the concerns raised about transportation as a result of either prior consultations prior to today's hearing or as a result of today's hearing?

Mrs. Vodrey: As the member knows, the bill requires that the new Francophone School Division will come forward with a transportation plan. However, I will be bringing forward an amendment which includes the words, "transfer or shared use."

Mr. Plohman: Is the minister prepared to consider any changes with regard to the designation of the bill of resident and nonresident students in this whole area of the boundaries of the division as a result of presentations made today and other considerations that reflect on the map that was drawn as opposed to the obligations of the government as a result of Supreme Court decisions?

Mrs. Vodrey: The member is referring to the issue of the territory of the new Francophone School Division. I will remind him, as I have spoken with the groups also about this matter, that when the task force reported and Mr. Gallant made the recommendations, the recommendations that came forward to Manitoba were that there would be a territory and then there would be a service area.

What had been recommended to us by the work of that task force, which was a representative task force, never was that the territory would include the whole province, but in fact there would be a territory and then a service area.

We accepted that concept. We did have some concerns about the recommendations that the territory be based upon school divisions, and we were concerned about some constitutional matters with that particular recommendation, and so we had chosen to look at the territory based on population and by Statistics Canada census material.

As we have discussed in committee, we recognize that the territory as drawn includes those people who are currently in français programs and that there is not a français program operating outside of the territory. If there is an individual family who wishes their child to be educated within the Francophone School Division, then they need only to apply to have access to that right.

Again, the where-numbers-warrant clause would be an important one to consider should there be an establishment of a français school in that area and should that area wish to apply to become part of the Francophone division or territory.

Mr. Plohman: Well, I remind the minister that a lot of areas of the territory designated by way of the

map also do not have français programming in them, yet they are in the map.

Mrs. Vodrey: Mr. Chairperson, yes, however those areas do have, and we know by census, a concentration of Francophone individuals whose children would be eligible to attend. Therefore, we were looking to create a territory where we knew individuals were currently residing. If those individuals wished to become part of the Francophone School Division, they would be included within the division as the map is currently prepared. As the member knows, as well, the territory is to be defined by regulation.

Mr. Plohman: Does the minister also recognize the negative implications of creating two classes of students by way of the nonresident designation? Is that of concern, as outlined by the presenters today?

Mrs. Vodrey: Mr. Chairperson, this has been discussed by myself, representing government, with the groups who have appeared today. We believe that the system that we have set up and the areas which we have included are those areas in which we know that there are Manitobans who may wish to exercise their right and become a part of the Francophone School Division. Where there are families who wish to become a part of the Francophone School Division, that right is theirs. They may choose to access it through applying to their school division.

However the territory is drawn, there would perhaps still be only one family, perhaps one family—that was the example that was given today—who would be outside of the territory, in which case every effort would be made to accommodate that family at the nearest français school in or out of the territory. That would not change the reality of that one family being not within a Francophone community and yet being a Section 23 rights holder, who would then be accommodated in the français school division.

Mr. Plohman: I just want to very briefly explore that a little further then. Why was it felt necessary to have a territory that was different than the provincial boundaries defined by way of a separate map, when in fact the minister has just given assurances and it has been noted in previous discussions that all students who qualify have that right, have the right to have their children educated in the Francophone School Division?

Mrs. Vodrey: Mr. Chairperson, the recommendation flows from the Gallant report. As the member knows, Monsieur Gallant also chaired the Saskatchewan task force, chaired the Manitoba task force. On the Manitoba task force, there was a representation of membership, and it was that recommendation which caused us to consider the territory and the service area.

Mr. Plohman: Can the minister be more specific? What recommendation? Certainly the Gallant report did not recommend the configuration of this particular division as outlined on the map.

Mrs. Vodrey: Mr. Chair, I could read from the recommendation. It would probably be easier to simply give the member the page within the Gallant report, page 33 in the summary of recommendations.

In that particular area it says that the Francophone School Division initially encompassed the territory included in the four regions defined below. There were four regions identified: an urban region, an eastern region, a central region and a western region, and within those areas, in the urban region, Franco-Manitoban school communities in metro Winnipeg; in the eastern region, Francophone communities in the area comprising the Seine River division; in the central region, Francophone communities in the area comprising the Red River division; and in the western region, Francophone communities in the area comprising these divisions: Mountain, Turtle River and Birdtail.

The remainder of the province was then to be treated as a service area in which—I can point the member again to page 33 under governance, if he looks at the paragraph numbered 3 and the paragraph numbered 4.

* (2010)

Mr. Plohman: The operative word was this initially. Secondly, I think the precise delineation was not given by that paragraph. It just talked about the regions. It did not talk about the precise boundaries that were outlined.

In terms of the actual lines, I think I would like to ask the minister whether there were other boundaries and territories considered before this one was accepted as policy by the government.

Mrs. Vodrey: Mr. Chair, again, I would say to the member, if he checks page 33, he will see that those names and those divisions, as I read them to

him, are exactly what is listed here in the summary of recommendations in the Gallant report. As we looked at that and as we looked at then accommodating what the territory would be, our Constitutional Law branch advised us that the proposed legislation for Francophone schools governance may be successfully challenged if it identified the boundaries of the division as those proposed in the task force, relying on school divisions.

What we did was we took the concept of territory and service area as proposed by Gallant and then we said, where are the potential students for the Francophone School Division? We looked across Manitoba at the concentrations of the Francophone population, and with that and using the Statistics Canada census data, we then drew the map which will be enacted by regulation.

Mr. Plohman: I think that supports what I just said. The precise outline of the boundaries was not provided because it was by way of divisions and this was done by way of municipalities. There is a difference there, and that is really the point that I am making. I think the minister has borne that out in her statement. The census data was taken, and then it was done on the basis of municipalities as opposed to school divisions. Is that correct?

Mrs. Vodrey: Again, I can say to the member that we were looking at what had been proposed by Gallant and we wanted to make sure that what we brought forward was brought forward to be as functional as we could make it on behalf of the Francophones in Manitoba. The court, in the appeal court cases, questioned the appropriateness of using school division boundaries to establish where Francophone education was to be provided. The Supreme Court cautioned on March 4, 1993, and this is a quote from the decision: It would not be open to the government of Manitoba to carve school districts which unduly hampered the Francophone school board from attracting students.

Mr. Plohman: Perhaps municipalities could do that as well, would not adequately define it.

In any event, Mr. Chairperson, I wanted to ask the minister about one other aspect of the bill before proceeding. Is the minister prepared to offer any assurances to existing school divisions that any negative cost implications to existing divisions that restricts their ability to offer quality programming as a result of dollars transferred by

the formation of the Francophone division, that they will be offset by the province?

Mrs. Vodrey: As the member knows, on the implementation committee there is representation from the Manitoba Teachers' Society, from MAST, Manitoba Association of School Trustees. The implementation committee was set up with the two-way communication necessary for the setting up of a new school division in mind. When the Francophone School Division is going through the implementation process, the effect on existing school divisions needs to be known by the representatives and so the whole process of implementation and any effect, if there is any, would then be known by the members of the implementation committee. We will have to look at the number of students who transfer and then we will look at the divisions.

As the member knows, the initiative of Francophone governance is one of the initiatives which we are bringing forward to look at quality of education and education in Manitoba. We are also looking at a series of other initiatives, and as those are then announced and detailed, I think the member will find also that these will be of assistance. Where français programs are offered within existing school divisions, then that may be a matter that we would want to discuss with the federal government in terms of their funding of français programs.

For the existing school divisions, we will be looking at the implementation committee to make sure that the interests are kept in mind in all areas and then we will look at the transfer of students, the numbers and other initiatives which we will be putting forward.

Mr. Plohman: I understand this is not in isolation. I just want to gain the assurance from the minister that existing school divisions can rest assured, feel comfortable that they will be compensated for negative cost implications to their division that impact on their ability to offer quality programming.

I know the minister might go to the federal government for that, may raise it at that particular time. What I want is the assurance from the minister that in fact that will be addressed by this government.

Mrs. Vodrey: Again, I have given the member, I believe, the plan which we have put forward, the plan which we look to address any effects which

would occur and how they will be known, and how the existing school divisions will then be able to represent, even during the process of the implementation to the Francophone community, any effects.

I would also say to the member, and this year we have had a very difficult year in terms of funding, and that was the way that we certainly considered the very difficult decisions that we made across government in terms of funding announcements. If the member is asking for some assurances for further funding announcements as they affect education in specific and government in general, we will have to look at the budget process as we go through the next budget cycle.

The way we looked to protect existing school divisions was to make sure that there was representation on the implementation committee so that their voices would be heard.

Mr. Plohman: Well, Mr. Chairperson, the implementation committee does not have the power to fund. So while their voice is heard, the only person or group of people with the power to ensure that any negative impacts are redressed is this minister and the government. That is why I am asking this minister for those assurances.

It is the principle, not the precise amount of dollars—that can be addressed in the budgetary process. But the principle of offering that compensation, that is what I am talking about. The minister may say, well, it is not a big deal, or it may be very little, that I am blowing it out of proportion, but I believe that there will be implications. I am not trying to quantify them, I am just simply saying there will be, in my estimation. That being the case then, I want assurances from the minister that they will be addressed.

It is precisely because of the difficult budgetary process that divisions have had to go through this past year that we have to have these kinds of assurances, because they cannot absorb additional negative blows here in terms of the impact on their budgets. That is the reason for raising this issue. It is obvious that there was a very difficult situation for divisions, and they are struggling to ensure that they maintain the quality of education within their divisions, and that there is some equity across the province.

* (2020)

So when we have certain areas that could be affected rather profoundly by this bill, then we have to ensure that there are some assurances in place, and that is all I am asking the minister, that she will do her best to redress. We have not really heard that. The minister is talking in generalities about the issues. Yes, the minister will do her best, we have to take her word at it that she will do her best. If she does not, then of course we have to take her to task at that particular time, but at least we can get that much of an assurance from the minister, if she is not going to say it and write it down in blood, yes, we will address all cost implications.

I would like to see a very strong statement from the minister, but if she will not do that, then I would think that at least her best effort to do so would be somewhat of an assurance here today.

Mrs. Vodrey: I certainly will do my best, and this government will do its best. But I would like to say, in taking into consideration the concerns which have been raised by existing school divisions, I want to tell the member that we do that on a regular basis, that the concerns which may be raised by existing school divisions are taken into account on a regular basis.

I point this year to the six changes in the school funding formula which took place this year to address the issues which had been brought forward by school divisions. We did address a small schools issue. We did address transportation and remoteness issues. So I can say to the member that it is certainly our intention to continue to be responsive to existing school divisions and the issues that they raise to government.

It is that ongoing communication and process of identification which I believe is important and which I look forward to having continue.

Mr. Plohman: Having addressed all of those concerns, the minister has to acknowledge that she still did cut the funding to existing divisions in the public school system by some 2 percent. That is an important factor when we consider the cost implications and the ability of existing divisions to absorb additional costs. [interjection] If the Minister of Government Services (Mr. Ducharme) wants to get into it, fine, he can on the record. He says, what has that got to do with this bill. It is closely related to this bill. I know the member opposite, when she was sitting in the Speaker's Chair, was having some difficulty while I was speaking to second

reading as to whether my comments were relevant. It is all related.

Just as the minister said tonight that there are a number of initiatives that she is bringing forward and they are all tied together and this is not being done in isolation, so in those same ways, when we talk about the costs that have been offloaded onto existing divisions and the cuts in funding, it is a major factor. I think that the minister has to recognize that and acknowledge that and ensure that the costs will be offset, and we will be watching that very closely, because we want the Francophone division to be adequately funded to ensure quality education in the Francophone School Division. There is no doubt about that and there should be no question about that.

There is no question about implementing the Supreme Court decision. No question, but there is question—[interjection] We have said that from the outset—[interjection] The members opposite are interjecting, and it does tend to be a bit distracting. It causes me to go on and on, and I am prepared to do that until all of the points have been made.

I want it to be clear, as we have said right from Day One in our speeches, that of course we have to address and respond to the Supreme Court decision, and of course we want adequate support and funding, and of course we want to get as many federal dollars. But we do not support every particular clause on the basis of there being a need to improve certain aspects of the bill and to ensure that it is done effectively and efficiently.

We do not want there to be cost implications for existing divisions, and that is why I have raised that point, the issue of parallel programming. I want the minister to consider those, and that is why we have raised them here today. I think it is important that we do ensure that all children in Manitoba have access to quality education, including those within the Francophone School Division and those within existing divisions throughout the province, in the public school system in Manitoba.

Mrs. Vodrey: I would just like to say I am pleased that the member offers support to the response this government is providing through the Francophone community to create the Francophone School Division and that there is a recognition of ongoing effort to provide fairness to all school divisions, including the new Francophone School Division, that through initiatives which have been brought forward this year in relation to transportation,

remoteness, bilingual support and those which I know will be continued to be brought forward in our efforts to continue to assist school divisions in their provision of education.

In relation to the additional initiatives which we will be discussing in the near future, I think he will see also that those will be adding to the way school divisions are able to deliver education and to access the most quality education for their young people.

Mr. Nell Gaudry (St. Boniface): Mr. Chairperson, it gives me great pleasure to be part of this committee. I understand, like the minister said, it was an historical day again in Manitoba today when we are in committee for this Bill 34 which will give a Francophone School Division in St. Boniface.

I am proud to be the representative for St. Boniface on this occasion. I would also like to recognize the work that the staff have put in to prepare this bill. I am sure they have spent many hours in many discussions with the Francophone community. I know it is not perfect, but it is a step in the right direction. I do not want to fearmonger by asking questions of what it is going to do to other school divisions. We know there will be some glitches along the transfer of students and things like that, of the assets and so forth, but regardless of that, it has been long awaited, long overdue. I remember going to school where we had to hide our books, and my Francophone friend from St. Vital here, I am sure, had the same experience.

Like I say, it is time that we pass along and go forward with this bill, and I congratulate the government bringing forward the bill in this session because I think if we had waited for the next session to come along, it would have been another two or three years maybe before we see the bill being in effect for the school division.

We have heard good presentations this morning from the different organizations, from MTS, from the Francophone community. They brought forward many concerns, and hopefully the minister will address some of them that have been brought forward, the recommendations, proposed amendments. I do not know whether she will have all of them, but I think in the future and after the bill being in force, we will look to having amendments probably in the next session.

It is things that will go forward, and I am sure the staff are prepared to listen to the Francophone community like they have done in the last couple of

years. We look at the presentation from the Francophone community this morning. They have concerns where section 23 of the Charter of Rights—they have expressed concern. I do not know how the minister has addressed these concerns. I look at just one here, section 21 where they recognize that it does not conform with section 23. Maybe the minister will address these concerns as we go through clause by clause and tell us what the discussion has been with the committees. They indicated this morning that they have had lengthy discussions with the minister. Hopefully, these will be clarified as we go clause by clause.

Our caucus will be supporting this bill, and we look forward to Royal Assent to the bill very shortly so that we can proceed.

Maybe one question in this regard here. I know there has been a lot of discussion in regard to St. George school in the Pine Falls area. What has the minister done in regard to St. George—

Floor Comment: There is no school at St. George.
* (2030)

Mr. Gaudry: No, I know, but there has been concern—the parents want to open a French school—if they are not included in the French school division. We do not want to politicize it.

Mrs. Vodrey: Mr. Chairperson, the situation I understand is one of concern to the residents in that area. As a result of that, I have spoken to Monsieur Monnin as the chair of the implementation committee. I have asked that the implementation committee visit in that community very early in September. I would be guessing to suggest the date as I sit here this evening, but I think it is in that first week of September. I will be happy to get it for the member at another time, but we recognize the urgency and the importance in that area.

Mr. Gaudry: Yes, I just want to make a comment here. I think it is very important and I think it has been mentioned in a couple of the presentations that we do not politicize this issue at this time. Thank you very much.

Mr. Conrad Santos (Broadway): Mr. Chairperson, I would just like to ask some questions because I understand that in the federal system, where there are sister provinces, it is desirable that a comparable problematic situation should be receiving comparable solutions. The minister had mentioned that there is a Gallant report in the

Saskatchewan task force, as well as the Manitoba task force.

My question is what is the reason why they did not accept the Gallant recommendation that was accepted in Saskatchewan and Ontario about adopting the opt-out route instead of the opt-in system in Manitoba?

Mrs. Vodrey: Mr. Chairperson, I would like to point out to the member that Saskatchewan has an opt-in. Saskatchewan's method is very similar to Manitoba where parents identify that they would like to have their children part of the system. Now Saskatchewan has chosen a system somewhat different than Manitoba and perhaps I could characterize it by a series of almost minibords and then an umbrella board. They have chosen a slightly different model. They have chosen that model based on their needs in Saskatchewan. As I have said from the beginning, what we have put forward in Manitoba is a made-for-Manitoba solution.

Mr. Santos: Most of our legislation in Manitoba is patterned after the legislation in Ontario. Why did we not follow Ontario's choice?

Mrs. Vodrey: Mr. Chairperson, you might think that Ontario was in fact behind Manitoba. They are still considering, I understand, legislation, and they have moved to some governance within existing boards. I understand there are two boards, but that does not address the needs of the whole province. Manitoba has, in fact, moved to address the needs of the province of Manitoba.

Mr. Santos: On the matter of authority to offer the instruction in the French language, I understand Saskatchewan has given its Francophone minority the exclusive right to run the French language program after five years, whereas the Anglophone boards will only be able to offer French immersion programs. Manitoba has chosen to disregard this task force recommendation by Gallant. Why?

Mrs. Vodrey: Mr. Chairperson, I would suggest the member might want to examine the words that he is using.

The Manitoba model does give exclusive jurisdiction and exclusive right of management to the Francophone board. The Francophone board, which we have suggested is not a majority board or comprised of any other potential way that a board might be comprised, is a board with exclusive

jurisdiction over the work of the Francophone school board.

In our method, however, we did not confer monopoly rights upon the Francophone School Division. We have said that in Manitoba there is the opportunity to choose, because in representing the province of Manitoba, which we as Manitobans know the best, there was a recognition that in some areas of Manitoba those Manitobans wish to remain for many reasons of their own community in choosing with their own existing school division.

Saskatchewan has chosen a model somewhat different. Saskatchewan, as I said, can be characterized by a series of mini boards. They do not offer monopoly rights in the first instance. Again, the member has frequently referred to Saskatchewan, but Saskatchewan is an opt-in. Families must indicate that they would like to be a part of a mini board or have the creation of a mini board. There will not be the governance in the same model as in Manitoba.

Mr. Santos: To grant the exclusive power to manage and control instruction without the power to finance it by denying the power to levy taxes will be a hollow kind of management. Is it the intention of government that later on the Francophone School Division will be given this power to levy taxes?

Mrs. Vodrey: Mr. Chairperson, in the two other models which are attempting to address the needs of the province, Saskatchewan and Alberta, neither of those models have accepted the right of taxation for the Francophone board. Manitoba, for the reasons that I have discussed today already, has not recommended that the Francophone board have the right of taxation, because we recognize, in Manitoba in particular—I would ask the member to look at where the Francophone population resides in this particular province and the difficulty that there would be in overlaying a special levy for the Francophone division within existing school divisions.

So there have been a number of reasons that Manitoba, along with Saskatchewan and Alberta, has chosen not to confer the right of taxation.

Mr. Santos: Is it not the case that all other school divisions have this right to a special levy?

Mrs. Vodrey: Pardon me?

Mr. Chairperson: Could you repeat that question, please?

Mr. Santos: Is it not the case that a lot of the school divisions have this right to special levy?

Mr. Chairperson: Could you repeat the question, please.

Mr. Santos: Is it the case or is it not the case that other school divisions have this power to levy taxes?

Mrs. Vodrey: If the member is referring to school divisions in Manitoba, it is true that school divisions in Manitoba with the exception of Frontier School Division have the right of special levy.

Mr. Santos: So when the legislation says that they have the same power and duty as existing school boards, that is not actually accurate.

Mrs. Vodrey: I believe the member will find that there is the caveat which says, with the exception of taxation.

Mr. Santos: I understand that Saskatchewan, instead of putting the financial requirement ahead of pedagogical considerations, refused to give a specific number in the formula where the numbers warrant, whereas Manitoba chose to give 50 per municipality. Why is that?

Mrs. Vodrey: The number 50 is not the "where numbers warrant" number. I think the member is confused. The number 50 was the number that was recommended to—as we look at the population of Manitoba by census data in the drawing of the territory.

I would remind the member as well that a Section 23 rights holder is entitled to ask for their child to be educated within the Francophone system, and I believe within the Charter and also within the court decisions, that the "where numbers warrant" is subject to also cost and case-by-case decision making.

Mr. Santos: Finally, with respect to funding, this tax transfer from existing school divisions as a way of funding the Francophone School Division, is this merely a temporary measure, that eventually the Francophone School Division will be funded 100 percent direct from the government funding formula?

* (2040)

Mrs. Vodrey: It is not contemplated that there will be a change of funding. At the moment the funding is as I have explained to the member by the funding formula as applies to other school divisions with the transfer of a special levy that will go with that

student, and then government will look at the budget submitted by the Francophone School Division. The government under The Public Schools Act now does have the right to provide a grant if that is deemed necessary. In addition, the fourth source of funding is funding which is accessed through the federal government.

Mr. Santos: Is it not a disadvantage for this Francophone School Division, given that the resources of all the school divisions is a certain finite amount of resources, it follows that there is some kind of a game, the more the grant transferred from one division to another, the less the original division will have in terms of financial resources?

Mrs. Vodrey: Mr. Chairperson, I am hoping the member understands the process and the process is that when the student is transferred, the funds that are available that would flow through the funding formula and that would be available through the special levy, and there is a formula for calculating the amount of the special levy funds which would then transfer to the student. We are looking at, through the special levy, the taxpayers of that particular school division and how their special levy and mill rate was arrived at.

So we have attempted to be in the setting up of this school division and the funding of the Francophone School Division, to set it up in fairness with other school divisions also, recognizing the situation of other school divisions. We recognize that all school divisions will have some limits in terms of the funds that they are able to raise through the special levy of what their taxpayers can bear.

Mr. Santos: Mr. Chairperson, but the obligation of the existing schools of the division from where the man is coming from to offer a parallel program will also cost money, and the more monies transferred from there to the Francophone schools of the division, the less money they will have available for their own Francophone programming. Is that not the case?

Mrs. Vodrey: Mr. Chairperson, again, you would have to know if students were remaining in that school division who were requiring the français program and that existing school division would then have to look at the numbers of young people who wanted the français school program offered by a division other than the Francophone School Division. If there were not enough numbers in that

one area, then those young people would be accommodated by the school division at the closest possible place, but we would have to again look at the numbers. I believe the member is assuming and we do not know yet what those numbers will be and what the decisions of those families will be.

Mr. Santos: Thank you, Mr. Chairperson.

Mr. Chairperson: As usual, the Title and Preamble are postponed until all clauses have been considered in their proper order by the committee.

Clauses 1 to 4 inclusive—pass.

Shall Clause 5 pass?

Mrs. Vodrey: Mr. Chairperson, I have some amendments in this particular clause. My first amendment is

THAT the French version of the proposed section 21.1, as set out in section 5 of the Bill, be amended by striking out "ou qui reçoit" in clause (b) of the definition "ayant droit".

[French version]

Il est proposé que la version française de l'article 21.1, énoncé à l'article 5 du projet de loi, soit amendée par suppression de "ou qui reçoit" à l'alinéa b) de la définition de "ayant droit".

Motion agreed to.

Mrs. Vodrey: Mr. Chairperson, I have another amendment.

THAT the proposed subsection 21.15(2), as set out in section 5 of the Bill, be amended by striking out everything after "to attend" and substituting "a programme d'accueil for a period of time determined by the board".

[French version]

Il est proposé que le paragraphe 21.15(2), énoncé à l'article 5 du projet de loi, soit amendé par substitution, au passage qui suit "suive", de "un programme d'accueil pendant la période qu'elle détermine."

I believe this amendment satisfies the concerns of the presenters today regarding support programs being offered in the French Immersion program. We have removed French Immersion and we have agreed to the amendment that the support programs be provided by the programme d'accueil.

Motion agreed to.

Mrs. Vodrey: The next amendment that I have is

THAT the proposed subsection 21.30(2), as set out in section 5 of the Bill, be amended by striking out "shared used" and substituting "transfer or shared use".

[French version]

Il est proposé que le paragraphe 21.30(2), énoncé à l'article 5 du projet de loi, soit amendé par adjonction, après "ou au sujet", de "du transfert ou".

I believe this amendment deals with the issues of the presenters today in looking at the issue of transfer of buses as well as shared use of buses.

Motion agreed to.

Mrs. Vodrey: Mr. Chair, I have an amendment.

THAT the proposed subsection 21.36(4), as set out in section 5 of the Bill, be amended by adding "entitled" after "any other class of".

[French version]

Il est proposé que le paragraphe 21.36(4), énoncé à l'article 5 du projet de loi, soit amendé par substitution, à "de personnes", de "d'ayants droit".

I believe this satisfies the concerns of the presenters today in wanting to be as specific about the person who would vote. Adding the word "entitled", I believe, satisfies the concern that was raised this morning.

Motion presented.

Mr. Gaudry: This amendment was discussed with the committee.

Mr. Plohman: I just, for the record, note that I had written that they had recommended deletion of that particular section as opposed to this particular amendment. They thought it was not necessary.

Mr. Chairperson: Amendment—pass.

* (2050)

Mrs. Vodrey: I have an amendment.

THAT the proposed subclause 21.43(e)(iv), as set out in section 5 of the Bill, be amended by striking out "21.37".

[French version]

Il est proposé que le sous-alinéa 21.43e)(iv), énoncé à l'article 5 du projet de loi, soit amendé par suppression de "21.37".

Motion agreed to.

Mrs. Vodrey: I have an amendment.

THAT the proposed section 21.47, as set out in section 5 of the Bill, be amended by renumbering it

as subsection 21.47(1) and by adding the following as subsection 21.47(2):

Rights of non-designated teachers continued
21.47(2) If, before the end of the first year it provides programs under section 21.5, the francophone school board hires a non-designated teacher who has lost his or her position with a provider school board because of the transfer of francophone programs to the francophone school board, the teacher is deemed to be a designated teacher for the purpose of 21.45, which applies with necessary modifications.

[French version]

Il est proposé que l'article 21.47, énoncé à l'article 5 du projet de loi, soit amendé par substitution, à son numéro, du numéro de paragraphe 21.47(1) et par adjonction de ce qui suit:

Maintien des droits des enseignants non désignés

21.47(2) Est réputé un enseignant désigné pour l'application de l'article 21.45 l'enseignant non désigné qui a perdu son poste auprès d'un cédant en raison du transfert de programmes français à la commission scolaire de langue française et qui est engagé par celle-ci avant la fin de la première année au cours de laquelle elle offre des programmes en vertu de l'article 21.5. L'article 21.45 s'applique avec les adaptations nécessaires.

I believe that this addresses the issue that was raised by the Manitoba Teachers' Society in their presentation this morning.

Motion agreed to.

Mr. Chairperson: Shall Clause 5 as amended pass?

Mr. Plohman: Mr. Chairperson, I just have one question here in Section 5 on page 8. I wanted to wait until the minister completed all her amendments.

This morning we had a recommendation made by the Teachers' Society with regard to another bill, Bill 25, dealing with changing the wording to use

the words: ". . . criteria for the selection of principals, teachers and other school personnel." It is a relationship question, for the members opposite, in terms of consistency of policy.

In Bill 34, on page 8, 21.10(d), it says that the regional committees would be consulted by the Francophone school board. One of the things that they would be consulted on is general criteria for selecting principals and teachers. This is precisely the wording that was suggested for the Frontier School Division yet was rejected by the minister. Here it is included in the bill.

I simply ask the minister why they would use a different clause in this particular case than they did in Bill 25.

Mrs. Vodrey: Mr. Chairperson, this morning the Manitoba Teachers' Society had been concerned in Bill 25 about power vested in the local committee.

As I explained to the member, for Frontier School Division, that local committee is elected, whereas in Bill 34 the school committee is not elected. The first point of election in the Francophone School Division is at the regional committee. At the regional level there was not as great a level of concern expressed by the Manitoba Teachers' Society. I am not sure, this morning in the discussion, if the distinction between the two boards—so they operate on a similar model. Francophone School Division does not elect the school committee; in Frontier School Division the school committee is elected.

Mr. Chairperson: Clause 5 as amended—pass; Clauses 6 to 9 inclusive—pass; Preamble—pass; Title—pass. Bill as amended be reported. In both languages it shall be reported.

Thank you very much to the committee members for their participation today, and also to Hansard and to our very efficient clerk, Judy White.

Committee rise.

COMMITTEE ROSE AT: 8:54 p.m.