

BANNING SCHOOL PRAYER
IN THE WINNIPEG SCHOOL DIVISION NO.1:
A CASE STUDY OF BY-LAW 1000

by

Robert M. DeBrouwere

A Thesis

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of The University of Manitoba
in partial fulfilment of the requirements
for the degree of

Master of Education

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ABSTRACT

It was the purpose of this study to examine the circumstances and process that led to the drafting and passage, by the Board of Trustees of The Winnipeg School Division No. 1, of By-law 1000. The passage of this by-law removed mandatory religious exercises from the schools in the Board's jurisdiction. The case study method was used because it provided the best means of defining the root causes of the school prayer issue and of extracting the unique perspective of each trustee on the nature of the issue and their rationale for either voting for or against the by-law. A semi-structured interview, with the nine then-sitting trustees and a number of other interested parties, was used as the primary research instrument. Interview data was reinforced and supplemented with data obtained from the minutes of the Board of Trustees' meetings, newspaper and magazine articles, historical accounts, and legislative and legal documents.

The roots of the school prayer issue lie in the dominant role religion played in the early development of education, and a dual-denominational school system, in the Province of Manitoba. By 1890, however, political and social forces had changed the dual system into a unitary public school system with optional religious exercises as the only lingering reminder of religion's once powerful presence. An

apparent growing indifference on the part of students toward religious matters and the difficulty school boards faced in providing acceptable religious teaching, when requested, contributed to the Manitoba Provincial Government's decision, in 1955, to enact legislation mandating religious exercises in all its public schools. While satisfying the educational concerns of one segment of society, the mandatory legislation displeased the growing non-Christian community and those who conceived of the public school system in purely secular terms. The availability of only two options, passive participation or voluntary abstention, became points of contention in litigation fought by dissenting parents and students in Manitoba, and similarly in Ontario and British Columbia, after the arrival of the Canadian Charter of Rights and Freedoms.

In The Winnipeg School Division No.1, concern over the Christian-dominated nature of the religious exercises had been expressed by its multicultural and multi-religious constituency for a number of years. In the light of Charter litigation, local multicultural concerns and, specifically, as a result of a high school students' presentation, the Board of Trustees, under the provisions of Section 84(6) of the Public Schools Act, passed a by-law which distinguished the Division as the first school division in the Province of Manitoba to remove mandatory religious exercises from the schools in its jurisdiction.

This study found that the passage of By-law 1000 was the product of several factors operating together. The most important of these factors were the personal experiences and philosophy of each trustee and the timing of the motion within the context of the growing articulation of multicultural concerns and the presence of local and national Charter litigation. This study also revealed the diversity of opinion on the Board of Trustees concerning the nature and purpose of schooling. This study showed that this interminable debate, which includes the need for the 3 R's and the duty of schools to instill values and morals, has been infused with two new considerations - how to identify and fulfil the needs of a multicultural society, and, the recognition that increasingly the parameters of educational practice will be defined by judicial interpretations of their impact on individual rights guaranteed by the Charter of Rights and Freedoms.

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CHAPTER I

ENQUIRY: THE NATURE OF THE STUDY

Introduction

On January 9, 1992 By-law 1000 was read for the third time and passed by the Board of Trustees of The Winnipeg School Division No.1.¹ By-law 1000 "directed that Religious Exercises not be held² in any school during the current school year."³ The passage of By-law 1000 signified The Winnipeg School Division No.1's attempt to resolve a century-long debate concerning the appropriateness of religious exercises⁴ in Manitoba's public schools.

The debate concerning the appropriateness of religious exercises in Manitoba's public schools can be traced back to the Manitoba Act(1870) wherein the province undertook "not to prejudice any right or privilege with respect to denominational schools which any class of persons have by law or practice in the Province at the Union."⁵ In 1871, provision was secured explicitly in new school legislation for "separate Catholic schools, supported by provincial grants on the basis of population."⁶ However, within a few years, the province's social fabric changed considerably and questions about the most expedient type of schooling were raised by segments of the population and by provincial government representatives. The ensuing debate came to be

known as the Manitoba School Question.⁷ Provincial legislation passed in 1890, under the leadership of Premier Thomas Greenway, abolished the dual-denominational state-supported school arrangement and replaced it with a non-sectarian school system. As a concession to Catholic and Protestant concerns about the nature and purpose of schooling, religious exercises, sanctioned by an Advisory Board which reported to the Minister of Education, were permitted in the new public schools, at the discretion of the local school board. Opposition to the 1890 legislation came immediately from the French-Catholic minority who received moral support for their argument in a Free Press editorial on April 23, 1890, which stated, "We have never doubted that the Manitoba school legislation is unconstitutional."⁸ Redress for French-Catholic grievances was sought through political and legal avenues, both inside and outside the province, but to no avail. Finally, a settlement of the "School Question" was reached between the Manitoba Provincial Government and the Canadian Federal Government in the form of the Laurier-Greenway Compromise of 1896. The compromise, however, resolved only some of the French and Catholic concerns. As part of this agreement, notably, both religious instruction and religious exercises were permitted in public schools, under the supervision of the Advisory Board and at the discretion of the local school board.

Concern over the issue of optional religious exercises in public schools had waxed and waned for over half a century when, in 1955, the Advisory Board amended its regulations to make religious exercises mandatory in all Manitoba public schools. This mandatory requirement came under increased public scrutiny with the passage, in 1982, of the Canadian Charter of Rights and Freedoms. Across Canada an increasing number of petitions sought redress from alleged religious discrimination by appealing to the Canadian Charter of Rights and Freedoms or other provincial human rights legislation. Appeals to the Charter usually made reference to the fundamental freedoms secured in Section 2 and the equality rights guaranteed in Section 15.

In Manitoba, public attention became focused on the issue when, in 1986, Chris Tait, a Grade 12 student of MacGregor High School, refused to take part in that school's morning religious exercises, which were required by Section 84 of the Public Schools Act(1980). Tait's argument cited infringements of his rights under the Charter and in Section 3 of Manitoba's Human Rights Act(1974). Two years later, on December 9, 1988, a petition filed in Manitoba's Court of Queen's Bench by the Manitoba Association for Rights and Liberties Inc. (M.A.R.L.) and others,⁹ requested that religious exercises as found in Section 84(5)¹⁰ of the Public Schools Act(1987) and Manitoba Regulation 246/80¹¹ be ruled unconstitutional. Subsequently, on December 12, 1988,

the Manitoba Department of Education moved to have Manitoba Regulation 246/80 repealed and replaced with Manitoba Regulation 554/88. The substantive change in the new regulation was the removal of the requirement for teacher participation in a school's religious exercises.

In the midst of legal challenges to the constitutionality of mandatory religious exercises in Ontario and British Columbia, and in light of its own concerns regarding the adequacy of its schooling practices in its diverse ethnocultural community, the Board of Trustees of the Winnipeg School Division No.1 established a Task Force with a mandate to "develop policies and recommendations in the matters of race and ethnicity."¹² Public hearings were held and a total of 81 presentations were made, five of which specifically addressed the issue of mandatory religious exercises.¹³ Taking these submissions into consideration, the Task Force viewed mandatory religious exercises, as practised in the schools, as alienating for many students. Making a typically American distinction between religious studies and practices in school,¹⁴ the Task Force recommended that the Division remove mandated religious exercises from the normal routine of the schools within its jurisdiction. Also, for reasons related to the Task Force Report, a motion was put before the Board of Trustees on June 19, 1990 to rescind the policy allowing the distribution of Bibles in schools.¹⁵ This issue

was not referred outside the Board membership for debate and the motion was defeated five to four. In the Spring of 1991, the Provincial Government launched its own review of educational practices in the province. Public input was sought on a number of educational issues, one of which was the place and nature of religious exercises in public schools.

In response to events in other jurisdictions and to deliberations following a presentation made to the Board by the Technical-Vocational High School Leadership Team, the Board of Trustees, on September 6, 1991, circulated a letter informing all parent councils that "the Board of Trustees of The Winnipeg School Division No.1 is considering passing a by-law in accordance with Section 84(6) of the Public Schools Act directing that religious exercises will not be held in Division Schools."¹⁶ Consideration of this action was "in response to concerns received during the past few years from students, parents, staff and the Task Force on Race Relations that, given the cultural and religious diversity within the Division, it is not appropriate that schools are required to conduct religious exercises."¹⁷ The Board requested parent councils to provide comments and 14 responded, with the majority requesting that religious exercises be continued. In addition, the Division received many letters, delegations, and petitions from individual parents, residents, and organizations from within and

outside the Division on its proposed by-law.¹⁸ As a result of this solicitation and the Board's own deliberations, the matter of religious exercises was referred to its Policy/Program Committee which reported back to the Board on December 3, 1991.

Arising out of consideration of Policy/Program Committee Report 14-91, Trustee Orlikow moved, seconded by Trustee Haigh that "the administration prepare a by-law suspending religious exercises in the schools in accordance with Section 84(6) of the Public Schools Act."¹⁹ The motion was carried seven to two and the ultimate passage of By-law 1000 on January 9, 1992, by the same margin, distinguished The Winnipeg School Division No.1 as the first Manitoba school division to officially remove mandatory religious exercises from the daily school routine.

Purpose

The purpose of this investigation is to examine the circumstances and the process that led to the passage of By-law 1000 by the Winnipeg School Division No.1 Board of Trustees. More specifically, the investigation examines the social, political and administrative circumstances in Winnipeg School Division No.1 to see if and how they influenced individual Trustee's decisions. In particular, consideration is given to the specific political and

administrative deliberations which resulted in the passage of By-law 1000. It is important to note that the legality of the process and final ratification of the by-law is not in question. The Board acted completely within its legal jurisdiction under Section 84(6) of the Public Schools Act(1987) in moving and passing By-law 1000.

Identifying the influences affecting the individual Trustee's decisions was done through an examination of a number of questions:

1. How did the Trustee view religious exercises? From a historical perspective? As a school practice? As an issue?
2. How did the Trustee view the Chris Tait affair?
3. What was the genesis of the Task Force on Race Relations and how were its terms of reference decided?
4. How well did the Trustee think the final report of the Task Force on Race Relations articulated the division's educational goals?
5. In what manner and to what extent was a Trustee's decision regarding By-law 1000 influenced by the findings and recommendations of the Task Force on Race Relations?
6. How did the Trustee view the relationship between the issue of the distribution of Bibles and the issue of religious exercises?
7. By whom was the issue of religious exercises raised and how was it advanced within the membership of the Board of Trustees?
8. How did the arguments in the public presentations to the Board of Trustees influence a Trustee's decision?
9. How did Court decisions concerning religious issues in Ontario and British Columbia and the case then pending in the Manitoba Court of Queen's

Bench influence a Trustee's decision?

10. What arguments were advanced by members of the Board of Trustees in favor of the issue of banning school prayer?
11. What arguments were advanced by members of the Board of Trustees against the issue of banning school prayer?
12. What do Trustees perceive to be some of the possible implications of the passage of By-law 1000 on educational and community goals? On the administration of the schools in Winnipeg School Division No.1?

Significance of the Study

At the time of the passage of By-law 1000, Manitoba was the only province where legislation required that religious exercises be held in public schools, with provision for discontinuance by by-law. Recent challenges to the legal and moral acceptability of mandatory religious exercises in Manitoba's public schools have appealed to the Canadian Charter of Rights and Freedoms and provincial human rights legislation. At issue is not only the separation of church and state in the classroom but also, for some, opposing ideological perspectives on the nature and purpose of education. One, sometimes representing "the public school view," is often characterized as emphasising social cohesion, common values, and economic efficiency.²⁰ The other, espousing the benefits of Christian education, is often perceived as representative of a school system that

values truth, justice, courage and compassion, conservative views of sexuality and marriage, firm discipline, industriousness and the acceptance of personal responsibility.²¹ Arguably, neither of these perspectives accurately mirrors reality nor are they mutually exclusive opposites. Added to the legal and ideological perspectives of this debate, however, is a unique contemporary concern expressly implied in the mandate of the Winnipeg School Division No.1 Task Force on Race Relations: Do religious exercises in public schools facilitate the divisional goals of multicultural equity? This additional element offered the researcher a unique opportunity to examine the process of divisional introspection as a source of the educational goals articulated in the school division's mission statement (see Appendix B):

The Mission of the Winnipeg School Division No.1 is to provide a learning environment that promotes and fosters the growth of each student's potential and provides an opportunity for the individual student to develop the knowledge, skills, and values necessary for meaningful participation in a global and pluralistic society.²²

All educators must be concerned with the decision-making process: how issues arise, how issues are related to educational goals, how and which influences affect the deliberations, how issues are resolved, and how decisions raise implications for educational goals. This study of the passage of By-law 1000 is significant, therefore, to the extent that it provides an illuminating example of how a

specific school board identified and dealt with a contemporary educational issue in the light of its changing constituency and its own needs and interests.

Conceptualization of the Study

The purpose of this study is to understand the circumstances and process that led to the removal of mandated religious exercises, through the passage of By-law 1000, by the Board of Trustees of The Winnipeg School Division No.1. The decision to remove mandated religious exercises was the result of a long debate that became sharply focused in 1989 in the Report of the Task Force on Race Relations. The Task Force mandate stated that

... a school system has responsibility to provide opportunities for young people to develop attitudes and values that will ensure that our schools are havens free of discrimination; [and that]

... students, parents and employees have a right to expect that within an educational jurisdiction they will be allowed to work and learn in an environment free of any racial or ethnic bias by students, staff and trustees ...²³

The mandate, therefore, accentuated the continuing debate concerning the nature and purpose of schooling.²⁴ At one end of the spectrum of this debate, is a conception of schooling which Rousseau criticized as a process of "conditioning into the passive acceptance of the prejudices and whims of the time."²⁵ At the other end of the spectrum is a definition of education as the "act or process of imparting or acquiring

general knowledge and of developing the powers of reasoning and judgment,²⁶ or, as Barrow terms it, critical thought.²⁷ This divergence of thought regarding the nature and purpose of schooling, presents a challenge to all school boards when developing their own educational philosophy. The Winnipeg School Division No.1 has the difficult task of developing an educational philosophy that will satisfy the needs of its multicultural constituency. Perhaps the Regulations of the Advisory Board regarding Religious Exercises in Public Schools enlarges this difficulty of this task despite its stated concern for choice. In part, it states:

The purpose of religious exercises is to create an atmosphere which will permeate the whole of the school's activities. The religious exercises of the school will lead the pupil's thoughts away from the distractions of the immediate present to an awareness of Him "who holdeth all things together." In this brief period of worship, reverently conducted, the school is put into vital touch with that Reality, some few of whose secrets they seek in their school work to penetrate.

The range of choice of readings, Prayers and Hymns is wide enough to enable teachers to give due recognition to the fact that the school is the meeting place of young people of varied beliefs and to avoid selections that might cause division in the school community.

The value of the exercises depends to a great degree upon the teacher conducting them. Reverence begets reverence.²⁸

This study, therefore, focuses not only on the nature of the religious exercises mandated by the Manitoba Public Schools Act and Regulation 554/88, but, more importantly, on the rationale and efficacy of the practice for the achievement

of the Division's educational goals in a multicultural environment. This idea of an underlying rationale for educational practice may fall within the notion of the informal or hidden curriculum, at least as Barrow has described it recently.²⁹ The hidden curriculum, he says, "is the values and attitudes that are promoted steadily, sometimes overtly, sometimes covertly, throughout the school day."³⁰ Also, the hidden curriculum is often credited with building character and the presence, or lack of, a positive school ethos. Barrow contends that individuals become more moral, in the specific sense of more inclined to abide by moral values, not through moral education programmes but through the hidden curriculum.³¹ Barrow also asserts that an extension of the hidden curriculum phenomenon is the issue of institutional dominance in which the medium is the message.³² "The essence of this point is the claim that the way in which we present knowledge modifies its nature [and] we come to believe that schools are the proper and only channel for true learning."³³ Consequently, contends Barrow, we tend to devalue what we might learn at home or elsewhere. One result of this tendency is that conflict and confusion can arise when an educational system immersed in a multicultural environment reflects, through its practices, the culture of only one group.

As Rebore has noted, the school as an institution receives its mandate from the society it serves.³⁴ Brodinsky

adds that the goals, aspirations, and expectations of that society are articulated in a body of thought and principles that make up a school board's philosophy and are manifested in its educational policies.³⁵ In formulating its philosophy and constructing policies, the school board must allow the community, the professional staff, and outside agencies an opportunity to offer opinions and suggestions during the decision-making process. As Anderson points out, "everyone wants a voice in decisions which affect their lives."³⁶ Brodinsky also believes that educational policies reflecting the society's values and beliefs "will have worth and power only if the board cultivates and nurtures them and builds into them the concepts of the community, the staff, and its own members."³⁷ Consideration must be given, though, to the fact that the presence of distinguishable subcultures in a community does not preclude the possibility that there is also a common culture. "Communal life demands a common culture of some sort [because] people who have to live together and understand each other need common reference points."³⁸ In analysing the decision-making process that led to the passage of By-law 1000 it is necessary, therefore, to determine if and how Trustees of the multicultural Winnipeg School Division No.1, and other individuals and interest groups identified and defined, in differing terms and contexts, the issues surrounding the practice and rationale of religious exercises in school.

It logically follows that, analytically, the study must pay heed to the differing conceptions of the practice of and rationale for religious exercises in schools. The interaction of this diversity of thought presents the researcher with a political situation according to Miller because "someone is trying to do something about which there is not agreement; and is trying to use some form of government as a means and as protection."³⁹ Put another way, a political situation arises out of disagreements where someone is trying to do something to change things so as to improve their lot.⁴⁰ Within the context of this study, the researcher must analyze a situation where those wishing to remove religious exercises in public schools in The Winnipeg School Division No.1 were opposed by those wishing to retain them. In part, the analysis must answer Lasswell's classic political question: Who gets what, when and how?⁴¹

Deutsch maintains that politics "stresses the process of decision-making about public actions or goods"⁴² to coordinate human expectations and social learning for the achievement of social goals. But often politics concerns the pursuit of the interests or values of particular individuals or groups. The political process, then, results in bargaining among different groups to define or change goals and set policy that will satisfy as many groups as possible. In the study of By-law 1000, the analysis examines how and by whom the issue of religious exercises came to be defined

as a problem, who presented arguments for and against their practice, what alternatives were considered, and how the school division's goals were articulated in the final decision - the passage of By-law 1000. Simeon cites Anthony King's definition of policy as "a consciously chosen course of action (or of inaction) directed towards some end."⁴³ Public policy often (but not always) reflects the dominant ideas, values, theories, and beliefs in society through statements of intent, desired objectives, and specified means for reaching them and the means used to implement it may need too rely on some element of compulsion. This raises a curious aspect in the study of By-law 1000. The report by the Chief Superintendent to the Board of Trustees on October 22, 1991 stated that the present policy mandating religious exercises was not being adhered to by all schools.⁴⁴ The report suggested a number of important questions for the researcher: Why was a legal requirement not being followed? How would a changed policy be enforced? Why will a changed policy be enforced? Decision-making must be concerned not only with official policy statements and the reasons for them, but also with the means and consequences of implementation.

Conceptually, Simeon describes this type of decision-making about policy as a political process, as one involving:

a set of independent actors, ...they operate within a certain social and institutional environment; they share some goals but differ on others... they have an issue or set of issues on which they must negotiate... they have varying political resources; they use these resources in certain strategies and tactics; they arrive at certain outcomes; and these outcomes have consequences for themselves, for other groups in the society, and for the system itself.⁴⁵

In studying the development of By-law 1000 through this conceptualization, the key actors were defined as the members of the Board of Trustees of Winnipeg School Division No.1, the Chief Superintendent of the division, certain members of the Task Force on Race Relations whose interests and activities were focused on the issue of religious exercises, and individuals and groups who made representation either publicly or privately to the Task Force or the Board of Trustees concerning this issue. Additionally, the researcher considered that each of these actors had a personal agenda of goals and objectives that would ultimately define many of the final characteristics of the issue.

Further, the issue was identified as the practice or prohibition of religious exercises in the public schools within The Winnipeg School Division No.1. Of fundamental importance was the identification of the issue in terms of who raised it and how it was initially defined. It was evident from an initial examination of the School Division documents that the issue of religious exercises represented a broader divisional and social issue concerned with

multicultural equity. As such, it was important to be cognizant of the possibility that the broader issue may have affected the way the actors themselves perceived and defined the stakes, the strategies used in the negotiations and the political resources at their disposal. "A resource," says Robert A. Dahl, "is anything that can be used to sway the specific choices or strategies of another individual."⁴⁶ Of major importance was the attempt to identify the influence of one actor over another as to which side of the issue was favoured or actively supported. Finally, an examination of the outcomes of the controversy allowed for a simple assessment of which actors achieved their short-term goals and which failed. Discussions with individual actors also shed some light on how each actor perceived his or her future political position on the Board and in the community was affected by their individual stance in the instance of the issue of religious exercises. The most daunting task was to glean from all available data sources - notably, the actors' testimonies and the available documents - the possible consequences of the resolution of the issue on long-term goals or broader objectives of individual trustees or the Board collectively.

Case Study Methodology

The purpose of this study is an intensive examination

of the actual decision-making process of By-law 1000. The research method most appropriate for answering the 'how' and 'why' questions in this investigation is the case study because it "can provide a sense of the rich nuance, detail, and complexity of the real world of policy-making."⁴⁷

Yin defines a case study as a qualitative inquiry which:

1. investigates a contemporary phenomenon within its real-life context; when
2. the boundaries between phenomenon and context are not clearly evident; and in which
3. multiple sources of evidence are used.⁴⁸

Yin also asserts that "the distinctive need for case studies arises out of the desire to understand complex social phenomena. In brief, the case study allows an investigation to retain the holistic and meaningful characteristics of real-life events."⁴⁹

In support of these assertions, Merriam acknowledges that "a qualitative case study is an intensive, holistic description and analysis of a bounded phenomenon"⁵⁰ that is used "to gain an in-depth understanding of the situation and its meaning for those involved. The interest is in process rather than outcomes, in context rather than a specific variable, in discovery rather than confirmation."⁵¹ By its descriptive nature a case study can:

1. illustrate the complexities of a situation - the fact that not one but many factors contributed to it

2. show the influence of personalities on the issues
3. spell out differences of opinion on the issue and suggest how these differences have influenced the result.⁵²

Merriam goes on to say that the heuristic quality of a case study "can explain the reasons for a problem, the background of a situation, what happened, and why"⁵³ and this approach is particularly appropriate for the purpose of this investigation. In addition, by combining aspects of an historical and ethnographic case study, the researcher is able to describe the genesis and evolution of the issue while taking into account the community and its cultural context. Most appropriately, "the case study's unique strength is its ability to deal with a full variety of primary sources - documents, artifacts, interviews, and observations, as well as secondary sources."⁵⁴ The case study method, therefore, facilitates the task in this study of describing specific events, citing documentary evidence, and recording and comparing the testimony of participants as the researcher strives to explain the decision either to support or oppose By-law 1000.

Data Sources

As mentioned, this study relied heavily on the use of the following primary sources:

1. The minutes of selected meetings of the Board of Trustees of The Winnipeg School Division No.1.

2. Official reports, notes and memorandum of the Board of Trustees.
3. Official policy documents of the Manitoba Provincial Government and the Ministry and Department of Education.
4. Court records concerning litigation on religious exercises.
5. Articles from daily newspapers and magazines.
6. Personal interviews.

Secondary sources were also used especially in the areas of:

1. The history and nature of education in Manitoba.
2. The philosophy and practice of public education.
3. The philosophy and nature of religious education.

Interview Methodology

Patton writes: "the purpose of interviewing is to find out what is in and on someone else's mind,"⁵⁵ and assumes that "the perspective of others is meaningful, knowable, and able to be made explicit."⁵⁶ Interviews, therefore, need to be tailored to each interviewee's position and experience so the right question is asked in the right way to obtain meaningful information about "their terminology and judgments, and to capture the complexities of their individual perceptions and experiences."⁵⁷

Patton has identified three types of interviews:

1. the informal conversational interview - relies entirely on the spontaneous generation of

- questions in the natural flow of an interaction
2. the general interview guide approach - involves outlining a set of issues that are to be explored with each respondent before interviewing begins.
 3. the standardized open-ended interview - consists of a set of questions carefully worded and arranged with the intention of taking each respondent through the same sequence and asking each respondent the questions with essentially the same words.⁵⁸

In this study a combination of the general interview guide approach and standardized open-ended interview was used. Using the Interview Schedule detailed in Appendix A as a guide, interviews were conducted with the nine, then-sitting, members of the Board of Trustees of The Winnipeg School Division No.1,⁵⁹ Mr J.C. Smyth, the Chief Superintendent of the division, and a number of individuals who made presentations to the Task Force on Race Relations or to the Board either publicly or privately concerning the issue of religious exercises. Information gleaned from these interviews was used to confirm what happened in the negotiations and to elicit the attitudes and perceptions of the participants about the issues and the decision-making process.

Delimitations and Limitations

The purpose of this study is to examine the decision-making process germane to the passage of By-law 1000. It is not the intent of this investigation to evaluate the

decision to ratify By-law 1000 as "good or bad" nor to cast judgment on the appropriateness of other alternatives that may or may not have been considered. It is also not within the purpose of this study to examine or evaluate the present state of religious programming in the public school system. In addition to these delimitations of scope, this investigation also has a number of important limitations:

1. The quality of the information obtained during an interview is subject to errors of memory, perception, judgment and unconscious bias.
2. In a qualitative study, there is no reliable way to compare the testimony of one person with that of another.
3. The possibility of missing data is accepted.
4. The conclusions reached in the investigation are specific to the time and place of this study and are not generalizable to any other situation.⁶⁰

Outline of the Chapters

The report of the thesis consist of six chapters. Chapter I introduces the study by outlining its nature, purpose, significance, conceptual framework and the case study methodology used.

Chapter II places religious education within Manitoba's historical context by describing educational development in the Red River Settlement, highlighting important sections of the Manitoba Act(1870), The Manitoba Public Schools Act(1871, 1896, 1897), and briefly reviewing the genesis and

resolution of the Manitoba School Question.

Chapter III outlines the emergence of mandatory religious exercise legislation and considers the practice of mandatory religious exercises in Manitoba's public schools within the contemporary Canadian context of The Canadian Charter of Rights and Freedoms. American and Canadian litigation regarding religious exercises is reviewed to provide an awareness of contemporary judicial decisions as a backdrop to two recent Charter challenges in Manitoba. Importantly, an association between the chapter's contextual information and the members of the Board of Trustees is highlighted.

Chapter IV focuses on the nature and purpose of mandatory religious exercises in The Winnipeg School Division No.1. The response of the Board of Trustees to related religious issues is presented as well as the Board's attempt to understand and respond, through a Task Force on Race Relations, to a variety of educational issues in the ethnically diverse division. The recommendations of the Task Force, litigation by the Manitoba Association of Rights and Liberties, and a student petition concerning mandatory religious exercises are examined as key incidents affecting the decision of the Board of Trustees to draft By-law 1000.

Chapter V examines the decision-making process of the Board of Trustees from the introduction of the motion to suspend religious exercises to the ratification of By-law

1000. Particular attention is paid in this chapter to the perspective of each of the trustees as decision makers and the reasons for their support for or opposition to the By-law.

As the final chapter, Chapter VI includes a summary of the issues surrounding the endorsement of By-law 1000, a synopsis of the most important factors which produced the by-law in 1991, and an identification of some of the most obvious implications of the passage of By-law 1000 for educational policy and practice in Winnipeg No.1. In addition, some suggestions for further study are made.

ENDNOTES TO CHAPTER I

1. The by-law applied to the 83 schools in the Winnipeg School Division No.1. The division is the most central of the 10 urban school divisions within the boundaries of the City of Winnipeg. With a 1992-93 enrolment of over 30,000, the division encompasses the traditionally upper middle class community of River Heights, the established East European neighbourhoods of the North End, growing communities in the North West of recently arrived Asian and Indian immigrants, and the predominantly low income Aboriginal core area.
2. Provisions within the Public Schools Act(1987) and By-law 1000 allow for religious exercises if requested by parents through an annual petition.
3. Minutes of the meeting of the Board of Trustees of The Winnipeg School Division No.1, 18 October 1991. (hereafter referred to as BOT Minutes)
4. Religious exercises are differentiated from religious education and religious instruction. "Religious exercises are the expressions of faith or worship which may take the form of a prayer, a reading of scripture considered sacred and the singing of a hymn. As activities, they may have ceremonial, celebratory, inspirational, or uplifting character. In these exercises, specific confessional or denominational orientation may not be explicit though a religious (almost always Christian) perspective (and perhaps atmosphere) is apparent. Religious instruction refers to the teaching of some particular curriculum content which has a confessional, denominational or religious inspiration, character or purpose. The essential aim is the teaching of specific religious beliefs and doctrines and the promotion of certain values or virtues, anchored in religious concepts or beliefs, in order to foster adherence or commitment to such beliefs and values or virtues. Religious education is the study or studies about religion without any specific intention of encouraging the student to become committed to a particular confessional or denominational faith or outlook, though such a possibility is not prevented." John C. Long & Romulo F. Magsino, "Legal Issues in Religion and Education," Education & Law Journal 4 (1992): 193-194.
5. Manoly R. Lupul, "Educational Crisis in the New Dominion to 1917," in eds. J.Donald Wilson, Robert M. Stamp & Louis-Philippe Audet Canadian Education: A History, (Scarborough: Prentice-Hall of Canada, 1970), 274.
6. Lupul, 273.

7. For a brief account of the Manitoba School Question see Lupul, 273-278.
8. Manitoba Free Press, 23 April 1890.
9. Included as petitioners in the Statement of Claim were Jesse Vorst and Ivan Pokus.
10. Section 84(5) reads: Subject to subsection (6) and the regulations made by the advisory board, religious exercises shall be held in every school.
11. Manitoba Regulation 246/80 reads:
 1. In this regulation, "school" means a public school under the Public Schools Act.
 2. Religious exercises in the schools shall consist of a Scripture reading, a prayer, and, whenever possible, a hymn; all of which may be chosen from the recommended Scripture selections, prayers, and hymns.
 3. The school time devoted to a period of religious exercises shall not exceed ten minutes in any one day.
 4. Unless, by annual by-law, the school board directs otherwise, religious exercises shall be held by the teacher with, at his discretion and in his presence in a classroom or assembly hall, the assistance of one or more pupils; but any such pupil-participation shall be on a completely voluntary basis so far as the pupils are concerned.
 5. No pupil shall be permitted to conduct, or to assist in conducting, religious exercises unless he has carefully prepared the prescribed readings in advance.
 6. Manitoba Revised Regulation E10-R1 is repealed.
 7. This regulation shall be deemed to have been in force on, from and after the day on which it is filed with the Registrar of Regulations.

Dated at Winnipeg, This 15th day of December, A.D.1980

12. The Report of The Task Force on Race Relations to The Board of Trustees of The Winnipeg School Division No.1, July 1989, 1.
13. Task Force Report, July 1989, 9b.
14. Recommendation 60 of the Task Force Report 1989 reads:
In the light of Section 2 of the Charter of Rights and Freedoms, which guarantees freedom of conscience and religion, the sub-committee also recommends:

That The Winnipeg School Division No.1 adopt the Task Force guideline from the American Association of School Administrators in 1986 as follows:

- a) the school may sponsor the study of religion, but may not sponsor the practice of religion;
 - b) the school may expose students to all religious views, but may not impose any particular view;
 - c) the school's approach to religion is one of instruction, not of indoctrination;
 - d) the function of the school is to educate about all religions, not to convert to any one religion;
 - e) the school's approach is academic, not devotional;
 - f) the school should study what all people believe, but should not teach a student what to believe;
 - g) the school should strive for student awareness of all religions, but should not press for student acceptance of any one religion;
 - h) the school should seek to inform the student about various beliefs, but should not seek to conform her or him to any one belief.
15. The Winnipeg School Division No.1, Policy KFA - Special Interest Materials, 9 November 1976.
 16. Letter from E. Kowalchuk, Chairman of the Board, to All Parent Councils, 6 September 1991.
 17. Letter from E. Kowalchuk, Chairman of the Board, to All Parent Councils, 6 September 1991.
 18. Report from J.C.Smyth, Chief Superintendent, to The Chairman and Members, Winnipeg Public School Board, 22 October 1991.
 19. BOT Minutes, 3 December 1991.
 20. Romulo Magsino, "Human Rights, Fair Treatment, and Funding of Private Schools in Canada," Canadian Journal of Education 11:3 (1986): 256.
 21. Mark Holmes, "The Funding of Independent Schools" in Canadian Public Education System, ed. Mark Holmes (Calgary:Detselig Enterprises Limited, 1990), 250.

22. Official statement of "Educational Philosophy" by The Winnipeg School Division No. 1, 17 December 1991.
23. Task Force Report, July 1989, 1.
24. For a discussion on the nature and purpose of schooling see "Schooling: Its Nature and Point," in Robin Barrow, The Philosophy of Schooling (Brighton:Wheatsheaf Books, 1986), 32-73.
25. Robin Barrow, The Canadian Curriculum: A Personal View (London:The University of Western Ontario, 1979), 39.
26. The Random House College Dictionary (Toronto:The Random House, Inc, 1988), 420.
27. Barrow(1986), 45.
28. Regulations of the Advisory Board regarding Religious Exercises In Public Schools, 1 February 1964, 3.
29. For a discussion of the hidden curriculum see Robin Barrow(1979).
30. Barrow(1979), 39.
31. Barrow(1979), 64.
32. Barrow(1979), 40.
33. Barrow(1979), 40.
34. Ronald W. Rebore, A Handbook For School Board Members (Englewood Cliffs:Prentice-Hall, 1984), 1.
35. Ben Brodinsky, How A School Board Operates (Bloomington:The Phi Delta Kappa Educational Foundation, 1977), 21.
36. Robert Anderson, Basic Boardmanship (Trenton:New Jersey School Boards Association, 1974), 16.
37. Brodinsky, 31.
38. Barrow(1979), 60.
39. J.D.B. Miller, The Nature of Politics (Harmondsworth:Penguin Books Ltd, 1962), 14.
40. Miller, 17.

41. Harold D. Laswell, Who Gets What, Where, How (New York: McGraw-Hill Book Co Inc, 1936).
42. K.W. Deutsch, Politics and Government: How People Decide Their Fate, 3rd ed. (Boston:Houghton Mifflin Company, 1980), 7.
43. Richard Simeon, "Studying Public Policy," Canadian Journal of Political Science IX (1976): 557.
44. Report of the Chief Superintendent to the Board of Trustees of The Winnipeg School Division No. 1, 22 October 1991, 1-2.
45. Richard Simeon, Federal Provincial Diplomacy:The Making of Recent Policy in Canada (Toronto:The University of Toronto Press, 1972), 11-12.
46. R.A. Dahl, Who Governs? Democracy and Power in an American City (New Haven:Yale University Press, 1961), 226.
47. Simeon(1976), 551.
48. Robert K. Yin, Case Study Research: Design and Methods (Beverly Hills: Sage Publications, 1984), 23.
49. Yin, 14.
50. Sharan B. Merriam, Case Study Research in Education (San Francisco:Jossey-Bass, 1988), xiv.
51. Merriam, xii.
52. Merriam, 14.
53. Merriam, 14.
54. Merriam, 8.
55. Michael Q. Patton, Qualitative Evaluation and Research Methods, 2nd ed. (Newbury Park:Sage Publications, 1980), 196.
56. Patton, 278.
57. Patton, 290.
58. Patton, 280.

59. The nine sitting members were Ed Kowalchuk(elected 1983), Mario Santos(1983), Anita Neville(1986), Enid Gillespie(1986), Irene Haigh(1986), Lionel Orlikow(1988), Pat McTaggart(1989), MaryAnn Mihychuk(1989), Roman Yereniuk(1989).
60. See Merriam for a detailed description of the case study method and its limitations.

CHAPTER II

GENESIS: THE DEEP ROOTS OF THE SCHOOL PRAYER ISSUE

The early development of an education system in what was to become the province of Manitoba was the result of the missionary efforts of the Roman Catholics, Anglicans, Presbyterians and later the Methodists. From shortly after the establishment of the first permanent Red River settlement in 1812, and for most of the next one hundred years, religious considerations influenced the aims and goals of education, shaped parts of its curriculum, determined its organizational and administrative structure, and provided it with financial support.

This chapter briefly surveys the involvement of Roman Catholic and Protestant churches in the development of education in Manitoba from the establishment of the first permanent schools in 1818 to the tentative resolution of the Manitoba School Question by legislation enacted after 1889. This historical survey is necessary for an understanding of the changing social and political environment in the province that allowed for the establishment of a denominational educational system, the eventual disintegration of that system by social pressure and political chicanery, and the religious legacy which influenced educational legislation enacted to establish a non-denominational public school system. Within this

legislation, school boards had the option of incorporating religious instruction and religious exercises into the school day. The provision for a religious component in the newly-established public school system is shown as a response to the lingering Roman Catholic and Protestant conceptions of the nature and aims of the educational experience and as a residue of Roman Catholic constitutional rights granted at Confederation and subsequently denied. Most importantly this chapter highlights the establishment of the Winnipeg Public School Board and its initial hesitation and eventual adoption of religious exercises in its schools.

Schooling in the Red River Settlement

The first 'permanent' schools in what was to become the province of Manitoba were established shortly after the arrival of three French Roman Catholic missionaries at St. Boniface on July 16, 1818. Previous to this, sporadic and short-lived attempts had been made by the Hudson's Bay Company, beginning in 1808, and by the benefactors of the Red River settlement with the arrival of the Selkirk settlers in 1811.¹

The first two schools established by the Roman Catholics were at St. Boniface and Pembina. These early educational efforts were primarily concerned with religious

and moral matters as the three missionaries began their work by "instructing young and old, the former for baptism and the latter for legitimate marriage".²

The educational efforts of the francophone Roman Catholics in the Red River settlement were soon complemented by the establishment of anglophone schools, first by the Anglicans in 1822 and later by the Presbyterians in 1849 and the Methodists in 1868.³ That the motives of the Anglicans in establishing their schools were similar to those of the Roman Catholics can be evinced from the views of the Rev. John West, a chaplain for the Hudson's Bay company, who established the first Anglican school in 1822. West wanted this school to be a "Protestant landmark of Christianity in a vast wilderness of heathenism and general depravity of manners."⁴ Concerning the Anglican missionary effort towards the Indians in general, West felt "the primary object of teaching them was to give them a religious education."⁵ Another Church of England school organized by the Hudson's Bay Company and the Rev. Jones in 1833 was specifically aimed at the "moral improvement and general education of boys in the Red River settlement."⁶ The missionary zeal of the Methodists to evangelize the native population and the Presbyterian emphasis on literacy for the purpose of reading the Bible suggests they had educational motives and goals in sympathy with those of the Roman Catholics and Anglicans.⁷

These early educational efforts of the various

denominations clearly established a link between religion and education that allowed public perception to associate religion and morality with education. Prior to 1871, there existed no public schools in the sense of state schools in Manitoba. The denominational schools established by the Catholic and Protestant churches were maintained by school fees and voluntary contributions rather than from public funds. The schools were conducted according to each churches' religious and educational tenets without regulation or control by any public official and their administration and organization reflected religious considerations:

It is probable that Lord Selkirk had in mind a system of parish schools, and the Presbyterians in 1851 clearly had in mind the parish school system of Scotland. The development of Anglican schools was tied closely to the development of new parishes as the settlement increased in both population and area. Both the Anglican and Catholic schools were under the control of the respective bishops, and even the Presbyterian school, though not under the control of the minister, was definitely guided by him. Many of the teachers were clergymen, and the main source of revenue for the Anglicans and Catholics were church funds.⁸

The curriculum and daily routine of these early prairie schools were also clearly affected by religion. Classes began with the reading of the Bible and the scarcity of instructional materials in the Red River settlements meant that the Bible and catechisms were used at times as textbooks for reading and spelling lessons.

Thus it was that the initial settlement of Manitoba by English and French pioneers, the early educational

foundations laid down by the French Roman Catholic and the English Protestant churches, and the subsequent immigration into the area, prior to Confederation, of predominantly anglophone and francophone groups resulted in a bilingual and bicultural society. That pioneer society adopted in practice, but not in law, a dual system of education to address the religious, linguistic and cultural diversity of the region soon-to-be a province.

Schooling in the New Province of Manitoba

Prior to Manitoba's admission to the Union, there was no law or regulation or ordinance respecting the denominational schools established and maintained by the Roman Catholic and Protestant churches. The Manitoba Act(1870), which established the new province, recognized the bilingual and bicultural nature of the province by making English and French official and through provisions that secured rights for the denominational schools then in operation. Section 22 of the Manitoba Act(1870) outlined the province's powers regarding education:

In and for the Province, the said legislature may exclusively make laws in relation to Education subject and according to the following provisions:

- (1) Nothing in any such Laws shall prejudicially affect any rights or privilege with respect to Denominational Schools which any class of persons have by Law or practice in the Province at the Union;
- (2) An appeal shall lie to the Governor-General in Council from any Act or decision of the

- Legislature of the Province or of any Provincial Authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to Education;
- (3) In case of any such Provincial Law, as from time to time seems to the Governor-General in Council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the Governor-General in Council on any appeal under this section is not duly executed by the proper Provincial Authority on that behalf then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor-General in Council under this section.⁹

The following year legislation "was passed which established throughout the Province a system of denominational education in the common schools, as they were then called."¹⁰ In part, the School Act(1871) stated:

1. The Lieutenant-Governor in Council may appoint not less than ten nor more than fourteen persons to be a Board of Education for the Province of Manitoba of whom one half shall be Protestants and the other half Catholics.
2. The Lieutenant-Governor in Council may appoint one of the Protestant members of the Board to be Superintendent of the Protestant schools and one of the Catholic members of the Board to be Superintendent of the Catholic Section, and the two Superintendents shall be joint secretaries of the Board.
7. It shall be the duty of the Board:
 - First. To make from time to time, such regulations as they may think fit for the general organization of the common schools.
 - Secondly. To select books, maps and globes to be used in the common schools, due regard being had in such selections to the choices of English books, maps and globes for the English Schools and French for French Schools; but the

authority hereby given is not to extend to the selection of books having reference to religion or morals, the selection of such books being regulated by a subsequent clause in this Act.

Thirdly. To alter and sub-divide, with the sanction of the Lieutenant-Governor in Council, any School District established by this Act.

10. Each section shall have under its control and management, the discipline of the schools of the section.
11. It shall make rules and regulations for the examination, grading and licensing of teachers, and for the withdrawal of licenses on sufficient cause.
12. It shall prescribe such of the books to be used in the schools of the section as have reference to religion or morals.¹¹

The passage of the School Act(1871) thus established a dual school system administered by a governmentally-appointed Board of Education which was divided equally into two sections - Roman Catholic and Protestant:

Each of the twenty-four electoral divisions into which the Province had by the Manitoba Act been divided was constituted a school district in the first instance, and there was to be a school in each district. Twelve electoral divisions "comprising mainly a Protestant population" were to be considered Protestant school districts; twelve "comprising mainly a Roman Catholic population" were to be considered Roman Catholic school districts.¹²

Each section was to have under its control and management the discipline of the schools of the section. The terms of reference of the Board were extensive, with a careful demarcation being made between the responsibilities of the Board as a whole and those of the individual sections. Among their duties, the Protestant and Catholic sections were responsible for the selection of books having reference to

religion or morals. The financing of the schools was to be a joint venture of the provincial government and the 24 local districts. The Board was directed to divide the funds that it received from the government equally between the two sections. School districts tended to be either predominantly Catholic or Protestant, but parents in the minority group could send their children to the school in the closest neighbouring district having one in their faith, paying only to that district what they would otherwise have paid in their own local district. Between the years 1871 to 1890 when this dual system operated, the Catholic section expanded from 17 schools with 639 students to 90 schools and an enrolment of 4,364. During the same period Protestant public schools increased from 16 to 629 with enrolments growing from 816 to 18,850.

The legislation establishing a dual school system, supported by public funds, controlled by either the Roman Catholic or Protestant section of the Board of Education, and operating in either English or French was a response in part to pressure to make Manitoba a second Quebec. "The Roman Catholic schools became church schools in the strictest sense of the word, with the state committed to supporting them by subvention and by putting at their disposal the powers of taxation."¹³ It was assumed that French would remain the language of instruction in these Catholic separate schools as most of the Catholics were

French-speaking Metis and this reinforced the identification of Roman Catholic with French to an extent where the terms became synonymous. "The Protestant schools having to serve the children of many denominations of necessity became public schools."¹⁴

Religion continued to influence the aims and philosophy of both sections of the Board of Education and schools were opened and closed with religious exercises consisting of scripture reading and prayer. Provision was also made for religious instruction during the school day. Within the Catholic school system the administrative membership, curriculum requirements and the teaching staff emphasised the Roman Catholic educational philosophy of a close interdependence between Church and school and this assured that religion was the predominant influence. The Catholic section of the Board of Education always included in its membership the Archbishop of St Boniface and several priests¹⁵ and the teaching of moral and religious education, begun in the elementary program, was facilitated by a teaching staff which included many ecclesiastics and members of teaching orders.¹⁶ Superintendent Tasse expressed the Catholic philosophy in his report for the school year 1875-76:

The true civilizing school shall then be that where all the elements of study will tend to the culture of the mind and of the soul, and when the child will improve not only from what he learns, but also from the way in which he shall learn them. It will, in a word, be that where the principle of teaching shall be such that it

will keep both the judgement and the intelligence in ceaseless working, and where all the work of memory and of reason shall be connected with a lesson or a moral thought....Moral and religious education has of right precedence on the programme, for, if there is a mode of teaching possessing the triple features required in primary teaching, this is assuredly the one....¹⁷

The principles on which a Catholic education should be based were clearly stated in the Superintendents report for 1877-1878:

The cultivation of morals - is it necessary to repeat it - is of preponderating importance. Compared with physical education, it has the superiority which the soul has over the body; with intellectual culture the advantage which virtue has over talent. Physical education and the culture of the intellect may supply the state with sound and robust bodies, with enlightened and upright minds; but moral instruction forms the Christian, the devoted citizen, the steady soul, the grateful child, the good father; - almost the whole of man. It is in this direction that the teacher should bend the weight of his efforts. The religious sentiment is the foundation of all society; and the teacher should cultivate it in the hearts of his pupils with assiduous constancy.¹⁸

Religious education, which was implicitly linked with moral education, was given pride of place in the curriculum and was linked with other subjects in the elementary school programme as Superintendent Tasse pointed out:

One of the objects of teaching singing is to use [sic] the children to take in religious ceremonies a more prominent part than they would otherwise.¹⁹

He also pointed out that:

The study of prayers for the younger children whom we cannot keep a whole day studying the spelling book offers a good opportunity of keeping them busy, and giving a variety to their studies.²⁰

Religion was the predominant consideration in the Catholic school system influencing its educational aims, the

curriculum, staffing and administration. To a lesser extent, religion also influenced the aims and philosophy of the Protestant section of the Board of Education. The report of J.B. Somerset, Superintendent of Protestant schools, for 1886 expressed this desire for a religious component in education:

The development of the moral nature is a primary requisite in any system of education. The Board, recognizing this principle, has provided for the most careful enquiry into the character of its teachers and for such systematic religious instruction in its schools as may be given with the object of teaching the principles of Christian truth contained in the Bible, and accepted by all Protestant denominations.²¹

In the same report, Somerset outlines the regulations regarding religious exercises adopted by the Protestant section of the board on December 2, 1885:

Every school established and in operation, under the authority of the Protestant section of the board of education for Manitoba, shall be opened and closed daily with prayers, consisting of one or more of the forms of prayer printed on the cover of the authorized school registers, ... always including the Lord's prayer, repeated together by teacher and pupils.

The Bible shall be used as a text book in the Protestant schools of Manitoba.

The scripture lesson in each school shall follow the opening prayer, and shall occupy not more than fifteen minutes daily.

The pupils of each school, from standard three upward, shall be taught to repeat from memory the ten commandments and the apostle's creed, and one-half hour weekly may be devoted to this exercise and such other instruction in manners and morals as may be practicable.²²

Little seems to have been done, however, in the way of systematic religious instruction and this may have been due in part to the difficulty of providing religious instruction

that was acceptable to every denomination enrolling children in schools of the Protestant section, a situation previously recognized in the Superintendent's report for 1871:

Our section of the Board, after most mature deliberation, determined to exclude all distinctive religious teachings from its schools, but has enjoined the reading of Holy Scripture and the prayers as published in the "By-laws and Regulations", at the opening and closing of the school.²³

Protestant schools were opened and closed, though, according to by-law with the reading of Scripture and prayer and the teacher was expected

to observe himself, and to impress upon his pupils, the principles and morals of the Christian Religion, especially those of truth, honesty, piety and humanity; and the duties of respect to superiors, and obedience to all persons who are placed in authority over them.²⁴

The administration of the Protestant section of the Board of Education was also influenced by religious considerations as a clergyman, Cyprian Pinkham, was the first Protestant superintendent and, up to 1888, school inspectors were mainly clergymen of the various Protestant denominations.

When the Act to Establish a Public System of Education passed in 1871, Catholics slightly outnumbered Protestants. However, by the late 1880s, despite the effort of Archbishop Tache to attract settlers from Quebec and New England, the Catholic population fell to less than one fifth and this imbalance threatened the denominational school system. Initial support for the dual school system had not been unanimous and "as early as 1872, the Protestant superintendent of education termed the dual Board of

Education impractical and inefficient and advocated compulsory education to increase the small proportion of school-age children in attendance."²⁵ Argument like this, characterized by Clague²⁶ as Ontario sectarianism parading under the guise of educational secularism, found sympathy with some members on the Protestant section of the Board of Education and with trustees on the newly-established Winnipeg Public School Board. Led by the Rev George Bryce, the Trustees on the Winnipeg Board accepted a resolution which embodied the argument that, in light of the linguistic and religious diversity of Manitoba:

...the establishment of one system of public English Schools is the only means of fitting the people for conducting business efficiently, for fulfilling the duties of social life, for preserving the rights of all, and for carrying on successfully the affairs of State.²⁷

Public attacks against the dual system also came from W.F. Luxton, the editor of the Manitoba Free Press and a member of the Manitoba provincial legislature. Luxton favoured non-denominational schools and argued that

sectarianism in the schools interfered with an effective secular education; that religious education should be furnished by the churches rather than at the public expense; and the dual system was unjust because it compelled some to support creeds which they did not profess; and that the dual system was unnecessarily expensive because it involved the support of two public school systems instead of one.²⁸

Sustained agitation against the dual system continued until 1877 but failed to result in its abolition.

Legislation enacted during this period, however, indicated a

shift towards Protestant control of the administration of the Board of Education as the principle of representation changed from one of equality in numbers to one closer to representation by population. Financial support for each section of the Board was also changed as aggregate attendance was used to calculate the disbursement of funds rather than the number of children in actual attendance. In addition, the two sections of the Board were able to establish overlapping or even co-terminus districts. In 1876, cities and towns were empowered to enact their own by-laws concerning compulsory school attendance for children between the ages of seven and twelve and these local districts became virtually autonomous in supervising their schools when they were given the authority to appoint their own school inspectors.

As the number of schools increased, the debate over the appropriateness of the denominational school system increased. Several factors accounted for the growth of Protestant and Catholic schools: efforts to extend the benefits of public schooling to outlying portions of the province, the normal growth of the indigenous population, the geographic expansion of the provincial boundaries, and, most significantly, the great influx of immigrants who would have a significant impact on the social complexion of the province.²⁹ Included in this immigration were, for the first time, such groups as Jews, Icelanders, and Mennonites. For

the most part, the children of these immigrants were enrolled for their basic schooling in the public institutions of the Protestant section of the school system. The prevailing sentiment within the Protestant section felt that it was in the best interest of these new immigrant groups to assimilate themselves as quickly as possible to the English majority.

The government, at this time, also had to contend with the rapidly changing ethnic composition of the province which indicated an increase in native born residents as well as the widening gap between Protestants and Catholics:

Moreover, the majority of the new Protestants were from Ontario, and they accordingly brought with them an historical bias against both the use of the French language in schools and Roman Catholicism in general. These feelings, coupled with a preference for centralized academic control of education in tandem with local control by boards of trustees, stirred an inevitable hostility toward the Manitoba system of control of the schools by the two denominational sections of the Board of Education.³⁰

These social changes within the province led to a gradual realization by the provincial government that the school system, as a carefully controlled socializing institution, was at least as much for the benefit of the state as it was for that of the individual. The goals of the system, it was felt, could only be fully realized if the politicians became more intimately involved in educational issues and in the schools of the province.

In 1888, the Liberals under Thomas Greenway came to power with their main support coming from Protestants and

the Ontario-born. Lupul suggests that the time was ripe for addressing issues related to the Catholic minority as racial and religious feelings were running high following Riel's hanging and the controversy over Quebec's passage in 1888 of the Jesuit Estates Bill which invited the Pope to arbitrate certain disputed Canadian land claims of the Jesuit Order. Protests led by Dalton McCarthy, an anti-Catholic, anti-French, demagogue and bigot from Ontario, decried Papal intervention in Canadian politics. Spreading into Manitoba, McCarthy's supporters revived the demand for the abolition of the dual school system. The ruckus created by this call provided the Greenway government with the opportunity to divert public attention away from a potentially politically-damaging railway scandal. The situation may have been resolved more satisfactorily had Greenway not had to contend with Joseph Martin, his Attorney-General. Martin, who favoured a secular education system, was under the influence of D'Alton McCarthy. At a meeting in Portage la Prairie on August 5, 1889, Martin announced that Manitoba would deal with separate schools and the status of French at the next legislative session:

The announcement surprised Premier Greenway. In July he, Martin, and James Smart, Minister of Public Works, had apparently decided to abolish the dual school system without consulting J.E. Prendergast, their French colleague but Smart's speeches early in August had stressed only the financial inequalities of educational dualism and made no mention of language. Martin's indiscretion only revealed "the anti-French and anti-Catholic animus" which lay behind the decision on schools. With its intentions prematurely bared, the

government in September discontinued printing the Manitoba Gazette in French.³¹

The sentiments suggested by this governmental attitude towards the dual education system ran counter to the spirit and wording of the Manitoba Act(1870) wherein the province undertook "not to prejudice any right or privilege with respect to denominational schools which any class of persons have by law or practice in the Province at the Union."³² and ignored the provision in the School Act(1871) for "separate Catholic schools, supported by provincial grants on the basis of population."³³ However, changes in the social fabric of the province's inhabitants and the maturing of provincial politics had created an environment in which questions about the type of schooling that would be most appropriate could be raised by segments of the population and by representatives of the provincial government. The ensuing debate came to be known as the Manitoba School Question.

The Manitoba School Question

The Manitoba School Question involved the basic question of whether the institutions of French-speaking Roman Catholic Quebec or English-speaking Protestant Ontario would prevail in the province. Clague contends that the debate emerged from the Manitoba political arena which had undergone important changes since 1871: the gradual decline

in the political influence of the French; the growth of a spirit of provincialism which was tied in with increasingly bad relations with the federal government; and the maturing of provincial politics.³⁴ Whether politically motivated from within the province or incited by the actions of out-of-province agitators, the debate carried religious and racial overtones as bitter attacks ensued against "Roman Catholic" and "French" institutions, terms which had become synonymous.

Those calling for the abolition of the education system claimed to be advancing democratic principles by extending public control over education. The denominational system was seen as a divisive force in the community as it granted special privileges to some and denied it to others.³⁵ Arguments favouring the elimination of the dual school system were said to be based on the principles of a separation of church and state,³⁶ equal rights to all, special privileges to none,³⁷ and provincial rights over federal authority. It was also argued that the dual system of education was inefficient and economically wasteful in a sparsely settled country. The quality of instruction in Catholic schools was also called into question.

In answer to these attacks, it was asserted that the denominational school system was not a recognition of a state church but rather a recognition of the right of parents to provide their children with the type of education

which satisfied their religious convictions. This sentiment, that religion must be a vital and essential element in the education of every child, was advanced by most Roman Catholics and by a number of prominent Protestant leaders. While many of the Protestant leaders favoured the abolition of the dual system of schools and the establishment of a non-denominational model, they were not prepared to accept the 'godless' secular schools advocated by Joseph Martin. The Rev Dr J.M.King, the Presbyterian Principal of Manitoba College, called for an education that was not "secular, nor sectarian, but religious."³⁸ on the grounds that

...if moral teaching, enforced by religious considerations, is requisite in order to make good, law-abiding citizens, that is, in order to promote the security and the well-being of society, the state ought to be able itself to furnish it, and ought to furnish it in the schools which it maintains....³⁹

While advocating religious exercises in schools that represented the "common beliefs of Christendom,"⁴⁰ King adamantly opposed the inclusion of any Roman Catholic doctrine in these exercises and supported a conscience clause that allowed for the withdrawal of non-Christian students. The added pressure of the voice of Bishop Robert Machray of the Church of England in the call for the inclusion of non-denominationally biased religious exercises in school may have influenced the government's eventual announcement that religious exercises would be permitted in the new public school system.

Legislation passed in 1890 repealed all previous public

education legislation and abolished the official status of French. The passage of the Public Schools Act(1890) replaced the denominational state-supported school system with free, non-sectarian public schools under the control of local boards of trustees. The Act also provided for a Department of Education, under a Minister, that was responsible for overall administration and financial matters. The Minister received advice on scholastic matters from a seven member⁴¹ Advisory Board that made regulations concerning textbooks, curriculum, teacher qualifications, examiner appointments, and the forms of acceptable religious exercises. Regarding religious exercises in the new public schools, the Public Schools Act(1890) stated:

6. Religious exercises in the Public Schools shall be conducted according to the regulations of the Advisory Board. The time for such religious exercises shall be just before the closing hour in the afternoon. In case the parent or guardian of any pupil notifies the teacher that he does not wish such pupil to attend such religious exercises, then such pupil shall be dismissed before such religious exercises take place.
7. Religious exercises shall be held in a Public School entirely at the option of the school trustees for the district, and upon receiving written authority from the trustees, it shall be the duty of the teachers to hold such religious exercises.
8. The Public Schools shall be entirely non-sectarian, and no religious exercises shall be allowed therein except as above provided.⁴²

Thus the Public Schools Act(1890) provided local school boards with the option of conducting non-sectarian religious exercises according to the provisions of the Advisory Board and with a conscience clause that allowed parents to absent

their children from these exercises should they be held. Any school not conducted in accordance with the Act or the regulations of the Advisory Board would not be deemed a public school and would not be eligible for a government grant.

In assessing the implications of the passage of the Schools Act(1980) for its own constituency, the newly reconstituted Winnipeg Public School Board resolved in its first meeting held May 13, 1890 that

religious exercises be temporarily discontinued in the public schools of this city pending certain regulations on this matter to be made by the Advisory Board or Department of Education.⁴³

In its inaugural meeting on May 21, 1890, the Advisory Board passed a motion providing for "the reading without note or comment of the following selections from the Authorized English version of the Bible or the Douay version of the Bible"⁴⁴ and "the use of the following forms of prayer"⁴⁵ for opening and closing the school day. The approved Bible passages and prayers that followed in the minutes corresponded to those Bible passages and prayers previously approved for use in the schools of the Protestant section of the now dismantled Board of Education.

Responding to the Advisory Board's regulations, the Winnipeg Public School Board adopted a motion on June 10, 1890 that

in the opinion of the Trustees of the School District of the City of Winnipeg, it is deemed expedient in the best interest of the community that religious exercises

shall be held in all the public schools in the City of Winnipeg as provided for by the Advisory Board and that all necessary steps shall be taken forthwith to carry this motion into effect.⁴⁶

Opposition to the Public Schools Act(1890) came immediately, though not unanimously, from the Catholic minority both inside and outside the province who argued that the legislation discriminated against their religious rights. Their cause, led by Archbishop Tache of St Boniface, was given moral support by a Free Press editorial on April 23, 1890, which stated "We have never doubted that the Manitoba school legislation is unconstitutional."⁴⁷ Supporters of the legislation pointed out, though, that the abolition of the denominational school system did not mean the abolition of denominational schools or of religious exercises in schools. What was abolished was the teaching, in public schools, of specific sectarian creeds which rightfully belonged, legislative supporters felt, in the domain of the church and the home. Roman Catholics could continue to have their own separate schools if they wanted and if they could find support from parents who would be required, by law, to also pay taxes to the non-sectarian public schools. The Catholic population, weak in numbers and in wealth, were forced to examine the depth of their religious convictions when faced with the dilemma of shouldering the burden of double taxation or enrolling their children in virtually Protestant schools.

In arguing that the new public schools were merely

continuations of the Protestant schools of the old system, Archbishop Tache cited the Protestant orientation in

...the administration and control of public schools; the nomination of their inspectors, teachers and staff; the choice of their books; the determination and practice of their religious exercises; the children who attended them; the ratepayers who supported them;....⁴⁸

Tache contended that the prayers and scripture passages approved by the Advisory Board for use in the new public schools were identical to those used by the disbanded Protestant section of the previous Board of Education. Changes, Tache argued, envisioned by the legislation of 1890 would affect the Catholic schools to a greater degree than Protestant schools. In reality the curriculum in most schools changed little as Senator Boulton

illustrated when referring to a particular Catholic school:

When the legislation of 1890 was enacted, the school immediately came under the national system, without any complaint or grievance, and went on identically as it did before, under the supervision and guidance of the priest of the Parish and head of the school.⁴⁹

Change also proceeded slowly in those schools where religious orders continued to provide teachers. The decision by Catholic trustees to remain within the public schools system depended at times on the stance taken by the government in applying the 1890 legislation. Speaking in 1895 about the application of legislative policy and its acceptance by Catholics, Senator Bernier, formerly Superintendent of Catholic schools, stated:

Inducements were offered to them by the Local Government through their officers to attend the schools

without entirely sacrificing their views; and they thought they might try the new system. It is not on account of any preference for the public schools but because of their poverty and of the peculiar inducements offered to them. The Local Government were [sic] anxious to have some of our schools brought under the law in order to be able to base an argument upon the change. An inspector was sent to them who told them that if they wanted to keep up their schools the Government would not be too exacting about compliance with the regulations. He told them that they might quietly give any religious instruction in the school after school hours. He told them that they could begin and close school work by saying the ordinary Catholic prayers and even suggested how it should be done. Instead of opening the school at a certain hour, they might open some few minutes before, and at the closing they might close a few minutes after the regular hour, so that they might be able to say that there had been no praying during the school hours...It was by such inducements, contrary to the spirit of the law, that those schools, in their poverty, thought they might avail themselves of the opportunity presented to them to get their share of the taxes and of the Government grant, and thereby keep up their schools.⁵⁰

Despite the lack of rigor with which the government applied the terms of the Public Schools Act(1890) and the limited financial options available to most Catholic parents, the Catholic hierarchy, led by Archbishop Tache mounted a persistent and determined attack against the 1890 legislation through political and legal avenues. An appeal for remedial legislation was made in vain to the Governor-General-in-Council. Legal attempts at redress also fell short when the Supreme Court failed to make a clear decision by submitting five separate opinions. The minority again appealed to the Judicial Committee of the Privy Council in London and on January 25, 1895, won a favourable verdict. The 1890 law, although *intra vires*, did in fact affect the

minority's rights and privileges unfavourably; through double taxation, the minority suffered hardships after 1890, which the federal government was constitutionally bound to remedy. Accordingly, the federal government ordered Manitoba to restore the Catholic schools, complete with government grants and freedom from double taxation. Premier Greenway stalled any immediate legislative action by proposing a commission of inquiry into the state of Manitoba education before and after 1890. Finally, in 1896 a Laurier-Greenway Agreement⁵¹ was reached which represented a compromise that recognized only some of the French and Catholic concerns. It denied state aid to separate schools and required all Catholics to support, but not necessarily attend, public schools. Religious instruction by clergy was permitted during the last half-hour in the school day, if desired by the trustees or requested by the parents or guardians of ten children in a rural school or twenty-five in a town or city school. Children of parents who objected were exempted. Denominational segregation during secular instruction was forbidden, but if requested, trustees had to provide a certificated Catholic teacher for every twenty-five Catholic pupils in a rural school or forty in an urban school. Finally, in any school where ten pupils spoke French or any language other than English, instruction in English and French, or such other language, was to be on the bilingual system.⁵² However, the Laurier-Greenway Compromise failed to

satisfy the demands of the Canadian hierarchy of the Roman Catholic church, and of Archbishop Langevin of St. Boniface in particular, or to stifle their call for the necessity of denominational schools to provide a proper Catholic education.

Summary

Religion played an important part in the development of education in the Province of Manitoba. The establishment of a permanent school system grew out of the missionary activities of the Catholic, Anglican, Presbyterian and Methodist missions. Religious considerations were evident in the terms and spirit of the Manitoba Act (1870) and in the establishment of the province's denominational school system in 1871. In the dual school system, religion became the dominant force in the educational philosophy of the Catholic section of the Board of Education. The difficulty of accommodating all the various Protestant denominational philosophies tended to create more secularized schools in the Protestant section. Within a few years of joining the Union, the changing social fabric in the province and the maturing of provincial politics made change to the education system inevitable. Religious and racial friction and political chicanery eventually led to the enactment of anti-Catholic and anti-French legislation in 1890. The Manitoba

School Question focused on political and religious issues that concerned whether the institutions of French-speaking Roman Catholic Quebec or English-speaking Protestant Ontario would prevail in the province. It was hoped, by the pro-legislation supporters, that the abolition of the denominational system and the official status of the French language could be accomplished by the consent of the population as a whole and not just by the weight of the English Protestant majority which had become increasingly influential through the assimilation of new immigrants.

In the end Manitoba's French-Catholic population were robbed of their constitutional rights and privileges and political and legal moves to redress their grievances proved unsuccessful. The Laurier-Greenway Compromise, agreed to by the federal and provincial governments in 1896, created a public school system that satisfied none of the parties concerned and failed to resolve either the political or religious issues. The unsatisfactory nature of the compromise legislation ensured that the religious and linguistic elements of the issue would continue to be featured in future debates in the Manitoba legislature and elsewhere. In particular, as the following three chapters reveal, these historic religious and racial issues of the late 1800s would be mirrored and magnified within the schools of the Winnipeg Public School Division No.1 as its unique constituency reacted to the processes of social and

political evolution during the latter part of the next century.

ENDNOTES TO CHAPTER II

1. For an extensive review of the early educational development of the Red River settlement see among others: W.L. Morton, Manitoba a History (Toronto:University of Toronto Press, 1957); Keith Wilson, "The Development of Education in Manitoba" (PhD Thesis, Michigan State University, 1967).
2. Wilson, 50 citing C.J.Jaenen, "Foundations of Dual Education at Red River 1811-1834," in Transactions of the Historical and Scientific Society of Manitoba, Series III, 21 (1965): 43.
3. For an extensive look at Protestant involvement in the development of education in Manitoba see among others: C. Hackett, "The Anglo-Protestant Churches of Manitoba and the Manitoba School Question" (MA Thesis, University of Manitoba, 1988).
4. Wilson, 66 citing John West, The Substance of a journal during a residence at the Red River colony, British North America, and frequent excursions among the North West American Indians i the years 1820-1823 (London: Seeley, 1824), 27.
5. Wilson, 66 citing West, 90-91.
6. Wilson, 66 citing G.M.Newfield "The Development of Manitoba Schools Prior to 1870" (M.Ed. Thesis, University of Manitoba, 1937), 66.
7. See Hackett, note 3.
8. Wilson, 68.
9. Statutes of Canada, 1870, c.3.
10. Solicitor's compilation, The Manitoba School Case (Ottawa: Queen's Printer, 1895), 15.
11. The School Act(1871), 34 Vict. c. 12.
12. Manitoba School Case, 15.
13. Lovell Clark, The Manitoba School Question: Majority Rule or Minority Rights (Toronto: The Copp Clark Publishing Company, 1968), 25.
14. Clark, 25.
15. Wilson, 129.

16. Clark, 16.
17. Wilson, 126 citing Report of the Superintendent of Catholic Schools, 1875-76, 10.
18. Wilson, 125-126 citing Report of the Superintendent of Catholic Schools, 1877-78, 6-7.
19. Wilson, 127 citing Report of the Superintendent of Catholic Schools, 1875-76, 17.
20. Wilson, 127 citing Report of the Superintendent of Catholic Schools, 1875-76, 11.
21. Wilson, 130 citing Report of the Superintendent of Protestant Schools, 1886, 27.
22. Clark, 69.
23. Wilson, 130 citing Report of the Superintendent of Protestant Schools, 1871, liv.
24. Wilson, 131 citing Report of the Superintendent of Protestant Schools, 1871, 39.
25. Lupul, 274.
26. Robert E. Clague, "The Political Aspects of the Manitoba School Question 1890-96" (MA Thesis, University of Manitoba, 1939).
27. Wilson, 189 citing Manitoba Free Press, 6 December 1876.
28. Wilson, 186.
29. Alexander Gregor and Keith Wilson, The Development of Education in Manitoba (Dubuque: Kendall/Hunt, 1984), 35.
30. Gregor and Wilson, 46.
31. Lupul, 275.
32. Lupul, 274.
33. Lupul, 273.
34. Wilson, 227.
35. The Manitoba Act(1870) granted special rights to the Roman Catholics and certain Protestant denominations. Those operating their own schools that were denied these rights included Icelanders, Mennonites and Jews.

36. The principle of the separation of church and state is not inherent in the British North America Act(1867) nor in the Manitoba Act(1871). This principle is embodied in the American Constitution, notably in the First Amendment.
37. This was the slogan of the Equal Rights Association.
38. Clark, 43.
39. Clark, 43.
40. Clark, 6.
41. Membership included four members appointed by the Department of Education, two members to be elected by the public and high school teachers of the province, and one member appointed by the University Council.
42. The Public Schools Act(1890).
43. Memorandum, 22 October 1991, from J.C. Smyth, Chief Superintendent of The Winnipeg School Division No. 1, to the Board of Trustees. The memo was in response to the Board's request for the historical background of religious exercises in Winnipeg.
44. Minutes of the Advisory Board Meeting, 21 May 1890.
45. Minutes of the Advisory Board Meeting, 21 May 1890.
46. Memorandum, 22 October 1991, from J.C. Smyth, Chief Superintendent of The Winnipeg School Division No.1 to the Board of Trustees.
47. Manitoba Free Press, 23 April 1890.
48. Wilson, 239 citing Tache, The School Question, An Exhaustive Disquisition on the Subject (St Boniface, 1893), 5.
49. Wilson, 177 citing Ewart quoting Boulton in The Manitoba School Question, A Reply to Mr Wade (Winnipeg, 1895), 36.
50. Wilson, 177 citing Power, The Remedial bill from the Point of View of a Catholic Member (Ottawa, 1896), 20.
51. Sir Wilfred Laurier was the Liberal Prime Minister of Canada from 1896 to 1911.

52. Controversy arose again in 1916 when the bilingual section of the School Act(1890) was repealed.

CHAPTER III

DEUTERONOMY: THE CHALLENGE OF CHARTER LAW

As was pointed out in the previous chapter, religious considerations were a dominant influence in the development of education in Manitoba up to 1890. The unsatisfactory resolution to the Manitoba School Question and the continued determination of the Catholic hierarchy to seek redress for their grievances ensured that religion, although no longer a driving force in the development of education, would remain, nevertheless, a point of debate in Manitoba's education system.

This chapter outlines the role of religious exercises and religious instruction in schools of the province (and in Winnipeg School Division No.1) from 1916 to the early 1990s. During this period optional religious exercises became legislatively mandated requirements. The move, in part a concession to the difficulty of providing acceptable religious instruction in public schools, was taken in the belief that the education system needed to bolster its role as a moral training ground to combat the diversionary elements of an increasingly complex society. The chapter concludes with an overview of religious exercises as the subject of court challenges in the United States, as litigation in Canadian and Manitoba courts after the arrival of the Canadian Charter of Rights and Freedoms, and as one of the issues in a Provincial Government review of education

legislation. Importantly, members of the Winnipeg School Division No. 1 Board of Trustees acknowledged an awareness of these judicial decisions and government proceedings during their deliberations on By-law 1000.

The necessity of this chapter lies not only in the presentation of facts that illustrate the place and practice of religious exercises in Manitoba schools during this period, but more importantly in presenting commentary on the perceptions of and attitudes towards religious exercises in these schools. It was within this societal atmosphere and in such schools that a number of trustees on the Winnipeg School Board in this study received their education. The presentation of facts, perceptions and attitudes, and an acceptance that individuals make decisions, in part, on the basis of their own personal experiences and perceptions, may perhaps provide some understanding of an individual trustee's decision to support or reject By-law 1000 which removed mandatory religious exercises from the Division's schools.

Mandatory Religious Exercises

The passions with which the religious and linguistic issues in the Manitoba School Question were engaged were not soothed by the legislation enacted in 1897. The French-Catholic feeling of abuse was affirmed once again by the

provincial government's repeal of Section 10 of the Public Schools Act(1897) which had allowed bilingual instruction under certain enrolment conditions. The loss of this language provision left the French-Catholic minority with only a diminishing religious identity in the education system. Although the direct influence of religion in schools had declined since the abolition of the dual system in 1890, an indirect role continued through the terms of the compromise legislation allowing optional religious exercises and a daily half-hour period for religious instruction. However, the practical difficulty of providing satisfactory activities for all denominations and the fear of awakening latent religious animosity meant that students in only a few schools participated in religious activities. Commenting in 1938 on this lack of religious teaching in public schools, Inspector Moore observed:

Whether or not the general attitude of parents, school boards and teachers that religion is taboo in the state schools is responsible therefor, there is now apparent an indifferent and somewhat cynical attitude toward religious matters on the part of a considerable proportion of the pupils in our secondary schools. Some there are who, for example, cannot repeat the Lord's Prayer and many more who cannot write it out in decent form. Not a few cannot repeat the Ten Commandments.¹

The difficulty, though, of instituting religious teaching was illustrated by the response given by the St. Boniface School Board to a request for religious instruction by the Kiwanis Club and various churches:

The board felt, however, that due to the nature of the district it would not be conducive to harmony in the

schools to institute such teaching. As a step toward partially meeting the request of the petitioners it was decided that henceforth Religious Exercises should be held in all Norwood Schools every day.²

Acceptance of observations such as these may have contributed to the decision of the Provincial Government, in March, 1955, to enact legislation mandating compulsory religious exercises in all Manitoba public schools unless otherwise directed by an annual school board by-law. In part, the amended Public Schools Act(1955) stated:

2. Section 252 of the Act is repealed and the following is substituted therefor:

252. (1) Subject to subsection (2), religious exercises shall be held in every public school on each teaching day on which school is operated.

(2) The board of trustees of a school district may, by-law, direct that religious exercises shall not be held in any one or more schools of the district during the then current school year, and thereafter in that school year they shall not be held in that school or those schools.

(3) A by-law passed under subsection (2) shall be effective only until the thirtieth day of June next following the day on which it is passed; but a similar by-law may be passed thereafter respecting any subsequent school year.³

The Public Schools Act(1955) changed religious exercises from optional to compulsory but it did not affect the content of the Advisory Board's recommended prayers and scripture readings. These approved exercises continued to reflect a predominantly Protestant outlook.

While satisfying some of the criticism directed toward the education system, opposition to the 1955 legislation came those who considered the inclusion of any religious component in public schools to be inappropriate. This

conception of education harkened back to the secular education system advanced by Joseph Martin during the days of the "Manitoba School Question." In the view of these members of the public-at-large, public schools should be strictly secular and parents who desired an education that incorporated more religious practices and teachings were still free to send their children to private schools. This same segment of society also opposed the use of public monies for private schools that advanced secular interests. This stance would be in direct opposition to a recommendation made in 1959 by the Manitoba Royal Commission on Education to extend public financing to Catholic Schools.⁴ Maintenance of private schools, these citizens felt, should continue to rest on the ability and willingness of dissenting parents to pay both public school taxes and private school fees.

Thus by the late 1950s, religious influence in public education had been reduced to the legal requirement of mandatory religious exercises in all public schools (though such a requirement was not always observed in every classroom) and to the occasional public school offering religious instruction. In the private sector, religion continued to play its dominant role in denominational schools and the dissenting French-Catholic minority's muted call for recognition of their right to state-funding for these schools finally reached a public audience during

presentations made to the Manitoba Royal Commission on Education.

The Report of the Manitoba Royal Commission on Education

In 1957, a Royal Commission on Education was established by Manitoba's Lieutenant-Governor-in-Council. Headed by Dr. Ronald Oliver MacFarlane of Carleton University in Ottawa, the five-member commission was to inquire into and report on all aspects of education in the province, up to University level. Upon consideration of the briefs requesting financial assistance for denominational schools, the Commission recommended "a measure of public support for private and parochial schools where such schools would not injure the public school system"⁵ but ultimately this recommendation was not acted upon by the government.

In reviewing the overall question of religious instruction in public schools, the Commission heard in a brief from the Catholic Conference of Manitoba that the Catholic Church's views had not changed:

It is necessary not only that religious instruction be given to the young at certain fixed times, but also that every other subject be permeated with Christian thought.⁶

Reflecting on the role of religious instruction in public schools, the Commission observed that it was:

of the opinion that in a society in which the state requires all children to attend school and prescribes what they shall study, moral training must be a vital

element in the curriculum in all grades. Without moral training, the aim in education... "of developing in each child the desire and the capacity to become an acceptable and worthy member of a society of free men" - is virtually unobtainable. To impart knowledge and develop intellectual power are not in themselves adequate aims in education. Everyone will readily agree that the fundamental aim in education will have been frustrated if the knowledge and intellectual power acquired through long and expensive schooling make the graduate only a more clever criminal than he would have been without schooling.⁷

The Commission unanimously agreed that as public education expanded and became more demanding, and as society shifted from being family-oriented to community-oriented, the need for formal and organized moral training was "necessary if the development of better character is to keep pace with the development of better minds."⁸ Through its resources and legal powers, education was recognized as a dominant influence on children and the Commission felt that:

If by considered and declared public policy society excludes from the enormous effort and influence of public education the religious approach to moral training, there is some danger that by that very act our children are taught a telling lesson in the difficulty, disadvantage, or uselessness of religion as a technique for developing better men and women....(and)...its absence affirms that it has no proper place.⁹

Recognizing the difficulty of providing moral training through effective and acceptable religious teaching, the Commission did not recommend compulsory religious instruction legislation. The Province was urged, though, to assist every school board that desired to provide instruction about the Judeo-Christian concepts of man, upon which Canadian society was founded. Reflecting this view of

the need for religious instruction and the practical difficulty of providing it, the Commission's final recommendations regarding religious matters included:

59. That the Religious Exercises now compulsory (subject to the parent's right to absent his children) in the public schools be retained and improved by:
- a) requiring that a full ten-minute period each day be wholly devoted to Religious Exercises without infringement by other interests such as administrative announcements, and
 - b) emphasizing in the training of teachers and in the material on Religious Exercises supplied to teachers, the importance of these exercises and the necessity for a reverent atmosphere during the exercises.

61 That the Minister prescribe for use in public schools in which a school board has decided to provide Religious Instruction a syllabus for each grade covering:

- a) a Protestant Programme of Studies....
- b) a Roman Catholic Programme of Studies....
- c) a Jewish Programme of Studies.....

67. That the Judeo-Christian heritage be stressed in all courses in Philosophy of Education in the Manitoba Teacher's College, Brandon College, and in the Faculty of Pedagogy.¹⁰

The Commission's report and recommendations regarding religious activity in public schools added to the ongoing debate in the public sector. In an address to the Anglican synod in Winnipeg on January 20, 1960, Dr Hilda Neatby said the Commission's acknowledgement of the "failure of the home and church to install a system of both religion and morality in children" was "a rebuke to all Christians and a challenge to the church of the future."¹¹ Pointing out that "a civilized society is a collection of persons and persons are not created in state schools although they may be formed

there" Neatby encouraged religious instruction in schools as a "supplement to what goes on in church and home."¹² She foreshadowed, however, the problems of providing this instruction through teachers who were "poorly instructed, or secular minded, or both."¹³ Neatby also agreed with the Commission's recommendation for government aid to private schools that offered a good general education.

The debate over the role and nature of religion in education was not confined to Manitoba. Writing in Saturday Night, in 1959, Ben Garrett echoed the Commission's concern over the practical difficulty of developing an acceptable curriculum:

It is doubtful that any will be free from error, or free from criticism. The religious sectarians and secular sectarians will continue to declare that the course is prejudicial to "liberty" - because it says too much, or too little; or because it cannot be taught without offence to their own particular brand of sectarianism.¹⁴

Garrett's article also expressed the prevailing pre-multicultural view of Canadian society:

Let there be no doubt that the view of God and man - the religious view of life that this country holds and on which it will develop its society and its culture - is the Hebrew-Christian view incorporated in the ancient literature of the Bible.¹⁵

In neighbouring Ontario, an editorial in the United Church Observer, in February, 1960, related the difficulty of presenting Christian teachings in public schools where Jewish students also attend and called for a conference on religion in public schools. Rabbi Feinberg of Toronto was

quoted as saying that religious instruction in public schools was "an unjust political means fashioned by sincere men for a narrow sectarian end."¹⁶ Although "not much impressed by talk of the rights of minorities"¹⁷ the editorial expressed deep concern "about the rights of individuals whether or not they belong to minorities."¹⁸ The writer admonished the lack of attention paid to the concerns of Jewish parents and to Jewish children's feelings when excused during the religious period. Adamant in the desire to prevent Jewish teachers and students from being embarrassed or offended, the editor hoped "to find a way to protect them without sacrificing all that is good in the present system."¹⁹ As in the Manitoba Royal Commission Report, the editorial presented the situation as mainly a Christian-Jewish problem. The growing multicultural, multi-religious component of society was given only incidental reference in the editorial's concluding remarks:

It would be a good thing, too, if the youngsters could be taught to have respect for, and understand, Buddhists, Muslims, and Hindus, and at least be given a brief introduction to the great religions of the world.²⁰

Although describing the situation of Jewish students in Ontario's public schools system, the sentiments and illustrations in the Observer editorial could easily have been substituted with experiences related by Trustees Orlikow and Neville, in Chapter 4, about their own student days in Winnipeg schools.

Manitoba Regulations Concerning Religious Exercises

Essentially in response to the Royal Commission proposals, new regulations concerning mandatory religious exercises in all Manitoba public schools were issued on October 22, 1963 by the Minister of Education under the existing school legislation. Manitoba Regulation 96/63 stated:

Being a Regulation under the Education Department Act respecting religious exercises in schools.

1. In this regulation "school" means a public school.
2. Religious exercises in the schools shall consist of a Scripture reading, a prayer, and whenever possible, a hymn, all of which may be chosen from the recommended Scripture selections, prayers and hymns.
3. The school time devoted to a period of religious exercises shall not exceed ten minutes in any one day.
4. Unless by annual by-law the school board directs otherwise, religious exercises shall be held by the teacher with, at his discretion and in his presence in a classroom or assembly-hall, the assistance of one or more pupils, subject to the proviso that such pupil-participation shall be on a completely voluntary basis so far as the pupils are concerned.
5. No pupil shall be permitted to conduct or to assist in conducting religious exercises unless he has carefully prepared the prescribed readings in advance.²¹

Manitoba Regulation 96/63 would be repealed and rewritten, though not substantively, in 1971 and 1980. In 1988, in response to a legal challenge to it based upon the Canadian Charter of Rights and Freedoms, Manitoba Regulation 246/80

was substantively altered by the removal of the teacher participation clause.

Advisory Board Regulations for Mandatory Religious Exercises

The revised regulations of the Advisory Board concerning mandatory religious exercises in public schools became effective on February 1, 1964. As stated in the Foreword:

The purpose of religious exercises is to create an atmosphere which will permeate the whole of the school's activities. The religious exercises of the school will lead the pupil's thoughts away from the distractions of the immediate present to an awareness of Him "who holdeth all things together." In this brief period of worship, reverently conducted, the school is put into vital touch with that Reality, some few of whose secrets they seek in their school work to penetrate.²²

Scripture passages taken from either the authorized English, Douay, Revised Standard, or New English versions of the Bible²³

were to be read without note or comment. To attend to the diversity of the student population in public schools, the regulations conceded:

The range of choice of readings, Prayers and Hymns is wide enough to enable teachers to give due recognition to the fact that the school is the meeting place of young people of varied beliefs and to avoid selections that might cause division in the school community.²⁴

In summing up the classroom atmosphere in which the religious exercises should take place, the Foreword to the Regulations advised that, "The value of the exercises

depends to a great degree upon the teacher conducting them. Reverence begets reverence."²⁵

The recommended prayers, scripture readings and hymns contained within the 1964 Advisory Board Regulations were culled mainly from Christian sources. The predominantly Christian nature of these exercises ensured that the mandatory legislation would be abrasive to the growing non-Christian student population whose options were limited to passive participation or voluntary abstention by leaving the classroom. Passive participation was a submission, by some accounts, to the power of peer pressure. This choice, however, was fundamentally at odds with religious precepts and created a moral and ethical dilemma for students, parents, teachers and school administrators. Voluntary abstention, provided for in subsection 296(3) of the Public Schools Act(1955), required the equally difficult choice of self-identification and the stigma of being detached from the Christian-dominated mainstream of society. The objectionable consequences of both of these choices ensured that the nature and appropriateness of mandatory religious exercises in public schools became a long-standing issue for the Board of Trustees of the Winnipeg School Division No.1.

Mary Kardash, a Board member in the late 1960s and then again from 1977 to 1986, related²⁶ that the issue of religious exercises was discussed during her tenure, initially within the context of taxation for public

education and funding for private schools. Ms. Kardash recalled the debate as mainly concerning the option of private schooling for parents who desired a more significant religious component in their children's education. Ms Kardash and other Board members advanced the argument that a public school system, funded by public finances, should be strictly secular and that public funds should not be used to promote sectarian interests. Concern over the exercises and the alternatives available to those who did not wish to participate was periodically voiced to the Board, Ms Kardash added, by Jewish parents concerned about their effects on the welfare of their children.

Interestingly, almost every trustee in this study related that he or she had, at one time or another and for various reasons, assumed the mantle of an identified minority. Empathy for the predicament of non-Christian children required to participate in or opt out of the mandated religious exercises was definitely felt by members of the Board of Trustees in this study. Trustee Irene Haigh recalled a meeting of the Board in which a fellow trustee²⁷ related her experiences in school as a non-Christian:

(We were discussing) how schools could accommodate the different religions. The concern for most groups was always this one issue of the Lord's Prayer and what that did for their children who perhaps weren't Christian and what the impact was on children who had to leave the room or pretend. I remember a Board member talking about her experience in school as a non-Christian. It was a Jewish person and how you found yourself mouthing the prayer, the Lord's Prayer, simply because you didn't want to be different and then

feeling all the kinds of things one might feel.²⁸

Similar experiences were also related to Trustee Roman Yereniuk by some of his Jewish friends who confided:

We were told by our parents, we were told by our community leaders, just to shut up, take it, observe it and not to do anything about it. We didn't want to open up any flood gates.²⁹

The gap, often found between the purpose and practice of religious exercises in public schools, was not left unbridged by non-Christians alone. Trustee Maryanne Mihychuk, raised an Orthodox Ukrainian, reminisced about her own participation in the daily morning exercises; "It was a formality. It was rote. It was one of those things that you tended to, I think, mostly daydream through."³⁰

Non-Christian students also knew that these socially awkward situations were not confined to the classroom. Trustee Lionel Orlikow, remembered that reciting the Lord's Prayer was

just part of the norm of the day. I don't think I worried about it or was concerned. It didn't bother me. It didn't affect me in any way. I didn't pay any attention [to it].³¹

He also offered a glimpse at the scarring nature of social ostracism by vividly recalling the treatment he received as a young Jew outside the classroom:

I remember that when I was in Grade 8 or 7, I, and a friend of mine, were denied membership in a ski club because we were Jewish. I didn't even know what they were talking about.³²

Trustee Orlikow further related that at another period in time, "All my friends belonged to the United Church (and)

there was another club which was held at King Memorial Church of which I was denied membership."³³

Religious bigotry did not end for Trustee Orlikow with his passage from adolescence to adulthood:

My wife heard, she was a Catholic, I guess she's lapsed now, at the Catholic Women's League at St Ignatius, 'Anne Orlikow, nice person. It's too bad that she is married to the son of Satan.' I never thought my father was Satan.³⁴

Failure to prevent incidents like these and to resolve the issues concerning the nature of the mandated religious exercises and the alternatives available to those who did not wish to participate in them, eventually provoked litigation in Manitoba and other provincial courts after the arrival of the Canadian Charter of Rights and Freedoms.

American and Canadian Judicial Decisions Concerning Religious Exercises

Arguments made in support of the elimination of the dual school system during the debate over the Manitoba School Question relied, in part, on the American concept of a separation of church and state. The principle reflects the American belief that religious liberty is most secure where Church and State are most completely separated and finds its judicial basis in the First Amendment of the American Constitution, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise

thereof."³⁵ This early reliance on American jurisprudence foreshadowed the use of American judicial reasoning as a beacon to help guide Canadian courts through an increasing number of court challenges based on the Canadian Charter of Rights and Freedoms.

Significant American legal precedent regarding religious exercises began to be set in the late 1940s when, in McCollum v. Board of Education(1948),³⁶ the Court ruled that plans to provide for religious instruction for Catholic, Jewish and Protestant children was a breach of the establishment clause of the First Amendment of the United States Constitution. In 1962, the United States Supreme Court reaffirmed the separation of church and state in its decision in Engel v. Vitale(1962)³⁷ when the court ruled that official devotional exercises in schools were coercive and conflicted with the constitutional ban on the establishment of religion by the government. The following year in School District of Abington Township v. Schempp(1963)³⁸ Bible readings were likewise ruled unconstitutional. An attempt to have religious exercises replaced by moments of silence in public schools was also ruled unconstitutional in Wallace v. Jaffe(1985).³⁹

The arrival of the Canadian Charter of Rights and Freedoms, in 1982, led to a number of similar court challenges to religious exercises in Canadian public schools. The Charter represented a fundamental shift away

from Canada's constitutional arrangement, and the principle of parliamentary supremacy, towards a more Americanized system of judge-made law.⁴⁰ In a country customarily more concerned with collective rather than individual rights, and with a preference for "Peace, Order and Good Government" over the American ideal of "Life, Liberty and Pursuit of Happiness," educational issues were traditionally resolved in the political rather than the judicial arena. Courts, in deference to the general social order, usually took a hands-off approach to school board decisions and the actions of school administrators.⁴¹ Student rights, often seen to be in conflict with those of teachers, school administrators and school boards, seldom became the subject of court challenges and were often settled out of court.⁴² As legal familiarity with and the use of the Charter's covenant increased, it became apparent that the equality rights contained in Section 15, namely, that

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability,⁴³

recognized young people as individuals who were equal under, and had the right to equal benefit, of the law without discrimination based on their age. The equality afforded young people under Section 15 allowed them to claim, as their right, the fundamental freedoms contained in Section 2, "Everyone has the following fundamental freedoms: (a)

freedom of conscience and religion"⁴⁴ The arrival of the Charter, therefore, accommodated the possibility of students and parents appealing to the courts for redress against alleged practices of religious discrimination in public schools.

For the most part, the judicial decisions in Canadian cases have tended to follow the direction of American jurisprudence. In Zylberberg v. Sudbury Board of Education (1988),⁴⁵ the court found that a provincial regulation compelling public schools to hold religious exercises violated constitutional guarantees found in Section 2 of the Charter, namely, "freedom of conscience and religion."⁴⁶ The judicial ruling was not affected by the student's ability to exempt themselves from these exercises. Judicial reasoning similar to that in Zylberberg was used in the decision given in Russow and Lambert v. Attorney General of British Columbia (1989)⁴⁷ where the court found that all public schools shall be conducted on strictly secular and nonsectarian grounds. In Corporation of the Canadian Civil Liberties Association v. Ontario (Minister of Education) (1990)⁴⁸ a mandatory program of religious education was found to deny students of rights and freedoms under the Charter. In taking their lead from their American counterparts, Canadian provincial courts had begun to build their own wall between church and state and this move has not, to this date, been challenged on constitutional grounds

in the Supreme Court of Canada. The judicial reasoning in these Canadian cases clearly assisted adjudication of subsequent litigation in Manitoba's Court of Queen's Bench in 1992⁴⁹ and became a factor for consideration in the Winnipeg school board's decision to pass By-law 1000. Trustee Haigh acknowledged a close friendship with one of the plaintiffs in the Zylberberg case and Trustee Santos, nearing completion of his law studies, admitted that the judicial reasoning in the Zylberberg, Russow and C.C.L.A. cases, and a petition filed with the Manitoba Court of Queen's Bench in 1988, influenced his vote on the by-law.

Contemporary Religious Controversies in Manitoba's Schools

Public attention in Manitoba became focused on religious issues in education in 1986 when Chris Tait, a seventeen year-old MacGregor High School student was suspended for refusing to take part in the school's morning religious exercises as required by Section 84 of the Public Schools Act(1980). Specifically, Tait refused to recite the Lord's Prayer or to stand while his classmates prayed. Tait filed a complaint with the Manitoba Human Rights Commission alleging that even his silent acknowledgement of the manner in which the school conducted religious exercises was a violation of his right to non-discrimination under Section 2, Fundamental Freedoms, of the Canadian Charter of Rights

and Freedoms and under Section 3, Discrimination prohibited in public places, of Manitoba's Human Rights Act(1974). Although the matter was settled out of court, the school board did adjust its local practice in such a way as to establish an assembly exclusively for those who wished to participate in religious exercises. Tait's challenge also raised the issue of the predominance of Christian religious exercises in a multicultural school system. Tait's arguments purported to show that religious exercises can offend the Charter and also infringe guarantees of non-discrimination in Manitoba's human rights legislation. The cause and resolution of the Tait affair gave all Manitoba school boards reason to pause and reflect on their divisional practices. As happenstance would have it, the resolution of the Tait affair occurred during deliberations of a task force on race relations in Winnipeg School Division No.1, a subcommittee of which was dealing with the division's practices regarding religious exercises.

The first court challenge to Manitoba's mandated religious exercises came in a petition, filed in the Manitoba Court of Queen's Bench on the 9th December 1988, on behalf of the Manitoba Association For Rights and Liberties Inc.(M.A.R.L.), Jesse Vorst, and Ivan Pokus, against the Government of Manitoba and the Minister of Education for Manitoba. In the Statement of Claim the plaintiffs argued that Section 84(5) of the Public Schools Act(1987) and

Manitoba Regulation 246/80 were inconsistent with the rights and freedoms set out in Section 2(a) freedom of conscience and religion, 2(b) freedom of thought, belief, opinion and expression., 2(d) freedom of association; and in Section 15, equality rights, of the Canadian Charter of Rights and Freedoms.⁵⁰ Specifically the claim was made that the Public Schools Act(1987) and Manitoba Regulations 246/80 required students to participate in religious exercises, parents to permit their children to participate in religious exercises, and teachers to supervise and participate in religious exercises, that were inconsistent with their religious beliefs, opinions and practices. It was further claimed that the legislation and the regulations discriminated within the meaning of the Human Rights Code S.M. 1987-88,c.45. On December 12, 1988, three days after the filing of M.A.R.L.'s petition, the Government of Manitoba amended Manitoba Regulation 246/80 to Manitoba Regulation 554/88.

Substantively, the regulation was changed by the inclusion of sub-section 4(3): "No teacher is required to conduct or to participate in religious exercises."⁵¹ Coincidentally, representatives from M.A.R.L. and the Manitoba Human Rights Commission were members of the recently-commissioned Winnipeg School Division's Task Force on Race Relations. This Task Force would eventually recommend changes to the Division's religious exercise policy. More importantly, as will be seen in Chapter 5, arguments presented in

M.A.R.L.'s petition to the court formed the basis of the arguments propounded by Trustee Santos, a key player in the debate over By-Law 1000.

Provincial Government Concerns Regarding Religious Exercises

The Chris Tait affair, M.A.R.L.'s petition, and the issues articulated by the Task Force on Race Relations (see Chapter 4) were examples of the changing needs and demands within Manitoba's educational environment which the provincial government wished to address through a review of the province's educational legislation. In April 1991, the Minister for Education and Training, Len Derkach, presented a consultation paper entitled "Creating A Framework For The Future: Education Legislation For The 1990s" which outlined a number of major educational issues for which public input was sought. A review of Manitoba's main education statutes, The Public Schools Act and The Education Administration Act, was deemed necessary because the province had "experienced fundamental changes in its economic, social and cultural structure, as well as changes in a number of significant demographic characteristics."⁵² These changes, it was felt, had affected society's expectations of schools since the last extensive revision to The Public Schools Act in 1980. Public input, therefore, was requested to provide an opportunity for people to reflect on the values and

traditions that should be preserved in the educational legislation that "directly influences the educational environment and climate for learning."⁵³

In Creating a Framework, the Minister expressed the critical need for a relevant education system from Kindergarten through Grade 12 because this period of formal schooling coincided with the formative years of childhood during which children develop "an overall understanding of themselves and their society."⁵⁴ The Minister also observed that it was during this stage of maturation that the knowledge, skills, values, and attitudes that form the basis for future decisions and actions were acquired. Development of a relevant education system, the paper pointed out, required a partnership between parents, students, educators, administrators and community members that recognized the need to establish a balance between the Department of Education and

autonomous, local and private school boards, a need to balance public and private interests, and a need to balance the desire of the individual for freedom of expression, for confidentiality which may conflict with the legitimate interests of the community. These interests are expressed in the promotion of such values as respect for others as individuals and as members of different social and cultural groupings....⁵⁵

Seven underlying principles were proposed "as a base for collaborative decision making and (as) a guide towards the development of a new legislative framework:"⁵⁶

1. Equity - ensuring fairness and providing the best possible learning opportunities for all Manitobans, regardless of background or geographic

- location.
2. Openness - being receptive to ways of thinking and doing things that result in ongoing renewal, and involving a wide cross-section of people in decision making.
 3. Responsiveness - meeting the education and training needs of individuals by taking into consideration personal background and circumstances, as well as geographic location.
 4. Excellence - providing a climate for education and training that fosters dedication, determination, creativity, initiative, and high achievement.
 5. Choice - providing alternatives to meet diverse learning needs and interests.
 6. Relevance - providing education and training that is current and meaningful to students.
 7. Integration - connecting components within and between education and training, and between education and training and social and economic systems, in order to increase the effectiveness and efficiency of programs and services.⁵⁷

The consultation paper recognized that:

Although education is exclusively under provincial jurisdiction, some aspects of Canadian schooling, including minority language and religious rights, are constitutionally guaranteed. The right to education in Canada involves more than the right to access educational programs. It includes the right of a child to receive proper instruction.

While assuring that the Canadian Charter of Rights and Freedoms provided full protection for all children,⁵⁸ the paper pointed out that, "There remains some uncertainty, however, as to how the Charter applies in educational contexts"⁵⁹ because "the legal status of students in the school context is somewhat unclear."⁶⁰ In obvious reference to court challenges in Ontario and British Columbia and perhaps alluding to Chris Tait's stand and M.A.R.L.'s petition, the paper observed that:

Particularly since the passage of the Charter, the courts have been intervening with increasing frequency

in what was traditionally the school's exclusive jurisdiction. This intervention by the courts in the education system can be expected to continue. While the courts have an important role to play, an environment which is conducive to learning is not one in which decisions are constantly challenged. Rather an environment that is conducive to learning is one that promotes fairness, protects the worth and dignity of all concerned, fosters high staff morale, and in other ways, attends to the quality of the relationships and interactions within the education system.⁶¹

With these educational and legal points as guides for rumination, twenty-five specific issues were addressed, one of which was mandatory religious exercises in the province's public schools. The paper observed that:

There is increasing pressure to make education more responsive to the cultural diversity that characterizes our province and to prepare all students to live in a multicultural society. In a multicultural society, there are diverse religious beliefs and the Charter recognizes the right of individuals to express their religious beliefs.

Legislation in Manitoba requires public schools to be non-sectarian. Religious exercises shall be allowed according to regulations made by the Minister's Advisory Board. Currently, religious exercises in public schools consist of a Scripture reading, a prayer, and whenever possible, a hymn, all of which may be chosen from a recommended list. Participation in religious exercises is voluntary. A school board may direct that religious exercises not be held in a school.⁶²

The public was then asked to respond to the following questions:

Should religious exercises be mandatory in public schools or should school boards be given discretionary authority to permit such exercises? Should all students be required to participate in these exercises? Who should determine the content of religious exercises? What should be the criteria and process for deciding on whether religious exercises should be conducted?⁶³

In much the same way on a kindred issue, the paper solicited

responses to questions regarding religious instruction provisions after noting that:

Our society is characterized by diverse religious beliefs. The Charter recognizes the individual's right to express his or her religious beliefs. Religion can be an important dimension of one's identity and advocates of religious instruction argue that the public school should assist students to develop and retain an awareness of their own culture and religion.

The provincial government's consultation paper, Creating A Framework For The Future: Education Legislation For The 1990s, came out shortly before the final recommendations of the Task Force on Race Relations were made public. Although echoing many of the concerns found in the Task Force Report, there is no way to measure the impact of the government's paper on the Task Force's deliberations or recommendations. One can be assured, though, that, at the least, the paper heightened and broadened the awareness of the public-at-large to the issue of mandatory religious exercises shortly before the Board of Trustees of The Winnipeg School Division No.1 began public consultations regarding its own concerns on this matter. By raising the question of the appropriateness of provincial legislation requiring religious exercises, the provincial government may also have provided a moral victory for the members of the Board of Trustees opposed to religious exercises in public schools by confirming their belief in the need, at least, to raise this issue in public debate.

Summary

Catholic grievances over the resolution of the Manitoba School Question failed to find redress in the first half of the 20th century. A decision in 1916 by the Manitoba Government to repeal the bilingual clause in the Public Schools Act (1890) further acerbated the dissenting minorities feelings of abuse and left optional religious exercises and instruction as the only remnant of religion's former dominance. An apparent growing indifference on the part of students toward religious matters and the difficulty school boards faced in providing acceptable religious teaching when requested contributed to the Manitoba Provincial Government's decision in 1955 to enact legislation making religious exercises compulsory in all its public schools. This decision was supported by the findings and recommendations of a Royal Commission on Education established in 1957. The Commission restated the previously espoused belief in the need for a connection between religion and education in order to develop better character along with better minds and attempted to redress old grievances by recommending a degree of public funding for private schools. The religious exercises recommended by the Advisory Board in 1964 were predominantly of a Christian nature and failed to provide any opportunity for the growing non-Christian student population to nurture their religious

beliefs in the school setting. The only recourse for these students who found themselves outside of the mainstream was passive participation or voluntary abstention by leaving the classroom during these exercises. The requirements of the mandatory legislation and the objectionable consequences of the options available would become points of contention in litigation fought in Manitoba, and similarly in Ontario and British Columbia, after the arrival of the Canadian Charter of Rights and Freedoms in 1982. Judicial reasoning used to resolve these disputes would garner some of its inspiration from American court decisions.

Manitoba's first challenge to mandatory religious exercises came from Chris Tait a high school student. Although eventually settled out of court, Tait's arguments showed that mandatory religious exercises can offend the Canadian Charter of Rights and Freedoms and Manitoba's human rights legislation. These arguments were reflected in a petition filed in Manitoba's Court of Queen's Bench in December 1988. Although not resolved by the time By-law 1000 was passed, the petition did motivate the Provincial Government to amend its regulations concerning mandatory religious exercises by removing the requirement for teacher participation. The resolution of the Tait affair and the filing of the court petition occurred at the time when the Board of Trustees of the Winnipeg School Division No.1 were establishing a task force on race relations. A little over

two years after this Task Force recommended the removal of mandatory religious exercises and shortly after the Provincial Government began its own review of religious exercises in public schools, the Board of Trustees initiated the first steps towards the passage of By-law 1000. Throughout the chapter it has been incidentally shown that many of the trustees of the Winnipeg School Division No.1 had empathy for the feelings of an abused minority and an awareness of the judicial arguments against religious exercises. The next two chapters explore how these contextual factors influenced the drafting of By-law 1000 and suggests their possible influence on individual trustees decision's to support or oppose its passage.

ENDNOTES TO CHAPTER III

1. Keith Wilson, "The Development of Education in Manitoba" (PhD Thesis, Michigan State University, 1967), 372 citing Report of the Department of Education, (1936), 139.
2. Wilson, 372 citing G. Belton, "A History of the Origin and Growth of Schools in the City of St. Boniface" (M.Ed. Thesis, University of Manitoba, 1959), 200.
3. The Public Schools Act(1955), Statutes of Manitoba, c.60.
4. The Report of the Manitoba Royal Commission on Education, 1959.
5. Wilson, 376.
6. Wilson, 374.
7. Royal Commission Report, 148.
8. Royal Commission Report, 149.
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CHAPTER IV

CHRONICLES: RACE RELATIONS, BIBLES AND PRAYER IN WINNIPEG

NO.1

The two previous chapters captured in a wide brush stroke the historical relationship between religion and education in Manitoba's schools and framed the central issues that shaped the debate concerning the practice of mandatory religious exercises. While the enactment of mandatory religious exercises silenced some of the criticism directed at the education system for its lack of a significant religious component, challenges to it arose from those opposed to any religious requirement in, what they considered should be, a purely secular school system. Opposition also came from non-Christians unable to find a means of nurturing their spirituality within the statutes of the public schools' legislation and the Christian-oriented religious exercises approved by the Advisory Board. The arrival of the Canadian Charter of Rights and Freedoms presented a vehicle by which these dissenters could transport the debate over mandatory religious exercises out of the confining jurisdiction of local school boards and into the public arena of the courts. Petitions filed in the courts for redress from alleged religious discrimination appealed to Sections 2 and 15 of the Charter.

This chapter and the next concern themselves with the

deliberations of the Board of Trustees of The Winnipeg School Division No.1 and related events from the introduction of the Charter of Rights and Freedoms to the passage of By-law 1000. Chapter 4 examines those deliberations and events from the introduction of the Charter to the motion to draft the by-law. Chapter 5 deals with the deliberations and events in the interim between the motion to draft the by-law and its passage. The examination of the practice and perception of mandatory religious exercises in The Winnipeg School Division No.1 and the passage of By-law 1000 is presented in these two chapters mainly through the testimony of then-sitting members of the Board of Trustees. Specifically, this chapter examines the implementation of mandatory religious exercises in the ethnically diverse school division, the Trustees' appraisals of petitions made to the Board and events in other jurisdictions regarding both mandated religious exercises and other religious matters in the era of the Charter of Rights and Freedoms, the Board's efforts to understand and satisfy the unique educational needs of its clientele through the commission of a Task Force on Race Relations, the Board's reaction to its Task Force's recommendations and the Board of Trustees' deliberations concerning related local issues that ultimately influenced the decision to draft By-law 1000.

The Practice of Mandatory Religious Exercises in Winnipeg
No.1

Resolution of the issues concerning the nature and practice of religious exercises proved elusive for the Board of Trustees of the Winnipeg School Division No.1, perhaps, for reasons similar to the sentiments expressed by Trustee Santos concerning this fractious issue:

If I can avoid voting on a contentious issue, let me assure you, I'll use every possible legal technicality to avoid voting on that issue, and I did that over the years.¹

Initially, the controversy over the nature and appropriateness of religious exercises in Winnipeg School Division No.1 had been viewed as a Jewish point of contention. The growing diversity of religious beliefs accruing from the changing mosaic of Winnipeg's social fabric, however, broadened and intensified the debate. Local schools were now faced with the increasingly contentious task of melding these disparate worldviews into the mainstream Christian philosophy countenanced by their religious exercises. The situation was described by Trustee Ed Kowalchuk:

The Division acquired a fairly large number of ethnic groups which were not Christian. They were bound at some point in time to make their positions known and, up until we passed the by-law, it was a mandate of the school that they must have a Bible reading and a prayer, together with patriotic exercises. Many schools did not because of the cultural nature of their clientele. The pupils had already opted out

informally.²

This informal resolution of the issue, Trustee Kowalchuk believed,

came from teachers and principals responding to the kinds of things that went on in the community. "You know principals are very sensitive to what's in the community, who's coming to school. It would be my feeling that in many instances it was decided this practice is no longer valid."³

Local alterations to the mandated practice had also occurred in other school districts. As was shown in Chapter 3, Chris Tait's challenge, ultimately settled out of court with a cash payment and a public acknowledgement of the legitimacy of his grievance, had also resulted in changes to his school division's religious exercise policy:

The division has since moved the morning prayer to an assembly room and students may choose to remain in their classrooms."⁴

Though this grievance occurring in another jurisdiction, the members of the Board of Trustees of The Winnipeg School Division No.1 acknowledged an awareness of the affair and the issues it raised. Trustee Neville related that:

I think we were all aware what was going on there. I, from personal recollection, was aware of not dissimilar incidents in the Winnipeg School Division years before. Reading (about them) in the paper, it stuck out in my mind because they were children of people I knew who were protesting.⁵

Although expressing that he had very little interest in Chris Tait's predicament, at the time, Trustee Kowalchuk interpreted the incident as arising

not out of the fact that Chris Tait is a non-religious person who was required to leave the classroom for a

period of time while religion was going on, and he objected to that. It was just that the Superintendent and the Principal at that time got tough with him and the kid, being a teenager, figured all right I'll teach you a lesson.⁶

Kowalchuk felt that

had there been some kind of sensible discussion, I think, at that point, which would have made some allowances for Chris Tait's position, without identifying him as being a rebel, the issue would never have arisen. If there had been some reasonable discussion at that point, "Okay, Chris, we understand that you do not and so forth," but there wasn't. The Principal there attempted to force him into an activity that he wasn't damn well going to take part in. It was that forcing that caused the problem.⁷

Trustee Kowalchuk suggested the matter could have been resolved differently:

If I'd been the Principal, I wouldn't have forced him, even though I believe that prayer is important in a person's daily living. If there's somebody who doesn't care to pray, fine, that's your decision not mine. If I had been the Principal, Chris Tait probably never would have been.⁸

Responding to a question about the role of a school board in these situations, Trustee Kowalchuk suggested that

essentially the board is responsible to the community. If the community does not wish to pray, the board will not require it.⁹

Invocations for Meetings of the Board of Trustees

In 1986, at the start of the new school year and a few months after Chris Tait's challenge, Trustee Ed Kowalchuk unilaterally removed the traditional practice of opening Board meetings with a religious exercise. In describing the

need for this action, Trustee Kowalchuk explained:

When I became Chairman of the Board, at that point, (I) suspended the religious activity that the Board had in starting its meetings and the reasons we did that is we couldn't get agreement among the Board as to what that ought to be.¹⁰

Explaining on his decision, Trustee Kowalchuk remembered that

initially, what happened was that the Board would proceed to religious activity. I believe it was a moment of silence and Mary Kardash would walk out and then wait until it was over and come back in again. So I decided, you know, lets see whether we can work something out. So I sent a memorandum to the Board telling them that we'll be discontinuing the practice of religious activity while we examine and look at alternatives to the process. I invited them to make some suggestions but we could never work anything out that would satisfy everybody. Nothing has been done since and I'm not sure that anything will be done.¹¹

Relating this decision to his views on the Chris Tait affair, Trustee Kowalchuk repeated that "I just don't care to force people to pray. I don't know what benefit that is. It has no value."¹²

When asked to reflect on this decision, Mary Kardash recalled that during her first stint on the Board in the 60s, meetings were begun with a moment of silence. This practice, she said, was amended in the '70s to allow for the recitation of a prayer, usually the Lord's Prayer. The practice was later changed to allow, once again, for a moment of silence. During the invocation, Ms.Kardash acknowledged, she would walk out of the room. Her actions, she explained, were based on her belief in the inappropriateness of holding religious exercises meetings of

a school board responsible for a secular school system. Ms. Kardash could not recall any discussion or debate concerning this matter, or her actions, and she continued to absent herself from the invocation for the duration of her term on the Board, which expired in 1986.¹³ Board elections held during that same year resulted in the election of six new members.

Two of those new Board members, Anita Neville and Enid Gillespie, also failed to recall any discussion about the removal of the Board's traditional practice for opening meetings. Trustee Neville professed that "Ed Kowalchuk was elected Chair that first year and he quite unilaterally abolished prayer at the Board meeting on his own, without consultation."¹⁴ While refraining from speculating on Chairman Kowalchuk's motives for removing the invocation, Trustee Neville highlighted the importance of the timing of the decision:

You know there were six new trustees and they were just scrambling to learn the rules of procedure, let alone the issues around prayer. I mean if one was going to make that kind of change without much input or discussion, that was the time to do it, and he seized the moment¹⁵

In his recollections about the invocation decision, Trustee Santos, re-elected to the Board in 1986, suggested that the decision may have been politically motivated as a part of Trustee Kowalchuk's successful bid for the Chairmanship of the Board. Trustee Santos offered that, whatever the motivation behind the decision, the removal of

the opening religious exercise was sympathetically received by a slim majority of Board members.¹⁶ Awareness of this informal endorsement, Trustee Santos felt, successfully stifled opposition to the decision.¹⁷ The minority, perhaps reflecting the sentiments expressed by Trustee Santos previously, did not press for a formal vote and thereby avoided raising this contentious issue to the level of public debate.

The Task Force on Race Relations

Two years after the removal of the invocation, the issue of religious exercises in public schools became an issue for public debate. On March 15, 1988, in the midst of legal challenges in Ontario and British Columbia to the constitutionality of religious exercises, and in light of its own concerns regarding the adequacy of its schooling practices in relation to a very diverse ethnocultural community, the Board of Trustees of the Winnipeg School Division No.1 established a Task Force on Race Relations which was

charged with the responsibility of bringing forward to the Winnipeg School Division Board of Trustees recommendations to enhance educational opportunity for all ethnocultural and Aboriginal groups in the Division in the area of race relations.¹⁸

The Task Force was another step in the School Board's continuing efforts to deal with multicultural issues arising

out of the Division's unique constituency:

The Winnipeg School Division No.1, through its policies, programs and staff, has demonstrated over time its enduring commitment to equity and progress through education. The initial Policy on Multiculturalism was introduced into the Division in 1978. The creation of the Task Force on Race Relations has been the most recent of such initiatives ... As an educational institution, The Winnipeg School Division No.1 has undertaken many initiatives which have placed it at the vanguard of organizational responsiveness in the educational arena in Canada.

Stemming from its commitment to multiculturalism, the Division has already fostered a large number of innovations to the educational process. Support personnel have been added to give guidance in areas such as English as a Second Language, Heritage and Modern Languages, and French language instruction. The Division has employed for some time, a Native Education Advisor, a Multicultural Consultant, and as well, a number of Community Liaison Officers. As part of its commitment to Multiculturalism, the Division has established a Committee on Multicultural Education which provides a forum for the discussion of Multicultural issues in the Division.

On an ongoing basis, the thrust of the Division's programming for multicultural education has included orientation programs for new members of our community, awareness training in the area of multiculturalism for all students and staff in the system, and programs which foster cultural and linguistic maintenance for various groups served by the Division.¹⁹

The Task Force originated with a motion made by the then Chairman of the Board, Anita Neville:

The genesis of the Task Force was decided by a motion that I made for a number of different reasons. There had been a number of incidents that I became privy to. I don't know whether it was because I was Chair or whether it was my own network out there, some through the media, some through school people, on a number of incidents with significant racial overtones, if not overt racism. Coincidentally with that, somebody had given me a fair pile of literature on work that had been done in eastern Canada, on the North York School Board²⁰ and the City of Toronto School Board. Based on a sort of combination of circumstances, reading of this

material, responding to this material, I put forward the motion.²¹

Trustee Kowalchuk was more specific about the timing of the Task Force:

The race relations committee actually arose out of a series of race incidents. The most famous one being the one up at Gordon Bell, when a number of Orientals flashed knives and they got into an argument. That really started a discussion on race relations as a problem.²²

Trustee Yereniuk, while not a Board member at the time of the commissioning of the Task Force, added an important pragmatic condition to the Task Force's deliberations by observing that its purpose was "to see how the school division can better serve our student population, but also within the context of our staffing situation."²³

To fulfil its function, the Task Force was armed with the following mandate:

At a meeting held March 15, 1988, the Board of Trustees of The Winnipeg School Division No.1 adopted the following motion establishing the Task Force on Race Relations:

WHEREAS a school system has responsibility to provide opportunities for young people to develop attitudes and values that will ensure that our schools are havens free of discrimination;

AND WHEREAS students, parents and employees have a right to expect that within an educational jurisdiction they will be allowed to work and learn in an environment free of any racial or ethnic bias by students, staff and trustees,

BE IT RESOLVED that this Board establish a task force made up of trustees, administrators, educators and community members to develop policies and recommendations in the matters of race and ethnicity as they relate to student programs, curriculum, the assessment and placement of students in classes for

exceptional children, staff professional development, community relations, recreational programs, equal opportunity and the handling of racial incidents.²⁴

The twenty-nine member Task Force was divided into three sub-committees: Racial Incidents/Personnel Policies; School/Community Relations & Support Services; and Curriculum/Staff Development. Three Trustees, Anita Neville, Jim Frey and Irene Haigh served as ex-officio members of all three sub-committees. The other twenty-six members of the Task Force were chosen from Divisional staff and the community-at-large. Trustee Neville explained:

Three trustees were chosen, one from each ward. Myself, because I put forward the motion and two others. There was a desire for community representation and we tried to develop a balance from organizations that had a particular interest in issues of race relations.²⁵

While unable to remember the specific criteria for membership selection, Trustee Neville recalled;

I think what we did was we looked for representations. I know there was somebody from MARL. Stan Mackay was involved because we were looking for a community Aboriginal leader. Paul Chartrand was invited because we wanted the academic approach and his name had been recommended by somebody. The parent involvement was quite deliberately crafted to get representation from all areas of the division. The staffing was quite deliberately crafted to bring in a variety of experiences, both pedagogically and personally, into the arena. It was carefully balanced and crafted.²⁶

Trustee Irene Haigh reaffirmed the care taken in the selection process:

I know that when we were doing the terms of reference for the committee we were careful to have not only inside groups, not only parents, but also outside agencies involved.²⁷

While also unsure of the selection process specifics,

Trustee Haigh suggested the names of possible Task Force members

probably came as recommendations from people who sat on other similar types of committees with them, and knew that they had an interest in the whole question of race relations, and certainly pretty well all of them had dealt with that.²⁸

When it came time to staff the sub-committees, Trustee Haigh recalled that

some people volunteered on specific committees depending on their interest or their expertise in the areas of race relations and multiculturalism. The administration identified some people who would be able to bring something forward, particularly in curriculum development.²⁹

Trustee Neville confirmed that members volunteered according to their interests for a specific sub-committee but added that "there may have been some balancing after that."³⁰

A total of eighty-one submissions were presented to the Task Force in nine public meetings held in community centers and local schools.³¹ Five of the submissions dealt specifically with the issue of the place of prayer in schools. This represented the first time, since the mandatory legislation in 1955, that the issue of religious exercises was formally addressed by the Division. As Mary Kardash stated earlier, the issue had been raised, but mainly in the context of private school funding. Trustee Santos also pointed out that the issue had been raised periodically and that his sentiments and approach to it were perhaps not unique among the trustees of Winnipeg No.1:

I tried to avoid dealing with it [because] there are

some for it, there are some against it. I'm an elected official, not appointed. Am I going to deal with the matter unless I have to. The answer is absolutely not.³²

It was Trustee Haigh's perception that the Board was aware of the prayer issue before the commissioning of the Task Force:

The issue of school prayer had been something that various people had been aware of. Certainly it was never anything that we discussed at the Board level or even in committees. It may have been something that perhaps, individually or informally, we spoke about. My only connection that I can remember, at that time, was following closely what was happening in Ontario. In fact, I knew one of the parents in Ontario who had challenged the practice there.³³

Although religious exercises were not initially identified as an issue for the Task Force to deal with, Trustee Neville recalled that

through informal discussion among staff, task force members, whom ever, there was certainly an awareness it was going to surface and we better think about how we are going to deal with it. I mean, what that Task Force did, was [it] invited the public to come and pick at the school division in its most minutest detail. So it was an awareness on the Task Force, prior to its beginning, that it was going to surface and when it surfaced, they dealt with it.³⁴

Trustee Neville also recalled the sentiments expressed in these public presentations:

It came out in some of the presentations that school prayer marginalises children and probably staff as well who do not subscribe to a Christian religion. To say it was an overwhelming number of presentations, I think would be misleading, but there was certainly enough that one was aware that it was an issue.³⁵

Trustee Haigh sensed these same sentiments in these public presentations but felt them more strongly:

The presentations were few but they were quite powerful presentations. They were from parents who really objected to their child having to be part of a system where the Lord's Prayer was said and other children were being excluded. I guess powerful in as much as it's a very emotional topic and so one approaches it emotionally but also with a lot of very strong opinions and quite committed to the issue.³⁶

Trustee Haigh further emphasized that if they were not dealt with as a specific issue in a presentation, religious exercises often appeared as an illustration for another point:

In fact, although some [presentations on prayer] came from individuals and individual parents, it was also raised by other people making presentations and often used as an example of cultural appropriateness in the school system. So while people may not necessarily have come and made a presentation specifically on school prayer, it certainly was mentioned by other groups as they came forward and made presentations on a whole range of issues dealing with racism and the need for an anti-racist curriculum.³⁷

Although it received the second largest number of presentations overall, Aboriginal Education was also not initially identified as a Task Force issue. Deliberations on this issue, however, would provide a contentious counterpoint to the final recommendations of the Task Force concerning religious exercises in public schools. Equally significant, and perhaps a harbinger of the Board's predilection, was the participation by members of the Task Force in a circle and sweetgrass ceremony at Aberdeen School on December 14, 1988.³⁸ Participation in this spiritual exercise, and the deliberations of the Task Force in general concerning Aboriginal education issues, presented a

philosophical contradiction for Trustee Santos:

The Task Force came very strong on Aboriginal education and very strong on anti-status quo of having religious matters dealt with in school. One of the basic tenets of Aboriginal education is spirituality. So I saw the Task Force on the one hand saying, 'don't get involved in spirituality matters', and then I saw the Aboriginal education which I know is based on spirituality. I said, 'They're being inconsistent.'³⁹

In the midst of the Task Force's deliberations, constitutional challenges to religious exercises in Ontario and British Columbia were resolved. Decisions, in those provinces, in favor of the plaintiffs left Manitoba as the only province where legislation required that religious exercises be held in public school classrooms, with provision for discontinuance by by-law. This dubious distinction was threatened by a petition that had been put before the Manitoba Court of Queen's Bench by M.A.R.L. and others, on December 9, 1989. The petition requested that religious exercises, as found in Section 84(5)⁴⁰ of the Public Schools Act(1987) and Manitoba Regulation 246/80,⁴¹ be ruled unconstitutional. Coincidentally, on December 12, 1988, two days after the filing of the M.A.R.L. petition, the Provincial Government repealed Manitoba Regulation 246/80 and replaced it with Manitoba Regulation 554/88 which read:

Definition

1 In this regulation "school" means a public school.

Religious Exercises

2 Religious exercises in the schools shall consist of a Scripture reading, a prayer, and, whenever possible, a hymn, all of which may be chosen from the

recommended Scripture selections, prayers and hymns.

School time for religious exercises

3 The school time devoted to religious exercises shall not exceed ten minutes in any one day.

Conduct of religious exercises

4(1) Unless the school board directs otherwise by annual bylaw,, religious exercises shall be held in each school.

4(2) Conduct of religious exercises may involve the assistance of one or more pupils; but such assistance shall be on a completely voluntary basis.

4(3) No teacher is required to conduct or to participate in religious exercises.

Repeal

5 Manitoba Regulation 246/80 is repealed.⁴²

Substantively, the major change from the previous regulation was the inclusion of subsection 4(3) which removed the requirement for teacher participation in the exercises. As a result of this change, the Plaintiffs' Statement of Claim was amended on May 23, 1989:

The Plaintiffs claim:

- a) A Declaration that Section 84(5) of the Public Schools Act, C.C.S.M. c.P250 and Manitoba Regulation 554/88 are by virtue of Section 52(1) of the Constitution Act 1982 of no force and effect.
- b) Pursuant to Section 24(1) of the Canadian Charter of Rights and Freedoms, such other remedy as the court considers appropriate and just in the circumstances.⁴³

Commenting on the Provincial Government's decision to challenge this petition, the then provincial NDP education critic, Jerry Storie, called the move "a waste of money."⁴⁴ Liberal Opposition Leader Sharon Carstairs said, "the 99-year-old act fails to recognize Manitoba's changing ethnic

mosaic,"⁴⁵ and she felt, "the issue is going to court because the Tories and NDP failed to amend the 1890 Act to accommodate a multiplicity of religious views."⁴⁶ Ms Carstairs added, "I think one way of addressing this problem is by presenting prayer readings from various faiths."⁴⁷

The Task Force on Race Relations and School Prayer

In July, 1989, seven months after the filing of M.A.R.L.'s petitions, the Task Force on Race Relations tabled its findings and recommendations. Concerning school prayer, the Task Force reported that:

Historically in Canada, Christian prayers have been recited in schools. In our Multicultural Society this practice creates difficulties for those from non-Christian traditions. In effect, the recitation of Christian prayers negates the recognition that some of the population do not have specifically Christian religious affiliations. For those students, Christian prayer fails to reinforce their own religious experience or spiritual upbringing. Continuation of the practice of school prayer will likely contribute to a sense of alienation on the part of students who are not Christian.⁴⁸

Making a typically American distinction between religious studies and practices in schools, the Task Force recommended that the Division remove mandated religious exercises from the normal routine of the schools within its jurisdiction:

59. That The Winnipeg School Division No. 1 remove the formal recitation of prayer in school during the opening and closing exercises.

60. In light of Section 2 of the Charter of Rights and Freedoms, which guarantees freedom of conscience and religion, the sub-committee also recommends:

That The Winnipeg School Division No. 1 adopt the Task Force guideline from the American Association of School Administrators in 1986 as follows:

- a) the school may sponsor the study of religion, but may not sponsor the practice of religion;
- b) the school may expose students to all religious views, but may not impose any particular view;
- c) the school's approach to religion is one of instruction, not of indoctrination
- d) the function of the school is to educate about all religions, not to convert to any one religion;
- e) the school's approach is academic, not devotional
- f) the school should study what all people believe, but should not teach a student what to believe
- g) the school should strive for student awareness of all religions, but should not press for student acceptance of any one religion; and
- h) the school should seek to inform the student about various beliefs, but should not seek to conform her or him to any one belief.⁴⁹

The Task Force Report also observed that:

School Curriculum reflects society's ideas as to which knowledge has value. As society's needs change, so must the curriculum of schools. The reality of the 1990's and beyond is a reality of ever increasing need for students to develop positive attitudes and respect for people of differing ethnocultural and Aboriginal backgrounds. The school curriculum must explicitly in its content, and implicitly in its delivery and context, achieve universal acceptance of the principles of human equality and dignity.⁵⁰

The Task Force, therefore, recommended in part:

47. That the following specific areas must be developed for inclusion in the curricula throughout the Division, where they are not already in place:

(a) Human Rights issues, focusing on the rights enumerated in the Universal Declaration

(b) Aboriginal culture, rights and views of Aboriginal Peoples.

(c) Multiculturalism, including:
3. appreciation of the roles played by different religious/belief systems in all cultures

(d) The dynamics of prejudice, stereotyping and discrimination, including racism and conflict resolution.

(f) Teaching about the holocaust and other historical examples of racial persecution including the implications of such abuses for the development of human rights.⁵¹

Commenting on the Task Force Report, Trustee Kowalchuk felt that "actually there was often very little relationship between the final report and some of the discussion that went on within the groups."⁵² And on the results of the Task Force Trustee Kowalchuk suggested that there was an effort made to implement the recommendations, "but as far as having an effect on the Division goals, almost nil. The Division's goals really did not change."⁵³ Trustee Kowalchuk also expressed the opinion that the recommendations for teaching about religion would have

little or no effect [because] it's tough to change. This is a big division, it's tough to change its goals. Matter of fact, it's tough to change the goals of a small division. It's tough to change direction. It's like a huge ship on an ocean.⁵⁴

Concerning the impact of Task Force recommendations, Trustee

Yereniuk recalled:

When Anita Neville's Race Relations Committee came up with its draft and recommendations on the issue of prayer, there was very little response. Nobody really wanted to talk about it. It seems in the larger sense people shied away from this whole issue. Lets not deal with it. In fact, I remember a couple of Board meetings where we said, 'Look lets not attack this. This is a major problem and we'll get everybody out and we'll get the ire of everybody. Lets leave it until the province makes a decision.' So you know, the thing is, sometimes on these hard choices, if you can postpone it for a year or two, you try to do it.⁵⁵

The sensitive nature of the issue was confirmed by Trustee Neville, the Chair of the Task Force, who said:

I don't think I was at the Committee meeting the day the recommendation came out of it. Dave Osborne called me and said, 'You know this is going to be coming out of it. You are going to have a hot potato to handle,' and my response was, 'So be it.'⁵⁶

Trustee Neville also observed that "Trustee Santos was not anxious to deal with the issue at that time,"⁵⁷ but added that the recommendations became a catalyst for her, particularly:

Once it was recommended by the Task Force, I was prepared to go on it. There were about three of us who were prepared to move on it. Prior to the Task Force recommendation, we had gone through an issue on the Board on the disbursements of Gideon Bibles. I think that issue sensitized a number of Board members to the fact that school prayer wasn't going to be any less (of a heated issue). There was some discussion and I don't know whether it came from the administration or from a Trustee in particular that if M.A.R.L. is dealing with it through the courts, why do we have to make enemies? Lets wait till it goes through the courts and we'll deal with it that way.⁵⁸

Trustee Haigh, also a member of the Task Force, recalled the reaction she sensed to the Task Force recommendations:

I was watching it fairly closely. (Religious Exercises)

were identified as one of the priorities that the Committee put forward in the final brief. At the time when we brought the recommendations to the Policy Committee, I remember people saying, 'Well its a hot potato and certainly, if we are looking at implementing some recommendations, this will open up the flood gates and certainly shouldn't be the issue we go with first of all.'⁵⁹

The Gideon Bible Controversy

On May 1, 1990, in response to a request for information concerning an issue related to the Task Force deliberations, the Board received a memo from Superintendent Smyth outlining the Division's policy on Special Interest Materials. This policy covered the Division's practice of distributing Bibles to Grade Five students:

Policy KFA Special Interest Materials which was adopted by the Board on November 9, 1976 states:

Holy Books - Distribution of

That the Board authorize the distribution of holy books to students that may from time to time be made available to the Division for this purpose, provided that the proposed books have educational value from a language, history or social significance viewpoint. This authority is limited only by the following:

- 1) that the books will be supplied without cost to the Division and/or student
- 2) that the parent (or guardian) of the student will be given an opportunity to reject the distribution of any particular book to his/her child.⁶⁰

The Superintendent's memo continued:

This policy was the basis for the decision to distribute the request form for Gideon Bibles to grade five students in the Division during April of 1990.

However, the distribution has caused some concern on the part of principals, teachers, and parents.

Policy KBF - Distribution of Information by Students states that material will not be sent home with students "on behalf of a particular religious denomination". In view of the religious composition of the student population in the Division and the statement in Policy KBF, it is recommended that Policy KFA - Special Interest Materials be deleted.

Upon the deletion of this policy, the Gideon Society will be advised that the Bibles will no longer be distributed to students in the Division.⁶¹

Upon consideration of this information, notice was given of a motion to rescind Policy KFA. This move, according to Trustee Neville, "engendered the wrath of the community and attracted many presentations."⁶² She recalled:

The phone rang constantly. I received all kinds of reading material at my home from various and sundry people, on the importance of it. It was a hot issue.⁶³

Trustee Orlikow reported that he received petitions "amounting to something like over 2000"⁶⁴ and highlighted the contentious nature of this religious issue:

Like I had phone calls at home. I remember one:
 "Lionel Orlikow there?"
 My wife says, "No he's out."
 "This is Lionel Orlikow the trustee?"
 "Yes. Do you want to leave a message?"
 "No, I would just like to say to you and tell him that I've always wanted to know what would happen when the Jews took control." Click.
 So, I mean, I was under quite heavy pressure but that didn't bother me.

At its June 19, 1990 meeting, Trustee Orlikow moved, seconded by Trustee Mihychuk, that Policy KFA be rescinded. The motion was voted on and declared - Lost, the vote being recorded as follows:

Ayes: Trustees Neville, Mihychuk, Orlikow, Haigh
 Nays: Trustees Kowalchuk, Gillespie, McTaggart,
 Yereniuk, Santos.⁶⁵

Reflecting on his decision to move the motion to stop the distribution of Bibles, Trustee Orlikow suggested he couldn't "remember how I got involved in that one"⁶⁶ but offered:

I don't care what the rules are. Educators reflect the community and we have a fair number of religious nuts in our schools. They will broadly interpret and put pressure on kids. Secondly, when you select yourself out, automatically the finger is on you and kids like to be part of the group.⁶⁷

Trustee Neville, while acknowledging that distribution was on a voluntary basis, was concerned about the practice since "it was the voluntary distribution of Bibles for one group in the school and, to my mind, bordered on proselytizing."⁶⁸ The matter was brought to her attention

by a teacher in the inner city who was very upset and very angry that she had to be a distributor of the Gideon Bible to children in her classroom, many of whom were not Christian. She herself was not a Christian and objected to having to make it available to children who don't want it. She just found it very offensive. As I began to think about it, I did not believe that that was the role of the school division. We are living in an increasingly diverse, complex community. Unless one was going to make it available to other organizations, to distribute the Old Testament, the Koran, whatever, you are again singling out one group and I don't know [if providing a distribution service] is up to a public school system to do.⁶⁹

Trustee Neville said she brought the matter

to the attention of the administration at about the same time that they were [looking at it]. I phoned Jack Smyth and he said to me, 'It's funny that you should bring this up right now because we are just looking at it.'⁷⁰

Trustee Mihychuk, who voted in favor of the motion, also considered that "it was the promotion of one religious group and nobody else and so for that reason [I] did not feel it was appropriate in our schools."⁷¹ For Trustee Haigh, the distribution of Bibles was proselytizing and it employed a degree of coercion:

The Bible was given to Grade Five students and I think they got a note home to say whether or not they wanted to have them or not. It's an age where children don't want to be different and so there was a sense of some taking it just because (others did). Also I had some philosophical trouble with the whole question of the Gideon's movement. The exclusion of women in the leadership and those kinds of things.⁷²

As an atheist, Trustee Haigh found:

it distasteful that there is almost a coercion, or force to something that happens in the school system. In a classroom of Grade Fives, when probably they are all given the Bible, why are they all given the Bible? A good many of them are not Christians. A good many of them are any number of religions and so there is a hope behind giving those bibles that there is somehow going to be a conversion.⁷³

Trustee Kowalchuk observed that the four Board members who voted for the motion were all non-Christian and guessed that "on principle (the four) weren't prepared to accept religious activity of any kind in a public schools system."⁷⁴ Trustee Kowalchuk also argued that "we don't authorize (Bibles),"⁷⁵ all that the schools did "was provide a way of distributing them [and] there's really no religious connotation to that."⁷⁶

Trustee Gillespie also voted against the motion and

recalled the issue specifically in the light of a Sikh request to ban the Gideons from giving away free Bibles.

Trustee Gillespie supported the distribution because

it's entirely voluntary. The children get a letter which they take home to the parents. If the parents don't want it, they say no. If they want it, they say yes. There's no preaching or anything in the schools.⁷⁷

Reflecting on the motion to stop distributing the Bibles,

Trustee Santos recalled:

An ethnic organization, the Hindus Association I believe, came in. When they raised the matter, I made the offer to them and said, 'If you have the Koran or some other religious book that you wish to offer to students, all you have to do is give it to us and the same procedure we do with the Bibles, we'll do with yours too. We'll make sure that parents know, students know it is available for distribution.'⁷⁸

Trustee Santos reiterated that, in accordance with his philosophy,

I'm not gonna change something if its been working alright. Why should I vote to do away with the distribution of Bibles when I am offering the same thing to those who do not wish to distribute something else.⁷⁹

Trustee Santos did add, though,

if I was going to start it today, would I start distributing Bibles? The answer would be absolutely not. Unfortunately or fortunately, I have to deal with what has been done in the past and some people, some years ago, started distributing Bibles. I'm not in the mood of undoing what people have done in the past unless I have a very strong reason to change it. So I didn't feel, and I still don't, that I should prevent the people from distributing Bibles or any other religious book as long as we do not force it upon the students. The students know it is available. If they want it they can say so.⁸⁰

The offer, suggested by Trustee Santos and others, to distribute the holy books of any other religious group that

so desired, was considered by Trustee Orlikow to be "goofy" and "administratively hopeless."⁸¹

The Technical-Vocational High School Students' Presentation

Sensitized by the "Bible debate" to both the presence and contentiousness of religious issues in the Division, the Board continued to shy away from dealing with the matter of religious exercises. As Trustee Santos explained,

nothing happened with the Task Force Report. They were there. We know it. We saw it, but no movement. Again, back to my original statement and my original stand in the past, I was unwilling to move on this topic unless I have individuals coming in and put the matter before the Board.⁸²

At the Board meeting held April 30, 1991 a presentation was received from Ms Merie Ann DeLima, Ms Le Ha Lac, Ms Misty Ann Prettie and Ms Ruth Livingston, representing the "Tec Voc" High School Leadership Team. Their brief expressed concern about religious exercises in the school and requested that the Division discontinue the Lord's Prayer from the school's Opening Exercises.⁸³ Specifically, the Leadership Team urged the Trustees to replace the Lord's Prayer with 30 seconds of silence in which students could say their own prayers or meditate.⁸⁴ Following the answering of questions, Trustee Neville moved a motion, seconded by Trustee Haigh, that

this presentation and the matter of prayer in the schools be referred to the Policy/Program Committee for discussion within the next six weeks.⁸⁵

The motion carried. This presentation by students from "Tec Voc" was, in the estimation of most Trustees, the catalyst that finally galvanized the Board into action to address the school prayer issue:

I think something snapped in Mr Santos. [He] changed his mind and brought the rest of those who were not prepared to [move], along with him.⁸⁶

Trustee Yereniuk certainly felt that the presentation by the "Tec Voc" students marked the point of departure for the Board:

It never really came to the surface as such until we had a delegation of a number of students from Tec Voc High School. It was there. It was a point we were going to look at some time in the distance but we didn't approach this whole issue of prayer based on the Task Force itself. Basically it came out of a presentation to us by a group of students that wanted to take a look at some options.⁸⁷

The Notice of Motion for By-law 1000

The minutes of the Board meeting of May 21, 1991 record that Trustee Gillespie informed the Trustees that she had appeared on the Peter Warren Open Line Radio Program together with representatives from "Tec Voc" High School and the Manitoba Association of Rights and Liberties regarding the issue of the Lord's Prayer in Schools.⁸⁸ During the same meeting, Policy/Program Committee Report No. 6-91 was tabled:

Your Committee has met with the Tec Voc High School Leadership Team and has given consideration to their request presented to the Board at a meeting held April

30, 1991 that the Division discontinue the Lord's Prayer from school opening exercises. Your Committee has also given consideration to a memorandum dated May 14, 1991 from the Chief Superintendent outlining the requirements under the Public Schools Act for religious exercises in schools, and to a report⁸⁹ prepared by the Race Relations Officer outlining the implications of religious exercises in schools given the cultural and religious diversity of students and staff with the Division.

Your Committee has also reviewed the recommendations of the Task Force on Race Relations regarding religious exercises, and was informed by the administration that these recommendations are being held in abeyance pending a decision on a current case before the Provincial Court on this matter.

Your Committee has given consideration to recommending that the Board take the necessary steps to cancel religious exercises in all schools effective September 1991 and provide for schools' opening exercises to include one minute of silence following the singing of "O Canada" each morning, and has requested the administration to obtain further information on this matter for consideration at the next meeting.⁹⁰

The following week, on May 28, 1991, the Board received the first public presentation on the issue of mandatory exercises in its schools. The brief, presented to the Board by Mr Gerry Neault, requested "that schools be given the opportunity to determine whether they will conduct Religious Exercises."⁹¹

On August 27, 1991, in the last week of the summer holiday and just before the start of the new school year, Policy/Program Committee Report No. 9-91, dated July 30, 1991, was tabled by its Chairman, Lionel Orlikow:

1. Religious Exercises

Your Committee has given further consideration to the

matter of conducting religious exercises in schools as required under the Public Schools Act. Your Committee was informed by the administration that in accordance with the Public Schools Act, religious exercises shall be held in every school, but that a school board may, by by-law, direct that religious exercises not be held in any one or more schools during the then current school year, and that such a by-law is effective only until June 30 next following the day on which it is passed.

Your Committee was also informed that the matter of conducting religious exercises in schools had been an issue for some time, given the cultural and religious diversity of students and staff within the Division.

Your Committee agreed that given the cultural and religious diversity of students and staff within the Division, consideration should be given to passing a by-law directing that religious exercises will not be held in Division schools and that parent councils within the Division should be provided with the opportunity to provide their comments on this matter prior to further consideration by the Board.

Recommendation:

That all parent councils be advised that the Board of Trustees is considering the passage of a by-law in accordance with Section 84(6) of the Public Schools Act directing that religious exercises will not be held in Division schools, and that parent councils are invited to provide their comments prior to further consideration by the Board at a meeting to be held October 22, 1991.⁹²

Clarifying his decision to begin a journey down this contentious path, Trustee Orlikow volunteered:

I pushed this and the issue is very simple. A group of students from Tec Voc came to the Board and they made the case. I didn't want to get involved in this. I fought against religion in the schools for thirty years. I was the point man for the Teachers' Society way back around 1960, attacking aid to private schools and so on. I know that when you get politics and religion and education mixed up together, it's dynamite ... It had been recommended to the Province from their advisory committee for many years and they hadn't seen fit to change ... Somewhere M.A.R.L. had their petition in to the courts. At some time or other, whether it be

months or a year or two, I assumed that it would be gonzo. That had happened in other provinces ... It was going to happen anyway. Who needs this kind of headache.⁹³

Trustee Orlikow also added that "I didn't think that this was a winner. I thought it was a loser."⁹⁴ Nevertheless, Trustee Orlikow pressed the issue:

I have fought (the religious) issue on strict separation. I was not prepared to deal with the prayer issue for all the reasons. I considered (there were) many other priorities. This is the type of thing where you will bring in countless delegations and create individual fussing and feuding at the Board. Remember, we don't have strong positions on very much. Many issues are developed on a personality basis. This would just stall any chance for changing the system. Also, when you come right down to it, the prayer to me is not that important in the day. To me there is a more important principle which is beyond the religious, and that was here are a group of kids who, for whatever reasons, they were minorities at Tec Voc, came to the Board. Now what we could have done, it would have been very simple, is accept their presentation and file it for information. In other words, dead zone. But I also believe that one of the major functions of the public education system is to help develop the so called democratic citizen. If we did that, assuming there is some idealism among these kids, we were killing it. So, for the sake of four kids from Tec Voc School, I carried the banner. Not on the matter of religion, but on the matter of democratic citizenship. To buttress the idealism of kids. I was prepared to take on the battle flag, even if we were defeated, so they were treated with some respect. The other way I think is just piffle.⁹⁵

Trustee Haigh, who felt the diversity and maturity of Tec Voc students may have accounted for the origin of the presentation, also felt a response was important to demonstrate the Boards's resolve in seriously responding to student grievances:

They along with a couple of other schools have made, over the years, presentations on different issues to the board. I think its great. Not just because it was this issue but I think that for our young people to start to feel that they are somewhat the stakeholders in the system and they would like to have their ideas put forward.⁹⁶

Trustee Yereniuk, while expressing support for this student initiative, also tied the motion in to the concerns of a number of trustees:

We wanted to give a response to the students. A number of our trustees were also concerned with the issue and wanted to give the students an opportunity to have input in some of our decision making.⁹⁷

On September 6, 1991, all Parent Councils were advised, in a communique from Board Chairman Ed Kowalchuk,⁹⁸ of the action that Winnipeg School Division No.1 was "considering" in regard to religious exercises and were invited to respond by way of "comments," prior to further "consideration" by the Board on October 22, 1991. What would the public say and what difference would it make to the Board's considerations? Chapter V explores this central question.

Summary

Legislation enacted in 1955 to make religious exercises mandatory in all Manitoba public schools satisfied the complaints of some segments of the population but immediately raised the ire of others. Dissatisfaction was especially felt by those who thought the public school

system should be a purely secular institution and by members of the non-Christian community. The provisions of the Public Schools Act and the Christian-dominated approved exercises of the Advisory Board left dissenting students with only two, equally-unconscionable options - passive participation or voluntary abstention. Empathy for the plight of such students was felt by a number of Trustees on the Winnipeg School Board, who had either been stigmatized themselves or who recognized that the evolving patterns of immigration required the school system adapt to the new realities of its student population.

While the arrival of the Charter of Rights and Freedoms offered an opportunity for dissenters to raise their concerns to the level of public debate in the forum of the courts, it failed, by its presence alone, to motivate the Board of Trustees of the Winnipeg School Division No.1 to address the issue of school prayer. Acknowledgement of the contentious nature of its sectarian exercises was demonstrated by dissension on the Board of Trustees concerning its own traditional practice of beginning each meeting with an invocation. Indecision over the nature and appropriateness of this invocation was suggested as a primary reason for a decision by the then Chairman-of-the-Board, Ed Kowalchuk, to suspended the practice.

Concern over an increase in the number and nature of racial incidents in the school division motivated Trustee

Anita Neville, then Chair of the Board, to move a motion commissioning a Task Force on Race Relations. While not initially identified as an issue, the Task Force received five submissions specifically addressing the issue of religious exercises in schools. School prayer was also raised, though, as an illustrative point in other presentations dealing with multicultural and racial issues. In its final report, the Task Force made a typically American distinction between the teaching of religion and the practice of religious exercises and recommended more of the former and an abolition of the latter. The Task Force also made recommendations concerning Aboriginal education. Attendance by Task Force members at a circle and sweetgrass ceremony and its later recommendations regarding Aboriginal issues would become a contentious counterpoint in a school prayer debate. The final report and recommendations of the Task Force received a mixed review from members of the Board of Trustees. A minority of Board members saw it as a catalyst for addressing the school prayer issue while the majority, for varying reasons, either continued to support the status quo or were simply hesitant to address the issue. The resolution of constitutional challenges in Ontario and British Columbia and a petition lodged in the Manitoba Court of Queen's Bench by M.A.R.L. also failed to stir the Board into action on this issue.

In its first major debate on a religious issue, the

Board rejected a motion, moved by Trustee Lionel Orlikow, to stop the distribution of Gideon's Bibles to Grade Five students. The Board was finally galvanized into action on the prayer issue by a presentation made by the Tec Voc Leadership Team. The students requested that the Lord's Prayer be removed from the school's opening exercises and be replaced with 30 seconds of silence. Consideration of the issues raised by this request and the desire, on the part of some Trustees, to give practical meaning to the Division's educational philosophy of democratic citizenship, resulted in a motion being put forth by Trustee Lionel Orlikow to inform parents in the Division of the Board's intension to pass a by-law in accordance with the Public Schools Act(1987), removing mandatory religious exercises from the daily routine of the schools in its jurisdiction.

The events and decisions described in this chapter could be viewed as isolated incidents. In fact, a limitation of the case study method precludes the linking of events except where direct relationships can be explicitly shown, or, where testimony from participants validates such a cause and result analysis. In this chapter, with the aid of hindsight, the events and the accompanying supporting testimony become flagstones marking the path the Board of Trustees ultimately travelled leading to the decision to draft By-law 1000. These flagstones suggest linkages between the personal experiences and perception of the Trustees and

the Board's deliberations on a number of issues. These markers include: the social stigmatism personally experienced by a number of board members or the commentary of their friends regarding this injustice; the judicial legitimacy given to minority grievances by the Charter of Rights and Freedoms; the decision to discontinue the traditional invocation at Board meetings; the awareness of the resolution of Chris Tait's grievance and other similar constitutional challenges; the concerns articulated in the Division's Multicultural Policy, its Mission Statement, and the Mandate and recommendations of the Task Force on Race Relations; the concerns that necessitated the attempt to remove the distribution of Bibles; and the acceptance of the presentation by Tec Voc students as a matter worthy of consideration in the era of the Charter and as a practical example of democratic citizenship. Taken together, these flagstones and the Division's educational philosophy provide some clarification of the motivation guiding each Trustee. In the following chapter, the reasons and rationale for the actual passage of By-law 1000 will be specifically addressed through the testimony of the Trustees who supported or opposed the by-law.

ENDNOTES TO CHAPTER IV

1. Trustee Mario Santos, interview with author, 5 February 1993.
2. Trustee Ed Kowalchuk, interview with author, 19 February 1993.
3. Kowalchuk, 19 February 1993.
4. The Winnipeg Free Press, 17 March 1989.
5. Trustee Anita Neville, interview with author, 5 March 1993.
6. Kowalchuk, 19 February 1993.
7. Kowalchuk, 19 February 1993.
8. Kowalchuk, 19 February 1993.
9. Kowalchuk, 19 February 1993.
10. Kowalchuk, 19 February 1993.
11. Kowalchuk, 19 February 1993.
12. Kowalchuk, 19 February 1993.
13. Mary Kardash, telephone interview with author, 28 June 1993.
14. Neville, 5 March 1993.
15. Neville, 5 March 1993.
16. Trustee Santos, telephone interview with author, 6 April 1993.
17. Trustee Santos, 6 April 1993.
18. The Report of the Task Force on Race Relations to the Board of Trustees of The Winnipeg School Division No.1, July 1989, 1.
19. Task Force Report, July 1989, 5.
20. At its inaugural meeting, held September 16th and 17th, 1988, the members of the Task Force participated in an inservice conducted by Ms Enid Lee, Supervisor of Race Relations in the North York Board of Education.

21. Neville, 5 March 1993.
22. Kowalchuk, 19 February 1993.
23. Trustee Roman Yereniuk, interview with author, 17 February 1993.
24. Task Force Report, July 1989, 1.
25. Neville, 5 March 1993.
26. Neville, 5 March 1993.
27. Trustee Irene Haigh, interview with author, 9 February 1993.
28. Haigh, 9 February 1993.
29. Haigh, 9 February 1993.
30. Neville, 5 March 1993.
31. Task Force Report, July 1989, 9.
32. Santos, 5 February 1993.
33. Haigh, 9 February 1993.
34. Neville, 5 March 1993.
35. Neville, 5 March 1993.
36. Haigh, 9 February 1993.
37. Haigh, 9 February 1993.
38. Task Force Report, July 1989, 7.
39. Santos, 5 February 1993.
40. Section 84(5) reads: Subject to subsection (6) and the regulations made by the advisory board, religious exercises shall be held in every school.
41. Manitoba Regulation 246/80 reads:
 1. In this regulation, "school" means a public school under the Public Schools Act.
 2. Religious exercises in the schools shall consist of a Scripture reading, a prayer, and, whenever possible, a hymn; all of which may be chosen from the recommended Scripture selections, prayers, and hymns.

3. The school time devoted to a period of religious exercises shall not exceed ten minutes in any one day.
4. Unless, by annual by-law, the school board directs otherwise, religious exercises shall be held by the teacher with, at his discretion and in his presence in a classroom or assembly hall, the assistance of one or more pupils; but any such pupil-participation shall be on a completely voluntary basis so far as the pupils are concerned.
5. No pupil shall be permitted to conduct, or to assist in conducting, religious exercises unless he has carefully prepared the prescribed readings in advance.
6. Manitoba Revised Regulation E10-R1 is repealed.
7. This regulation shall be deemed to have been in force on, from and after the day on which it is filed with the Registrar of Regulations.

Dated at Winnipeg, This 15th day of December, A.D. 1980.

42. Education Administration Act, C.C.S.M., c. E10.
43. Amended Statement of Claim, Manitoba Association of Rights and Liberties, Inc., Jesse Vorst and Ivan Pokus, Court of Queen's Bench, Manitoba, 23 May 1989.
44. Free Press, 2 March 1989.
45. Free Press, 2 March 1989.
46. Free Press, 2 March 1989.
47. Free Press, 2 March 1989.
48. Task Force Report, July 1989, 33-34.
49. Task Force Report, July 1989, 34-35.
50. Task Force Report, July 1989, 28.
51. Task Force Report, July 1989, 30.
52. Kowalchuk, 19 February 1993.
53. Kowalchuk, 19 February 1993.
54. Kowalchuk, 19 February 1993.

55. Yereniuk, 17 February 1993.
56. Neville, 5 March 1993.
57. Neville, 5 March 1993.
58. Neville, 5 March 1993.
59. Haigh, 9 February 1993.
60. BOT Minutes, 1 May 1990.
61. BOT Minutes, 1 May 1990.
62. Neville, 5 March 1993.
63. Neville, 5 March 1993.
64. Trustee Lionel Orlikow, interview with author, 26 February 1993.
65. BOT Minutes, 19 June 1990.
66. Orlikow, 26 February 1993.
67. Orlikow, 26 February 1993.
68. Neville, 5 March 1993.
69. Neville, 5 March 1993.
70. Neville, 5 March 1993.
71. Trustee MaryAnn Mihychuk, interview with author, 19 February 1993.
72. Haigh, 9 February 1993.
73. Haigh, 9 February 1993.
74. Kowalchuk, 19 February 1993.
75. Kowalchuk, 19 February 1993.
76. Kowalchuk, 19 February 1993.
77. Trustee Enid Gillespie, interview with author, 2 February 1993.
78. Santos, 5 February 1993.
79. Santos, 5 February 1993.

80. Santos, 5 February 1993.
81. Orlikow, 26 February 1993.
82. Santos, 5 February 1993.
83. BOT Minutes, 30 April 1991.
84. The Winnipeg Free Press, 5 September 1991.
85. BOT Minutes, 30 April 1991.
86. Neville, 5 March 1993.
87. Yereniuk, 17 February 1993.
88. BOT Minutes, 21 May 1991.
89. The researcher was informed by the Division's administration that this report was not available for public perusal.
90. BOT Minutes, 28 May 1991.
91. BOT Minutes, 28 May 1991.
92. BOT Minutes, 27 August 1991.
93. Orlikow, 26 February 1993.
94. Orlikow, 26 February 1993.
95. Orlikow, 26 February 1993.
96. Haigh, 9 February 1993.
97. Yereniuk, 17 February 1993.
98. Ed Kowalchuk, Memorandum to All Parent Councils, 6 September 1991.

CHAPTER V

JUDGES: THE DRAFTING AND PASSAGE OF BY-LAW 1000

On August 27, 1991, the Policy/Program Committee recommended that parents be advised of the Board of Trustee's decision to consider the passage of a by-law removing mandatory religious exercises from the schools of Winnipeg No.1. This motion, according to its mover, Trustee Lionel Orlikow, was made by him in response to a Tec Voc student presentation, not as a matter of religion, but rather a means of buttressing the idealism of students through a practical example of democratic citizenship. The preamble to the recommendation did note, though, that the matter of conducting religious exercises in schools had been an issue for some time, given the cultural and religious diversity of students and staff within the Division. It was also shown in Chapters III and IV that school prayer was a concern for a number of trustees who had either personally experienced some form of religious discrimination or had friends who had been discriminated against. In addition, the Board of Trustees were presented with a number of related religious issues over the years: in the 1960s, the practice and place of religious exercises within the context of funding for private schools; in the mid 1980s, the Chris Tait affair and its aftermath; in 1986, the decision by Chairman Kowalchuk to end the traditional opening of Board

meetings with an invocation; in 1988, the commissioning of a Task Force on Race Relations that eventually recommended the removal of school prayer; and, in 1990, an aborted attempt to end school participation in the distribution of Gideon Bibles. The personal experiences of trustees and the Board's own deliberations and informal tete-a-tetes, along with the successful use of Charter provisions in religious discrimination litigation in other jurisdictions, suggested that it was only a matter of time before the prayer issue would have to be dealt with in the Winnipeg School Division No. 1 either by the Board of Trustees, the Manitoba courts, or the Provincial Government.

This chapter examines the process of deliberation which produced the trustees' decision to ultimately draft and pass By-law 1000. In particular, this chapter concerns itself with the Board's decision not to await the outcome of the M.A.R.L. challenge or to rely on Provincial Government action, the content of public opinion and the Board's reaction to the subsequent correspondence, presentations and delegations, the actual practice of religious exercises within the Division and the Board's awareness of it, the fundamental considerations and outlook of each trustee in either voting for or against the by-law, and the public reaction to the passage of By-law 1000.

The Need for Board Action

The contentious nature of the Bible issue sensitized a number of Board members to the fact that the school prayer issue would not be any less hotly debated. According to Trustee Neville:

There was some discussion, and I don't know whether it came from the administration or from a trustee in particular, that if M.A.R.L. is dealing with it through the courts, why do we have to make enemies? Let's wait till it goes through the courts and we'll deal with it that way.¹

Either waiting for the courts to rule or the Provincial Government to act would have been "a cop out"² in Trustee Mihychuk's opinion because, "trustees of Winnipeg One would go with their gut feeling and we felt it was right and we went with it. We're not a board to sit back and wait for someone else to make decisions."³

Trustee Yereniuk also felt the Board members, "had a gut feeling that the Province was not going to move very fast on this,"⁴ and added:

We had waited a couple of years. [Trustee] Neville had been in charge of the Race Relations Committee and she wanted to see many of those positions that were advanced implemented in some way or other. I guess the majority of us decided to deal with the issue and not to wait any longer.⁵

Additionally, he pointed out that there was, "an NDP coalition within our school board which included people like Orlikow and Mihychuk that said, 'Let's deal with it very effectively'."⁶

Although not willing to wait for the Government to act, Trustee Kowalchuk sympathetically noted an important consideration in the Board's own initial delay in addressing this issue:

I would think if the Board had acted on its own to ban or eliminate, or to change the options, in terms of prayer prior to the award coming out in Ontario, they would have been in trouble. There's a very large group of people who are Protestant fundamentalists and essentially their position would be that banning prayer in any way shape or form is not acceptable. The fundamental tenets of the fundamentalist movement are evangelization and prayer. Its very difficult to interfere with that and expect them not to raise an objection.⁷

Regardless of the reasons for the inaction of other bodies, Trustee Haigh considered the Tec Voc presentation as the stimulus for the Board to act:

I just think [the students] were the catalyst in finally getting us moving. It was one of the [Task Force] recommendations and we've said, 'Okay we won't deal with this priority recommendation. We'll deal with some of the other ones first and then we will come back to it and maybe by that time the courts will have made this ruling, or maybe the Province will have come out with something that will be more accommodating.' It became clear that that wasn't happening. The students came, made their presentations and we said, 'Enough. We cannot not deal with this just because it's an issue that people feel strongly about on both sides and because we will be put under a lot of pressure. We've sat on it long enough.'⁸

The distinction between the Winnipeg School Division No.1 and other school divisions was also seen by Trustee Haigh as a reason for the inaction of other boards and the indecision of the Provincial Government:

I think because it's a hot potato. It's the kind of thing, quite frankly, that in some small rural towns could defeat an MLA. It's a very emotional issue and it

would be very hard to understand in a smaller town why people would even be debating the issue. Unless you have to deal with [racism], are asked to deal [with it], and feel that you have a responsibility to deal with some of the systemic stuff that goes on in racism, then, you know, 'What's the problem?'⁹

This observation agreed with Trustee Santos' view that there was little chance of the Provincial Government acting because of the nature of the party's power base which he characterized as

counting heads in the rural areas. The Conservatives are dominated by rural members of the legislature. It's no secret that the rural areas are the strongest opponents of [removing prayer] because they are more homogeneous, they're Christian. It's when you come to the urban setting that all the immigration issues come differently. That's all politics, clear cut politics. I mean, even allowing the whole matter to go to court is clear cut politics. Let the courts decide, not me. Some would call it leadership. I wouldn't call it leadership. I would call it a lack of leadership by this Government to see that a wrong is being done and they are too chicken to decide.¹⁰

Trustee Orlikow was very succinct in his comments concerning the Provincial Government's lack of initiative. He described the then Minister of Education, Len Derkach as "a waffler,"¹¹ the Cabinet as "the Mennonite mafia"¹² and the Government's refusal to make a decision as "quite consistent."¹³

While his assessment of the reasons for the Provincial Government's inaction was consistent with other trustees, Trustee Yereniuk's explanation alluded to the plan of action eventually adopted by the Board:

I think there's a number of component answers to this. I think [one is] the nature of the Conservative Party which heads our province right now, especially many of

their MLA's [who] come from what is known as the Bible Belt, the southern part of Manitoba. That plays an important role and I think it's a very touchy issue with many of the religious communities in the province. I think that it necessitates a little bit of education. I think if you present it with good background and you involve people, you involve the religious community, I think you can develop a policy. I think perhaps with its issues on jobs and the economy, [the Provincial Government] just hasn't had that time for major input and consultation¹⁴ on this issue. I think they will come to that point and do that type of a thrust within the community of Manitoba.¹⁵

As serious debate began on the school prayer issue, the Winnipeg Free Press, on September 5, 1991, reported on the public stance taken by a number of the trustees:

The Lord's Prayer and all other organized religious exercises could soon be taboo in Winnipeg's largest school division.

Trustees in Winnipeg School Division have voted to consider ceasing religious exercises, but only after getting feedback from parents.

"I'm convinced that legally - and morally - this is the right thing to do. Let's face it: Canada is not a homogeneous society," board member Mario Santos said.

Under Manitoba's Public Schools Act, schools are supposed to hold religious exercises. But boards have the power to suspend prayer in one or more of their schools.

Board chairman Ed Kowalchuk, who voted against the recommendation, said he's opposed because the policy could affect all types of religious exercises.

Native students, he noted, take part in traditional religious ceremonies in some schools.

"I have a big problem banning all religious activity. They tried that in Russia for 70 years and it didn't work."

In May, a group of Tec Voc High School students asked the board to do away with the Lord's Prayer because they said it discriminates.

They urged trustees to replace the Lord's Prayer with 30 seconds of silence in which students could say their own prayers or meditate.

Their request came three years after the Manitoba Association for Rights and Liberties challenged school prayer under the Charter of Rights and Freedoms.

A judge has yet to rule on the case.

Trustee Lionel Orlikow said he supports removing

mandatory prayer because it discriminates against other religions.¹⁶

The next day, September 6, 1991, a memo from Ed Kowalchuk, Chairman of the Board, was sent to all parent councils:

The Board of Trustees of The Winnipeg School Division No. 1 is considering passing a by-law in accordance with Section 84(6) of the Public Schools Act directing that religious exercises will not be held in Division Schools. The Board is considering this matter in response to concerns received during the past few years from students, parents, staff and the Task Force on Race Relations that, given the cultural and religious diversity within the Division, it is not appropriate that schools are required to conduct religious exercises. It should be noted that religious exercises pertain to the school's opening exercises.

The Board has requested that parent councils be invited to provide their comments to the Board prior to a final decision being made. It is expected that the Board will give further consideration to this matter including the comments received from parent councils, at a meeting to be held on Tuesday, October 22, 1991.

Comments may be provided by writing to the Chairman of the Board prior to Friday, October 11, 1991, OR by appearing as a personal delegation before the Board at one of the following scheduled Board meetings:

Tuesday, October	1, 1991	-	7:00 p.m.
Tuesday, October	15, 1991	-	7:00 p.m.

If you wish to appear before the Board as a delegation, please register with Pat Drew, Board Administrative Assistant, by 12:00 Noon the Friday prior to the Board meeting. The Board's procedures require that presentations be kept to a maximum of 10 minutes.

The following information is provided to assist you in reviewing the matter of Religious Exercises in Division schools:

Public Schools Act Requirements

84(1) Public schools shall be non-sectarian and no religious exercises shall be allowed therein except as provided in this section.

84(2) Any religious exercise conducted in schools shall be conducted according to the regulations of the

advisory board established under The Education Administration Act.

84(3) Religious exercises shall be held at such times during the school day as the school board may establish but in no case shall the school time devoted to religious exercises exceed the maximum provided by the regulations made by the advisory board.

84(4) Where the parent or guardian of a pupil under the age of majority notifies the teacher that he does not wish the pupil to attend religious exercises, the pupil shall not attend and if a pupil over the age of majority does not wish to attend he shall be free not to attend.

84(5) Subject to subsection (6) and the regulations made by the advisory board, religious exercises shall be held in every school.

84(6) A school board may, by by-law, direct that religious exercises shall not be held in any one or more schools during the then current school year and thereafter in that school year they shall not be held in that school or those schools.

84(7) A by-law passed under subsection (6) is effective only until June 30 next following the day on which it is passed.

84(8) If a petition asking for religious exercises, signed by the parents or guardians of 75% of the pupils in the case of a school having fewer than 80 pupils or by the parents or guardians of at least 60 pupils in the case of a school having an enrolment of 80 or more pupils, is presented to the school board, religious exercises shall be conducted for the children of those parents or guardians in that school year.

Regulation 554/88 under the Education Administration Act

1 In this regulation "school" means a public school under the Public Schools Act.

2 Religious exercises in the schools shall consist of a Scripture reading, a prayer, and whenever possible, a hymn; all of which may be chosen from the recommended Scripture selections, prayers and hymns.

3 The school time devoted to a period of religious exercises shall not exceed 10 minutes in any one day.

4(1) Unless the school board directs otherwise by annual by-law, religious exercises shall be held in each school.

4(2) Conduct of religious exercises may involve the assistance of one or more pupils, but such assistance shall be on a completely voluntary basis.

4(3) No teacher is required to conduct or to participate in religious exercises.

Education Administration Act Advisory Board Regulations

Under the terms of The Education Administration Act, an Advisory Board is established to perform various duties, one of which is to make regulations with respect to religious exercises in public schools. The Advisory board Regulations include recommended scripture readings, prayers, and hymns, as referred to in Section 2 of Regulation 554/88 above. These regulations have not been updated by the Department of Education since 1964.

Present Practice in the Winnipeg School Division

At present all schools in the Winnipeg School Division are required to conduct religious exercises in accordance with the terms of the Public Schools Act, the Education Administration Act, and the Advisory Board Regulations.

Proposed By-Law

Under the proposed by-law, religious exercises will not be held in any school in the Winnipeg School Division.¹⁷

The Nature and Role of Public Hearings

The decision to seek public opinion on the school prayer issue, according to Trustee Yereniuk, represented the Board's continuing attempt to widen the parameters of its decision making to include all members of the community:

When I got elected in 1989 there was already a

tradition that community input, whether it be students, parents, union groups or multicultural groups, would have access to the Board. As a result every second week, we have in fact, a meeting that is open to delegations. Any time we'd have from 4 to 10, 12 delegations and, of course, during times like the budget period we have many, many more delegations with their special issues. We're not only facilitating and making policy but we're also being responsive to the constituency. We allow this constituency to have input. It doesn't mean that we're going to listen to everybody but this input is very important in us making the decisions that will impact on the policies of our school division.¹⁸

While agreeing with the principle of public debate, Trustee Kowalchuk felt the Board's intention was not to endure a lengthy debate on this issue because of the time it normally takes the Board to make major policy decisions:

[Presentations are] received by the Board and referred to the Policy/Program Committee. Then it would normally proceed through the community, particularly if we are going into by-laws. The community would then respond to the proposal. That's how all our processes work. I have never ever seen a decision suddenly appear before the Board or the Board suddenly make a decision. If it's not in policy, you can bet its going to take two years before it becomes policy.¹⁹

Parental input was considered, by Trustee Kowalchuk, to be an important part of the decision making process:

If you read the minutes of the Board, we have been moving continuously more and more in the direction of providing every opportunity we can for the communities to take some charge of what's going on in their schools. The point is the Board always sees its programming related to parents and suggests that the activities of the parents complement what happens in the school. In fact the parents have the primary responsibility in developing an attitude pattern.²⁰

The need for minority participation was accentuated by Trustee Santos, himself a Portuguese immigrant:

Minorities also want to say, 'Hey we mean something. We

are somebodies here. We are not just some little piddles on the side here who don't count. Our culture does count.' There's nothing wrong with coming from Portugal. There is nothing wrong with coming from India. Those people should be on the same parallel level as people who came from Great Britain. So let's put them on the same platform and say they are equally important. They are equally smart and they are equally good leaders and they are equally good people. Don't sort of pull, push down anybody who happens to come from a different country.²¹

Trustee Santos also stressed the necessity for trustees to exert leadership in the face of public opposition:

There are issues that are a matter of judgement for the trustee, the elected official. When there is an issue that I clearly see as being wrong, morally wrong, legally wrong, votes really don't matter to me. I do believe that elected officials are leaders yet they are followers. They are leaders and they are not too far in the front, so they are very close to the people that they lead, but they should definitely lead. I think it is an abdication of responsibilities when the elected officials do not lead.²²

Leadership, however, was not a term Trustee Kowalchuk felt accurately described the school system:

The school tends to lag. It is not a leader. Many people think it is but it doesn't. We're behind. We follow the community. The community sets the pace that the school follows. Any time the school's tried to be a leader, it has failed dismally and there are any number of instances you can identify quite readily. School tends to respond to the community and right now our curriculum is loaded with all kinds of activity which really has, at least I could argue, it has no place in education. But we have to do things which 20 years ago just weren't there. So everything is changed in there and the community has been the driving force.²³

The decision to solicit public opinion was made, according to Trustee Santos, not just to get a head count of those for and against school prayer, but "because we want to know what their opinions are."²⁴ For him,

numbers were not relevant. We just wanted to know what people thought about it. We just wanted to know what were the feelings out there. Maybe people have different [ideas], I mean, they just don't say yes. We didn't ask for a yes or no. It's yes, no but this is what we think. We don't have all the answers. By going out, we were simply asking the people to let us know what they think of the topic. That's not to say that we were counting votes, yes or no. No, that wasn't the purpose of the exercise.²⁵

Not all the trustees, however, were of the opinion that the public needed to be consulted on the prayer issue. Trustee Kowalchuk, while supporting the philosophy behind public consultation felt he, "knew pretty well all the arguments that had been in place for years and years and years. I've been in the business for so long that it was nothing new."²⁶ Trustee Neville, a strong proponent of community involvement during the Task Force deliberations, also felt it was unnecessary for this issue:

It wouldn't have been my choice. I think it was simply people covering themselves. It's not something I thought was necessary. We had the Task Force. There was a public debate over the Gideon's Bible. There's lots of opportunity for people to come to the Board. I didn't think it was necessary.²⁷

Addressing the role of the Board member as both a representative of their constituency and as a representative of the community-at-large, Trustee Neville offered:

I have spoken publicly a number of times as to whether a trustee comes in the role of a delegate or a representative and I choose to come as a representative. I listen carefully. I advocate on behalf of my constituency. I speak to the issues. I try and understand their concerns. If I don't agree with their position I try and identify some of the blocks or inhibiting activities to what they want to happen. If they are issues like religious exercises I say my position. I explain my position, I listen to them, and

I give them as much time as they want to deal with their position but I don't fold to their position.²⁸

While expressing his general support for community involvement, Trustee Orlikow echoed the sentiments expressed by Trustee Neville:

Not that I listen to [the arguments]. I don't care boom all. I will listen to various positions but I'm not interested in referenda. I'm not interested in public demonstrations. I'll listen but I have principles and I don't care if I'm one person against 999, that doesn't bother me.²⁹

Trustee Gillespie, on the other hand, opposed the recommendation to consider a by-law and felt her stance was in accord with the wishes of the constituency:

We ended up with literally thousands of signatures and petitions to keep it in. We had [so many] delegations we had to use Tec Voc auditorium. We had so many presentations and I will say, and I don't exaggerate, I will say that 90% of the people who came and sent letters wanted to keep it in. To this day I don't know how that Board, who is supposed to be representative of the people who elected them, and the thousands of people and letters we got in support of the prayer, how they ever voted the other way.³⁰

For Trustee Mihychuk, the majority of this support "just seemed to be more a fundamentalist push to retain the prayer. That was my view of it."³¹ It was her contention that:

When you get a petition at the Board, it's often an interest group that has got a vested interest in that topic. Many of the churches and fundamentalist Christian organizations had done some very active lobbying, had searched out signatures, and many of the signatures were from outside our division. Sometimes a trustee would say, 'Well these people don't even live here and here they are.'³²

Trustee Yereniuk offered some support for Trustee Mihychuk's

contention when he noted:

On paper it looks like the group that wanted to retain prayer was sort of 2 to 1. When we took a look at where it was coming from, who was presenting, a lot of the very fundamentalist groups were very strongly supporting a number of parishes and communities with a quite well organized strategy.³³

Regarding the response of other religious communities,

Trustee Yereniuk offered:

Some did support our position and others did not. So we had a mix between the two. It wasn't just a single position that was taken. Some of the leaders of the mainline churches, in fact, supported us in this whole approach to multiculturalism, that we should not have one prayer for everybody in the school division. I was a bit surprised. I expected quite a bit more response.³⁴

Sr. Lorraine, of the education office of the Winnipeg Roman Catholic Archdiocese, recalled that at the time of the public presentations, mandatory school prayer was not an issue around the office and added that there was sympathy for the arguments against a prayer that was said by rote by children of other faiths.³⁵ Sr. Lorraine's explanation supported the contention of Trustee Mihychuk:

There is a recognition of the validity of other people's religious rights. I believe we had some spiritual leaders from mainstream [churches] who came to present and said, 'I am a spiritual Christian and I am opposed to saying the prayer at school because it is said in a way that demeans its value and you're not enhancing religion or Christian thought for me. It's better that you put it out and that we do it in a sincere way at home, or we do it somewhere else.' So I think many religious organizations respected the diverse religious culture that we have in Winnipeg, especially in Winnipeg One.³⁶

Trustee Yereniuk summed up the importance of the diversity of Winnipeg One, the practical reality of the debate and the

need for religious understanding:

So as far as tensions in the schools are concerned, the presentations that we had never talked about any type of strife or any type of racial hatred based on religion or such. Some of the groups did talk to us about a need for us to better understand the various religious groups. This whole thing was going on during the same time that the Americans were in Iraq. That whole issue of trying to understand another culture, another society and another religious society was highlighted.³⁷

Trustee Kowalchuk, however, offered the possibility of a somewhat more self-serving explanation for the position of the various churches:

Well the other point is the fact that if the public school bans religious activity, the independent schools, particularly the Catholic schools, might, in fact, increase their enrolments.³⁸

Counting the numbers for or against the by-law was not the major consideration for Trustee Haigh, she was more concerned with the quality of each presentation:

It was the quality of the presentations from the people who are opposing [the by-law]. When I say that, I don't want to downgrade other people but the bulk of the presentations came from, 'This is a Christian country. You knew that when you came here. If you don't like it, tough. This is what Canada was built on and so this is the way it is and should continue to be.' It was an argument for tradition that is steeped in a superior kind of, you know, that there is nothing else but Christian if you really were a good Canadian. There was often a tinge.³⁹

A presentation that Trustee Haigh remembered and one that she felt influenced her, concerned the private nature of true spiritual contemplation:

I think one of the strongest presentations that came to the school division was from somebody who had studied theology. A deeply religious person who was asking us to take the school prayer out of the school. He felt

that one's religion, that one's prayers were very private and that nothing that you said that was rote, and that was done in two minutes, had an effect. It was much more than that. The school prayer was symbolism more than anything else. It didn't cut it when it came to really understanding values or the Christian religion.⁴⁰

Trustee Yereniuk also noted that:

We did have a lot of very emotional presentation and usually what was interesting is that there was no questions to these groups. It seemed to be very clear where they stood. We didn't want to debate them or ask questions. [They] found the issue very black and white [and were] not that concerned with the legal aspects.⁴¹

This may have been, in Trustee Yereniuk's opinion, because:

A number of the presentations didn't really understand the social changes in society. The Canada that existed in the 20s is so different than the Canada in the 90s and they brought that historical argument.⁴²

Trustee Santos also felt some of the public presentations supporting the practice because it was a Canadian tradition were out of touch with the new social reality:

That regulation was established I believe in the 1950s, which is a different country. Manitoba was different then. The population at that time did not perceive immigrants of certain parts of the world as really on the same level as they perceive everybody else.⁴³

While agreeing that some of the presentations may have been out of touch with the new social reality, Trustee Yereniuk did suggest some may have been in touch with the present political reality:

There are a number of groups saying 'Look, why are you guys doing it [removing religious exercises] when right on Broadway or at City Hall they are having religious exercises or some aspect of scripture reading.'⁴⁴

Public Opinion Versus Divisional Practice

Two weeks after the parent council memo regarding By-law 1000 was sent out, the Board received two presentations. The first presentation opposed the by-law while the second one supported its passage. On October 22, 1991, in the midst of the public presentations and in response to the Board's request for information concerning the actual practice of religious exercises in the Division, Superintendent Smyth reported to the Board:

A memorandum from the Chairman of the Board was sent to all parent councils on September 6, 1991, advising of the Board's action to date and indicating that comments could be provided by writing to the Chairman of the Board or by appearing as a personal delegation before the Board.

The Division received written or verbal submissions from 14 parent councils responding as follows:

- 7 requesting that religious exercises be **continued** in Division schools
- 4 requesting that religious exercises be **discontinued** in Division schools
- 2 schools submitted petitions wherein the majority favoured that religious exercises be **continued**
- 1 parent council was **undecided**

Many of the parent councils suggested that alternatives would be acceptable to them, such as providing for a few minutes silence, or providing for prayers or readings from all religious denominations.

In addition, the Division received many letters, delegations, and petitions from individual parents, residents, and organizations from within and outside the Division. All submissions received have been presented to the Board as official correspondence.

In response to a request at the Board meeting held October 8, 1991, the administration conducted a survey to determine how many schools were in fact conducting religious exercises in accordance with the Public Schools Act. Seventy-five schools were surveyed as to whether religious exercises were held during the 1990-91 school year, and if so, whether they were held on a school-wide basis or by individual classroom. Sixty-one schools (81.3%) indicated that religious exercises were held daily in accordance with the Public Schools Act, with 35 schools (57.4%) conducting the exercises on a school-wide basis, and 22 schools (33.3%) by individual classroom. Four schools did not define how religious exercises are held. Fourteen schools (18.67%) indicated that religious exercises were not held on a daily basis during the 1990-91 school year.

At the Board meeting of October 8, an enquiry was also raised regarding practices across the Country with respect to religious exercises. According to information provided by the Canadian School Boards Association, as of 1990, Manitoba was the only province where the legislation requires that religious exercises be held in classrooms, with provision for discontinuance by by-law. In Alberta and Saskatchewan, local school boards may "opt in" to religious exercises. In New Brunswick, the decision on school prayers rests with individual teachers, and Nova Scotia legislation does not clearly specify where the obligation rests. Quebec, Newfoundland, Prince Edward Island, British Columbia and Ontario do not include provision for religious exercises in their legislation.⁴⁵

Concerning the non-compliance of some schools with the Public Schools Act, Trustee Kowalchuk recalled, "It was never discussed at the Board and there was never any enforcement of it,"⁴⁶ and added: "The Board chose not to proceed with enforcing that particular requirement and, in fact, that's not unusual in law. If nobody complains there's no problem."⁴⁷ In support of this view, Trustee Santos conceded, "People like myself knew about it and decided to do nothing about it. I mean why create hassles."⁴⁸ While

Trustee Santos acknowledged that, "ultimately, its our responsibility,"⁴⁹ to ensure laws are followed, he conceded that often, "We don't know what goes on in the school unless some problem arises."⁵⁰ Trustee Santos also suggested that the Board's inaction could, in fact, be taken as a measure of its concern for local school decision making:

There is also the whole business about the local decision making processes. If a school principal, the staff of the school, let's say in a Jewish area, decided years ago that this was not a very good idea to have (prayer) because it was an imposition. I'm just saying that I knew about it and I just closed my eyes to it.⁵¹

Trustee Neville also suggested the possibly that, "Teachers were either uncomfortable doing it because of their own personal background and experience or they recognized the lack of attention to it in their classrooms."⁵² Relating this to her own personal experience with school prayer, Trustee Neville recalled:

I remember having discussions. I had children in the school system at that time myself. Talking to one of them or a group of friends about the Lord's Prayer in their school and one said, 'Sure we stand up for 'O Canada' and we sit down and talk during the Lord's Prayer.' So if you're pushing prayer in the school, you are demeaning it by sitting down and letting kids talk during the Lord's Prayer. I can recall my own children who were in French immersion. I didn't at that time pay much heed to the Lord's Prayer but I can remember my oldest daughter learning it phonetically in French and having absolutely no sense of what she was saying. She could have been saying, 'I want to go outside and play,' as much as she was saying the Lord's Prayer. It had absolutely no meaning.⁵³

Trustee Haigh also agreed that some teachers

found themselves in a somewhat awkward position. I do know that there were individual teachers who were

Jewish, for instance, who had some difficulty in knowing that the kids in their (class) were Jewish (and had to) somehow or other get up and remove themselves from the classroom. I think there is the exclusionary aspect to it that worried many people and worried some of us on the Board.⁵⁴

Trustee Haigh also explained that:

The Board didn't push it because I think we felt that it was an issue that had to be resolved rather than bringing down the heavy hand on this. The majority of us were probably thinking that it was an outdated legal procedure that had to take place. I think because we felt that, we were willing to say, 'Well what ever is happening in some of those schools as an alternative, fine.' If it's a moment of silence, as it was in some places, or if it's a reading and it's all encompassing and doesn't exclude any child, then it's acceptable to us.⁵⁵

Trustee Mihychuk expressed sympathy for principals who made local accommodation:

It wasn't an issue I think historically because it was viewed by the majority of educators as being inappropriate. Those principals and teachers could sense that this was inappropriate to that culture, to that environment (and) chose not to do it. I think that they, also in a sense, respected people's ability to chose. I think that they were consciously aware of the fact that it was a requirement of the Act. So they chose to break the law because they thought it was inappropriate.⁵⁶

Sentiments like this were in line with Trustee Orlikow's philosophy that, "As many decisions as possible have to be made as close to the classroom as possible. I believe in the classroom door."⁵⁷

While contending that he was "flabbergasted"⁵⁸ that the mandated position was not being followed, Trustee Yereniuk was, however, aware of similar circumstances regarding scripture reading:

My wife taught six, seven years ago when they still had some scripture reading. They'd choose passages from the Old Testament or New Testament without any commentary. Basically that had become obsolete. Most schools were just using the Lord's prayer.⁵⁹

The fact that the attitude towards scripture reading was now beginning to be reflected in the practice of the saying of the Lord's Prayer suggested, for Trustee Yereniuk, the need for public presentations to gather more information before taking some kind of action:

Some of us wanted to get to the bottom of it. Many of us sort of said, 'Well we don't know what the background is. How did it fall out of use? What were the circumstances?' There was concern but at the same time this was also an ingredient that showed us that maybe we should take a look at this issue and deal with it in a way that would be a response to the community. This lax approach seems to show that the Administration was really not concerned about following [the religious exercise regulations] to the 't', but just let it lapse. I may also say the local-based principals believed this was a human rights issue and they themselves made that unilateral decision not to include religious exercises.⁶⁰

Concerning the Administration's general approach to the whole school prayer debate, Trustee Yereniuk felt:

Our administration on this whole issue stood very neutral. They didn't want to come on side one way or the other and we didn't really push them too much on it because it was basically a political decision.⁶¹

Superintendent Smyth confirmed that the Administration felt this was a political decision that needed to be made by the Board.⁶² Superintendent Smyth did feel, though, that the best course of action for the Board in dealing with this issue would have been to wait for the Court of Queen's Bench to rule on the M.A.R.L. petition.⁶³ The stand taken by the

Administration on this issue led Trustee Orlikow to remark:

If I did what our superintendents do, I would have been fired (as a consultant and senior official in the Department of Education) forthwith. In other words, on issues like this it isn't a question, 'Mr Trustee, I think what you want,' and then it would be articulated as option A, here's the pluses and minuses, we believe it should be option B, pluses minus, however, you might consider option C. We don't get that. It's a combination of 'We'll do our own thing anyway despite what the trustees' say' or 'the trustees are telling us what to do and reluctantly', but then we get set up as implementing whatever it is that's unpopular.⁶⁴

A motion during the same meeting on October 22, moved by Trustee Mihychuk and seconded by Trustee Yereniuk, requesting "that the matter of Religious Exercises be referred to the Policy/Program Committee,"⁶⁵ was carried. The deliberations of the Board to this point were reported in the Winnipeg Sun under the heading, "Trustees play hot potato with prayer":

Removing the Lord's Prayer and religious exercise from schools is such a "politically hot" issue, trustees on the Winnipeg School Division board don't want to touch it, sources said yesterday.

"The issue has stirred up the whole community," the source said, accusing the board of stalling its decision.

At Tuesday's board meeting, the bylaw to remove religion was referred back to the policy committee.

However, board chairman Ed Kowalchuk said the move is just part of the process.

"(The motion) was done by (trustee) Mary Ann Mihychuk. She felt with all the evidence submitted that trustees should take time out to discuss the information."

Trustee Enid Gillespie said sending it back to the policy committee solved nothing. "Policy will just turn it back to the board," she said, adding she supports the Lord's Prayer in schools.

Trustee Anita Neville said she did not support the motion.

"I'm angry. This is a matter that should be discussed by the whole board. Eventually it will have

to come out," she said, adding it could be months before a decision is made.

Kowalchuk said the issue is not too controversial for trustees.

"They'll deal with it in one way or another. If they wanted to kill it, they could have left it alone. It's not scaring them away from making a decision."

"(The board) likes to be certain of what it does and they want a further look," he said, adding the board still has to hear a delegation at next Tuesday's meeting.

Meanwhile, the Manitoba Association for Rights and Liberties sent a letter to the board in favor of removing the prayer and religious exercises.

"In our view, it's contradictory to the Canadian Charter of Rights and Freedoms and the Manitoba Human Rights Code," association president Tony Taveres said.

"We're not against religious studies or cross-cultural studies, we're against one religion mandated for all students. We're not trying to remove God from the school system, but students should be free to decide what religion they want to practice."

However, Kowalchuk said the association is "out of it."

"If we take them (religious exercises) out, then parents could say their rights are interfered with. Whose rights take precedence?" he asked.⁶⁶

The Free Press also reported on the difficult decision facing the Board under the heading "Schools grapple with prayer issue":

The last province holding mandatory school prayer could go the way of the rest of the country as Manitoba's largest school division grapples with the thorny question of whether or not to abolish school prayers.

The Winnipeg School Division will consider in coming weeks whether it should play out its option under the Public Schools Act and abolish mandatory Christian religious exercises entirely, maintain the status quo or defer the matter to Education Minister Len Derkach.

"It's an either/or thing," trustee Anita Neville said.

"We could abolish it or maintain it. The legislation doesn't allow for variation."

Despite this, the board has been inundated with a plethora of recommendations from parents, church people and special interest groups advocating everything from

abolishing all forms of religious expression in the classroom - including Hallowe'en and Christmas celebrations - to including comparative religious studies in the curriculum.

"An issue like this does inflame pros and cons," said trustee Lionel Orlikow, who moved to have religious exercises abolished after siding with a group of students from Tec Voc High School who complained to the board in May the mandatory Christian exercises are discriminatory to non-Christians.

Orlikow said while he agrees with the students, the issue has opened a Pandora's box of debate within the community.

"The intolerance has been fanned," he said.

"If anything, it's (the debate) strengthening inter-cultural hatreds."

The range of opinion was evident at a recent public meeting where 20 presenters argued their cases.

Under the Public Schools Act, schools must provide Christian exercises in the form of a prayer, scripture reading or hymn, or allow students the option of leaving the classroom during the exercises.

"What you're doing is opening up a can of worms," Rev. Harry Lehotsky, pastor of New Life Ministries Baptist church told the board.

Lehotsky said while he personally isn't opposed to doing away with the reciting of the Lord's Prayer in the classroom, he said if Christian exercises are abolished, all religious exercises, including native pow wows for aboriginal students, should be.

"Just leave it alone (the status quo) or do it consistently," he said.

Others, like Murray Trachtenberg, spokesman for the B'nai B'rith League for Human Rights, said the issue is not religion, but rights.

"The issue is whether it's appropriate for all students to be exposed to mandatory school prayer or being able to opt out."

While students can opt out of religious exercises, Trachtenberg said they shouldn't be excluded because they are of another faith or not religious.

"It imposes a penalty on those who don't worship or are exempt." he said.

"It's the responsibility of teachers, principals and trustees that every student feels welcome without fear or pressure or persecution to conform to any prescribed religion.

Manitoba Association of Rights and Liberties spokesman Rod Yellon said mandatory religious exercises in the classroom are a violation of the student, parent and teachers' constitutional rights.

MARL launched a legal challenge to the religious

exercise provision in the Public Schools Act three years ago. Yellon said the court case - expected to be heard by the end of the year - will render the current debate irrelevant.

School board chairman Ed Kowalchuk said the board is expected to hear more submissions from the public before the motion to abolish the exercises goes into first reading.

He said once the motion has gone through third reading - in about a month - the board will make its decision on the issue.

Orlikow said most trustees on the board appear to be in favor of abolishing the exercises. However, he said a few could be swayed in either direction.⁶⁷

The Case For and Against School Prayer

Between September 1991 and January 1992 the Board of Trustee received almost 150 letters, petitions, presentations and delegations representing the opinions of thousands of people concerning the place and practice of mandatory school prayer in the ethnically diverse school division. By a margin of over 2 to 1, the public submissions opposed the by-law and favored the retention of school prayer. Substantively, though, the arguments for and against school prayer were weighty on both sides. The major arguments supporting the continuation of religious exercises included:

- religion is the most important part of every individual's life and should not be excluded from the school
- religious exercises are an integral part of the process that shapes an educated person
- Canada is a Christian country and the Lord's Prayer is a Christian tradition in schools

- religious exercises represent a quiet time that allows students to settle down before beginning their school work
- the removal of religious exercises will contribute to the decline in moral standards
- the removal of religious exercises has contributed to the rise in discipline problems and the decline of other educational standards
- removing religious exercises promotes secular humanism

The major arguments which favored the removal of religious exercises included:

- mandated religious exercises are contrary to the principle of the separation of church and state
- religious beliefs and practices are inherently private and therefore no value is seen in religious exercises that are conducted by rote and without any explanation
- Christian dominated religious exercises are inappropriate in a multicultural society
- mandated religious exercises are an infringement of the fundamental freedoms of conscience and religion enshrined in the Charter of Rights and Freedoms
- mandated religious exercises that rely on coercion and the self-identification of dissenters is morally wrong.
- mandatory religious exercises did not significantly encourage spiritual contemplation nor did they effectively promote religious values.

A "Moment of Silence" and Other Alternatives

Along with their comments supporting or rejecting school prayer, a number of submissions suggested alternative

exercises. It was noted that the presentation by the Tec Voc students and Policy/Program Committee Report No. 6-91 of May 21, 1991, both suggested that the reciting of the Lord's Prayer could be replaced with a moment of silence in which students could say their own prayer or meditate. According to Trustee Gillespie, a quiet time was suggested by the B'nai B'rith and in a number of other submissions.

Objections raised against the moment of silence, though, argued it would also be an infringement of human rights.

Another suggestion asked whether the prayer could be replaced with the reading of poetry. Trustee Orlikow recalled that other faith prayers were also considered:

That was raised but not seriously. There were a couple but if you want to look at it in terms of community strength, nothing. I mean they were so insignificant compared to all the others. I think the reason it was not followed is who's going to do it? Who's going to organize the meeting and all the rest of it? I sure wasn't. This is fraught with some politics. I imagine it could be the demographics of Winnipeg, namely (the other religions) are not really that large and also being comparatively recent here, they don't want to raise waves. They basically want to stay. So it's too early at the moment. That would be my hunch.⁶⁸

Another explanation for the lack of alternative faith prayers was offered by Trustee Mihychuk:

Some of the comments we got from the ethnic community were basically, 'We live in a culture that is white Christian based,' and I think there was almost a sense of, 'Well, if our trustees will follow up on this we will be glad just to have the freedom to be away from that dominance and that brainwashing that went on every morning.'⁶⁹

A number of options were discussed by Board members, according to Trustee Mihychuk, but also ultimately rejected:

There were those on the Board and I think Ed [Kowalchuk] was one, who wanted to see a different prayer of the day or different options. We discussed the idea if we could do anything, would we wish to have some sort of multicultural or multi-ethnic religious programming in school that different religions could express in the morning. I think the majority of trustees felt that through the discussions, it just basically wouldn't work because what is a religion and how far do we go? There will be times where a religion will offend many other people and we didn't want to be imposing religious standards on people. There would be others that just wouldn't want to hear ceremonies of other religions. So, ultimately, that idea was not forwarded.⁷⁰

Although a moment of silence, was a favoured option for the Board, Trustee Mihychuk explained the legal constraints against it:

The Board would have voted for a moment of silence or a thought for the day or something but actually there was virtually no room to manoeuvre. The Board did not have the legal right to provide a moment of silence. We decided to address the prayer issue and then looked at what provisions would be acceptable. Although in the past there was not the following of regulations, we wanted to know what was legal and what was available. The Act basically says that the Board has the provision to abide by the law, which we were doing not very well, or if we opted out we had to provide services if we had so many signatures. It would have been my preference to probably stay away from any kind of spirituality mandated in the morning or at any specific times. I was looking at more of a course of religious studies of the world so that we could provide that as a knowledge base for people to explore rather than providing a spiritual experience for students but that's not allowed in accordance with the act which we then ultimately turned to for guidance.⁷¹

Trustee Yereniuk's recollection of the discussions was similar to Trustee Mihychuk's:

A number of trustees did look at a number of options. One option was a period of silence to pray according to your tradition, whatever it may be, in a way that you want to do it in the classroom. We also looked at a number of school divisions who have developed, over a

weekly cycle or a monthly cycle, a number of prayers from various traditions. Some of the schools in Ontario have been practising that. We in fact had our lawyers look at these options. The lawyers made it very clear to us that it was either we opt in or we opt out.⁷²

Although strictly not part of the school prayer issue, Trustee Yereniuk also recalled the discussions concerning the possibility of religious studies courses:

A number of trustees talked about some type of a course in religious studies. Perhaps an option course or optional period where students would be given an appreciation of the various religious traditions and within that appreciation there could be also some appreciation of the spiritual exercises of these communities. Teaching religion as a phenomena of society to give the student an appreciation of the various religious traditions that are in our own back yard. Winnipeg is becoming really a wonderful example of the interaction of world religions. We've asked our administration to see where it could fit in and what type of subjects could include that type of a discussion.⁷³

A religious studies course was not a viable alternative, though, for Trustee Gillespie because of timetable constraints and other priorities:

There were a few individual people who came and said they thought it would be wise to teach specific religious courses in the school so that the children could understand other religions. My comment was of course, 'Where are you going to take it from, English or Math, which is where they chop everything out of, family life, the aids program, everything else is always taken off English and Math time.'⁷⁴

The Decision to Suspend Mandatory Religious Exercises

After consideration of the public submissions and the Board's own deliberations over the appropriateness of

mandated Christian prayer and possible alternatives, Trustee Yereniuk described the one task left to the trustees:

Basically I think we have a situation where there is input and the trustees having to make their own decision based on what they have heard [or] what they themselves believe in as far as the educational process and the role of prayer or spiritual exercises.⁷⁵

That task was accomplished at the Board of Trustees' meeting, in the evening of December 3, 1991, when Policy/Program Committee Report 14-91, dated November 26, 1991, was tabled:

Your Committee has given consideration to the matter of Religious Exercises in Schools under Section 84 of the Public Schools Act as referred to the Policy/Program Committee by the Board at a meeting held October 22, 1991.

Your Committee considered the following options related to this matter:

- continue to provide religious exercises in schools as provided for in the Public Schools Act pending the decision of the Manitoba Association of Rights and Liberties case presently before the Provincial Courts;
- pass a by-law under Section 84(6) of the Public Schools Act for only those schools that do not wish to participate in religious exercises;
- pass a by-law under Section 84(6) of the Public Schools Act directing that religious exercises will not be held in Division schools.

Your Committee noted that Section 84(8) of the Public Schools Act provides for religious exercises to be conducted if a petition asking for religious exercises, signed by the parents or guardians of 75% of the pupils in the case of a school having fewer than 80 pupils or by parents or guardians of at least 60 pupils in the case of a school having an enrolment of 80 or more pupils, is presented to the school board, religious exercises shall be conducted for the children of those parents or guardians in that school year.

Your Committee agreed that the matter of religious

exercises should be given further consideration by the Board.⁷⁶

The report was received and arising out of consideration of Policy/Program Committee Report 14-91, Trustee Orlikow moved, seconded by Trustee Haigh:

WHEREAS Section 84(1) of the Public Schools Act reads as follows:

"Public schools shall be non-sectarian and no religious exercises shall be allowed therein except as provided in this section"; and

WHEREAS Section 84(6) of the Public Schools Act reads as follows:

"A school board may, by by-law, direct that religious exercises shall not be held in any one or more schools during the then current school year and thereafter in that school year they shall not be held in that school or those schools"; and

WHEREAS Section 84(8) of the Public Schools Act states:

"If a petition asking for religious exercises, signed by the parents or guardians of 75% of the pupils in the case of a school having fewer than 80 pupils or by the parents or guardians of at least 60 pupils in the case of a school having an enrolment of 80 or more pupils, is presented to the school board, religious exercises shall be conducted for the children of those parents or guardians in that school year"; and

WHEREAS the Board of The Winnipeg School Division No.1 has received a request that religious exercises as prescribed by the Advisory Board of the Department of Education and Training be suspended; and

WHEREAS the Board has referred the question to school parent councils for their recommendation and has received representations from the public at large; and

WHEREAS courts have ruled that compulsory religious exercises are contrary to the Charter of Rights and Freedoms,

BE IT RESOLVED that the administration prepare a by-law suspending religious exercises in the schools in

accordance with Section 84(6) of the Public Schools Act.⁷⁷

The motion was voted on and declared carried. The vote was recorded as follows:

Ayes: Trustees Neville, Santos, Mihychuk, Orlikow,
McTaggart, Yereniuk, Haigh
Nays: Trustees Gillespie, Kowalchuk⁷⁸

The decision of the Board was carried in the Winnipeg Free Press on December 5, 1991, under the misleading heading "Winnipeg division to ban school prayers":

The Winnipeg School Division has taken the controversial step of voting to ban religious exercises in its schools.

Trustee Lionel Orlikow, who proposed the motion, said current practice discriminates against non-Christian students.

"This is a multicultural, multi-ethnic, multi-religious community and we have to get back to what we are - a non-denominational public education system," Orlikow said of his motion.

"I thought we had to bite the bullet and stop waffling."

School board chairman Ed Kowalchuk said he voted against the request because he thought there should have been provision for optional school prayer where it is requested by a large number of parents.

"There is reason to protect the majority because the majority has expressed itself as being in favor of it," he said.

"Our position to support only the minority ignores the fact there are many people in the community who consider school prayer very important.

Orlikow said he knows the board's decision will be remembered during the election campaign next year. "I do not believe my position in this matter will help me," he said

The Public Schools Act currently bans all religious practice except a compulsory morning or afternoon prayer. School divisions can pass yearly by-laws opting out of the mandatory prayer.

The board's decision to ban religious exercises raised questions yesterday about other current religious activity, which has traditionally taken place in spite of the ban within the Public Schools Act. The activities include aboriginal ceremonies, Bible study

groups, Remembrance Day worship ceremonies and Christmas celebrations emphasizing Jesus' birth.

Rev John Wesley Oldham, a United Church Minister, "The pure academic teaching of religions doesn't give one the experience of it," he said.

However, the school division can only opt out of mandatory prayer, and has no jurisdiction to put replacement prayer programs in place, Kowalchuk said.

Orlikow added he did not believe the board's decision would change current practices outside of morning prayer. He said the board's decision was not aimed at activities such as aboriginal ceremonies. "I think that (concern) is intellectual hair-splitting," he said.⁷⁹

On December 10, 1991, By-law 1000 was read for the first time:

A By-law of the Winnipeg School Division No. 1 directing that Religious Exercises shall not be held in any school during the current school year except as provided for in Section 84(8) of the Public Schools Act.

WHEREAS Section 84(1) of the Public Schools Act reads as follows:

"Public schools shall be non-sectarian and no religious exercises shall be allowed therein except as provided in this section"; and

WHEREAS Section 84(6) of the Public Schools Act reads as follows:

"A school board may, by by-law, direct that religious exercises shall not be held in any one or more schools during the then current school year and thereafter in that school year they shall not be held in that school or those schools"; and

WHEREAS the Board of The Winnipeg School Division No.1 has received a request that religious exercises as prescribed by the Regulations of the Advisory Board of the Department of Education and Training be suspended; and

WHEREAS the Board has referred the question to school parent councils for their recommendation and has received representations from the public at large; and

AND WHEREAS The Winnipeg School Division No.1 is

prepared to pass such a by-law in compliance with the provisions of the Public Schools Act,

NOW THEREFORE the Trustees of The Winnipeg School Division No. 1 in session assembled enact as follows:

"That religious exercises as prescribed under the Public Schools Act shall not be held in any Winnipeg School Division school for the 1991/1992 school year except as provided for in Section 84(8) of the Public Schools Act."⁸⁰

The by-law was read for a second time in short on December 17, 1991 and again passed by a count of 7 for and 2 against. A motion was then moved by Trustee Orlikow and seconded by Trustee Mihychuk "That the rules be suspended to allow By-law No. 1000 to be read a third time in short."⁸¹ The motion was defeated. Passage of this motion would have enabled the Board to remove prayer from the schools one week before Christmas.

The public outcry against the by-law, anticipated by a number of trustees, did not materialize. The Winnipeg Free Press, on January 6, 1992, under the heading "Calls for support for school prayer fail to materialize", reported:

Advocates of school prayer may be counting on divine intervention after a call for support failed to produce a groundswell in Winnipeg School Division.

Last month, John Haynes, a supporter of school prayer, vowed all Winnipeg School Division trustees who supported a ban on school prayer would be inundated with telephone calls.

One trustee says she received only two calls in support of Haynes. Most others say they didn't get any calls.

Trustee Anita Neville said most calls she received were in support of the bylaw to scrap compulsory school prayer.

"I have had calls for both sides, but most have been in favor of the bylaw and I will still vote the same in the final reading," Neville said.

Trustee Mario Santos said he was still waiting for his first call.

"I haven't received one call," Santos said. "I think it's because of the fairness of the opt-in clause, where parents who want religious exercises for their children will still be able to have them."

A motion banning school prayer in the division was stalled last month when it failed to receive unanimous consent to proceed to a final vote.

Two of the seven trustees do not support the ban.

Chairman Ed Kowalchuk and trustee Enid Gillespie are both opposed to the motion.

Gillespie maintained she received many phone calls opposing the bylaw and the board was going against the wishes of the people.

"This is not a democratic school board, in that they have sided with the minority," she said. "They have ignored the wishes of the majority."

But trustee Maryann Mihychuk, who supports the bylaw, said she hadn't received any phone calls in favor of school prayer.

"I have not received anything but complimentary calls," she told the board. "It is my opinion that a majority of people in Winnipeg School Division No.1 concur with the courageous decision this board has taken."

Trustee Roman Yereniuk, who supports the ban, said a majority of people who had expressed a position were in favor of school prayer.

"Our school board represents more than Christian prayer," he said in an interview. "We have to tolerate and respect other traditions."

He said that under the provincial Public Schools Act, parents would still be able to request voluntary religious classes.

He predicted Winnipeg could see Christian, Jewish and aboriginal religious exercises in the near future.

"I will vote in support of the ban at the next meeting," Yereniuk said.

Kowalchuk said he expects the motion will pass at next Thursday's board meeting.⁸²

At the Board meeting on January 9, 1992, the Board received the last submission concerning the prayer issue. The submission by John E. Haynes included copies of a previous submission made on October 15th and November 12th in support of religious exercises. The Board also received

its first parent petition to have religious exercises. The "petition containing 97 signatures requesting that Religious Exercises be conducted for their students at Glenelm School."⁸³ In response to this petition, Trustee McTaggart moved and Trustee Haigh seconded:

That the Chairman write to Mrs C. Peters advising that having received the petition signed by the parents or guardians of at least 60 pupils requesting religious exercises to be conducted, that in accordance with Section 84(8) of the Public Schools Act, religious exercises shall be conducted for the remainder of the 1991-92 school year for the students attending Glenelm School whose parents or guardians have signed a petition dated December 20, 1991, requesting that religious exercises be conducted.⁸⁴

Subsequent to the passage of this motion, By-Law 1000 was read for a third time in short and passed. The passage of By-law 1000 distinguished The Winnipeg School Division No.1 as the first school division in Manitoba to officially remove mandatory religious exercises from the school's daily routine. Reporting on this distinction, The Winnipeg Free Press reported the decision under the erroneous heading, "Winnipeg division bans school prayer,"⁸⁵ and forewarned of the possible consequences of the decision in its sub-title, "Quiet death of tradition only calm before storm, trustee predicts":

School prayer died a quiet death in Winnipeg School Division last night, putting an anti-climatic end to a decision that has spawned heated emotional debate across the province.

With no discussion and three trustees absent, the Winnipeg school board gave third and final reading to a by-law that bans religious exercises in all division schools during the current school year

Trustees expect a fresh onslaught of petitions by

parents demanding the Lord's Prayer be reinstated. The first, a petition of 97 signatures from parents of students at Glenelm School, has already been dealt with.

Trustee Roman Yereniuk said the provision could see a wide range of different prayer groupings in a school. Some may call it an administrative nightmare, but Yereniuk called it "interesting".

Feedback from the public over the last few months - which came from well beyond school division boundaries - showed a strong majority in favor of retaining the Lord's Prayer in school.

Trustee Irene Haigh said that feedback was not ignored, but the fact that schools are open to those of all religious backgrounds and cultures remained the overwhelming consideration. This was not a numbers game, but a matter of principle.

Board Chairman Ed Kowalchuk blamed the province for creating the tense and complicated situation the division is now facing by foot-dragging on bringing prayer regulations up to date.

The fact is that the government has defaulted its responsibility," he said, adding he voted against his own board's prayer motion because it did not solve the religious exercise dilemma. For example, the Public Schools Act does not permit alternative forms of devotion- such as a non-denominational moment of reflective silence - to be held during morning exercises.

"It doesn't provide us with the alternatives we need to resolve this debate. It just tells us we can conduct the Lord's Prayer or not - nothing more, nothing less."

If no changes are made to the act before the beginning of the next school year, trustees must vote to ban prayer again. By that time, Kowalchuk predicted, protesters will be very strong and well-organized.

"My sense is that the momentum will grow on this," he said. "Its almost essential(that provincial legislation be changed before then.)"⁸⁶

The Perspectives of the Decision Makers

The passage of By-law 1000 relied on a standing vote in which the position of each trustee was recorded. Although a number of trustees were absent for the third and final

reading of the by-law, the acknowledged position of the nine trustees was 7 in favor of the by-law's passage and 2 against. Four of the trustees who voted in support of by-law, Lionel Orlikow, Anita Neville, MaryAnn Mihychuk, and Irene Haigh, had previously also voted in support of the resolution designed to stop the distribution of the Gideon Bible in the Division's schools. Trustees Enid Gillespie and Ed Kowalchuk, on the other hand, were consistent in their vote against the by-law and also against any restrictions on the distribution of Bibles. Three trustees, Mario Santos, Roman Yereniuk and Pat McTaggart, were considered swing votes on this issue because they supported the continued distribution of Bibles but voted to remove school prayer. While the rationale for each trustee's decision could, perhaps, be inferred from their testimony in this and the preceding chapters, a succinct review of the primary or fundamental considerations and motivations of each trustee is useful at this point, both as a summary of each decision maker's essential disposition to the school prayer issue and as a way to reveal some of the more significant implications of their individual dispositions and of the decision they took collectively. An examination and discussion of these implications will, however, occur in Chapter VI.

Support for democratic citizenship and a long history of fighting to remove religion from the schools were the two main reasons Trustee Lionel Orlikow decided to respond to

the "Tec Voc" student presentation by moving a motion to remove mandatory school prayer:

The incident that provoked it was the presentation from the Tec Voc students and my belief that we have to treat students with dignity, as democratic citizens. The underlying sympathy for the cause was that I have always fought to get religion out of the schools and the assimilationist problem. I still think the main problem with our system is it's an assimilationist system and there is no respect for minorities. Multiculturalism is just goofy. It depends upon a teacher at a particular time, a particular course in which they are going to do something - that's multiculturalism. I think the Manitoba system is fairly conservative. It is quite smug and it is racist to the core and, therefore, to me, the prayer is just part of the bag. This is all part of the overall 'smooze' to let the kiddies know very early that there is a right way and a wrong way. The wrong way is to be different.⁸⁷

Initially, Trustee Orlikow contends he "was not going to do anything about [the student presentation] because of the highly volatile nature of the subject,"⁸⁸ and he felt "it would be defeated because it was much more serious than the Gideon Bibles."⁸⁹ Trustee Orlikow, nevertheless, moved the motion in the hope that it would "broaden the discussion [to include] the whole matter of religion and education in a multicultural context."⁹⁰

The marginalization of children through the enhancement of one religion and the exclusion of other faiths was the primary reason Trustee Anita Neville voted to support the by-law to remove mandatory religious exercises:

I do not believe that religion has a part in the schools. I do not believe that one enhances one religion, to either the exclusion or the non-inclusion of any others. I think it marginalizes children. I think it makes them feel lesser. I have no objection to

the imparting of knowledge, through a host of different ways, about religion. I think it would create much greater understanding if there was a curriculum on religion, at all levels.⁹¹

On a more personal note, Trustee Neville explained her hesitancy in accepting the school's role in imparting values:

The schools are being asked to do increasing more and more of what the family has responsibility for. My children's religious education, my children's values, my children's morals, their ethical behaviour is something I certainly hope I have set and determined within the family context. [I hope] that their education will give them opportunities to discuss the rights and wrongs in an intellectual way. I don't want anybody imposing values. I don't want your religious beliefs imposed on my child and told that they might provide a better option than what I believe. The school has to teach respect. The school has to teach children to get along with people whatever their background, to respect their differences. It doesn't have to teach them what their fundamental values are.⁹²

For Trustee Irene Haigh, the multicultural diversity of the Division suggested a more meaningful experience for young people would be achieved through an understanding of the different religions, rather than through the recitation of the Lord's Prayer every morning:

I came at this issue from a strong belief that we are a country of multiracial, multi-religious people and that the public school system that educates children from different religious and cultural backgrounds [should not] be pushing Christianity through the morning opening prayers. While Christian children obviously needed to have access to that, so did Muslims, so did other religions. I also feel that it is the role of families and parents to be involved in educating their children when it come to religious values or cultural spiritualism. I also recognize it doesn't always happen but I thought it was fundamentally wrong for children in this part of the city, where you can walk into a classroom and first of all you'll be sometimes lucky if you see a white face, that many of the children may be

Catholic but a majority would be Sikh or Muslim. It was wrong for a public school system, that they all participated in, to be pushing one religion.⁹³

The practice of mandatory Christian prayer, therefore, was another example, for Trustee Haigh, of the systemic racism identified initially in the Task Force on Race Relations:

I went through school in England. Living here in Canada and being part of a huge multicultural community and seeing the many differences was the beginnings of my awakening to the role of the public school system in better understanding the different cultures. I had a role to play, and I should have a role to play, in broadening and being able to deal with racism. I was very much involved in the anti-apartheid movement before I went on the school board. So given that background and that understanding, it would be a natural progression for me in the Race Relations Committee to see school prayer, and some of the consequences of it in classrooms, and to change that. We recognized that in Winnipeg One we have this incredible diversity of cultures and religions. We had gone through the Race Relations Committee process and we had heard many people telling us that, unless we were to deal with systemic racism, and really deal with some of the issues, we were not going to make our school systems any better. I think a belief that some of us had was that it's the young people who are going to make changes in our world. If we are going to deal with racism it's going to have to come from them. The rest of us carry so much baggage around with us. So let's help provide a system of learning and understanding and the climate that we need for that to happen. I think it was a whole number of issues. Not just the presentations. Not just the arguments that came out, but also our commitment to dealing with systemic racism. With dealing with the need for change in our school system and listening to some of the other presentations that had nothing to do with school prayer that came out of the Race Relations Committee.⁹⁴

Trustee MaryAnn Mihychuk "grew up in an NDP family"⁹⁵ and "talked about issues. We talked about what was right and wrong from the time I was a little girl."⁹⁶ This upbringing influenced her belief that school prayer represented a moral

and human rights issue:

School prayer was a relatively easy thing to recognize as being unfair and must be removed. The reason I voted in favor of the by-law to remove the prayer was the view that people's individual spiritual beliefs are their own and we as a school system do not have the right to mandate any type of spirituality. I really do believe that its not right to force prayer on other people. I think that religion belongs in the home and the church. Religion and state should be separated.⁹⁷

Trustee Mihychuk also pointed out that an important element necessary for the passage of the by-law was the change of membership on the Board by 1990:

I was ready to jump on it. After I got on in 89, the majority of the members were probably clearly and openly in opposition to the prayer and questioned its value. The feeling that I got was, when the topic was opened again it was clear that amongst the nine we had the political will, we had the votes to go ahead and make the change. The previous Board was not a progressive Board and didn't have the votes to deal with those types of issues. I think it was a matter of who got elected to the Board and that provided the opportunity to make real social change. We had individuals that recognized certain values and principles and tend to be more left leaning than conservative ... , both in terms of economic policy and in terms of social issues like condom machines in schools or providing avenues for local decision making by having advisory committees and opening up the process to students and community members.⁹⁸

This new mix on the Board, provided the opportunity to move on the school prayer issue:

I think it was 1990. I remember it was a policy meeting and I sat across the table from I think it was Irene and Anita. We said 'Well do you think we should go for it? Do you think we could get the votes this time?' There was that will amongst the four of us to go for it. Probably the most vocal were the three of us, Anita [Neville], Irene [Haigh] and myself, ready to start the campaign and address the issue.⁹⁹

Reflecting on her twenty-nine-year-involvement with

Alcoholics Anonymous, Trustee Gillespie offered, "I have my 'AA' church and I have my higher power every day. That's an integral part of my life."¹⁰⁰ The removal of school prayer was, for her, "a complete abandonment of faith, of quiet time, or reflection."¹⁰¹ One of her arguments, though, was that the prayer did not represent a religious teaching:

I didn't really think [saying the Lord's Prayer] was teaching a religion. I think it's something kids learn by rote. I don't think small children fully understand what they are saying. It's like singing 'O Canada'. They don't even pronounce words properly. They do it by rote. I was arguing that it was not a religious teaching. It was a good quiet time for kids. I mean kids sitting with their head down on their desk, 'Who's going to know if you are saying the prayer or not?' Though it was the ones who stood up and said 'We're walking out but we don't feel we should have to walk out. You're making us look different.' Well, if you have [oriental] eyes, you are going to look different whether you are standing in the hall waiting for [the prayer] to be over or sitting in the room. I don't think their argument was valid in that they said it made them look different because they didn't participate.¹⁰²

The removal of school prayer was also, for her, another example of the general decline in educational standards:

I think its gotten out of hand. There are so many things, that are to me of value, that have been taken out. They did away with detention. They did away with homework. They did away with exams. They did away with discipline. They did away with failure. There's no incentive to succeed or compete. There's no penalty for not being good.¹⁰³

As a final argument in favor of retaining the Lord's Prayer, Trustee Gillespie viewed it as part of the Canadian Heritage:

I nearly came to blows with the Sikhs who wanted it banned. I said, 'You have part of your culture that I don't think that if ten thousand Canadians went to your

country you would change.' I said, 'Would you abandon the caste system and worshipping cows? As a Canadian I find [those practices] unacceptable. I don't imagine that if ten thousand of us went to India, that you would change that for us. Yet you're asking us to change something that has been in place for a hundred years.'¹⁰⁴

The purpose of education, according to Trustee Ed Kowalchuk, is to produce "a cultured person and that involves, in many cases, religious components."¹⁰⁵ His vote against the by-law, though, represented his dissatisfaction with the process of the debate and the lack of consideration given to alternative courses of action:

The Board actually did not vote to remove religious exercises. It voted to provide another option for the inclusion of religious exercises in the school. That option being the opportunity for parents to vote or opt in to religious practice rather than being forced or required to take part in religious activity. The Board at that time believed that forcing people into religious activity was almost certainly going to lead to a negative decision by some court, at some point in time. So in the interests of harmony within the community, the Board decided to proceed with a by-law provision which essentially allowed the communities to decide on religious practices within its schools, on their own. I voted against it very simply because the process that we used was not the one that I was particularly interested in. I would have preferred a process in which alternatives to the exercises would have been considered and looked at on a broad community basis. We could have requested that the government make some changes which would broaden the parameters of inclusiveness - not take out the Lord's Prayer but add a multiplicity of alternatives and readings.¹⁰⁶

For Trustee Kowalchuk, exploring alternatives would have facilitated the educational process:

I really don't know how you can keep religion out of schools. We are going to have to tolerate it in one form or another. That's my contention right from the very beginning that we were really not taking any steps to deal with this problem. Let's let the community

discuss how it ought to be dealt with. Let the Protestant fundamentalists have their religious activity. Let the Catholics have their activities so we put into a school the cultural components. There are some people who think that education and school can be a neutral activity when it comes to culture. It can't. So we should provide an environment which will allow the expression or the non-expression, as people choose of their religious preference. These alternatives, I guess, will be explored by the Department of Education.¹⁰⁷

Echoing his rationale for the removal of the Board's invocation, Trustee Kowalchuk reiterated:

I do not believe in forcing people to pray. It's a personal matter. So the concept of requiring everybody to say prayers in schools didn't really turn me on as an exciting educational venture. I thought that there would probably be better formats of doing this if only somebody sat down and delivered some other strategies for people who wanted to pray. Fundamentally, I believe that the schools should be free to do that. People who want to pray ought to be able to pray. People who don't want to pray ought not to pray and that ought to be a flexibility within the school system. When the Board eventually decided to move away from school prayer I opposed the Board essentially because we had just not taken the trouble to sit down, nor had the Department taken the trouble, to develop new strategies for that type of activity.¹⁰⁸

Although a "staunch defender of the Church,"¹⁰⁹ Trustee Santos also believed in the separation of church and state. His support for the by-law reflected his legal background and his faith in the efficacy of the Charter of Rights and Freedoms in protecting minority rights:

The Tec Voc students argued, 'When I go into the school I can hear the Lord's Prayer over the PA. I go into the classroom and I can hear the Lord's Prayer in the classroom. If I choose to stay outside as some do, I'm still exposed to the Lord's Prayer over the PA system. If a person walks by or students see you outside, you are ostracized. Well you should not go to a public school and be singled out as being different.' I could see they had logic to the argument. That's what

actually made me change my mind. I could see the arguments from a Charter point of view, from a moral point of view. I was forcing minorities to be part of a majority and usually I am part of a minority group. So it was ironic that I was part of a majority group now. In a democracy the majority should always rule but the Constitution is there to protect minorities. So because the majority should rule, we should allow the majorities to opt in, but they should not trample on the rights of minorities. I could see that I was forcing my values on a minority and I could see that I was forcing a minority to single themselves out. They had to step outside the classroom and I saw that legally and morally we were wrong.¹¹⁰

Trustee Santos' support for the by-law may not have been forthcoming had it not been for the opt-in clause, which he personally took advantage of:

I actually went to the Act, looked at the regulations, and then I saw what I call the 'saving clause.' The majority saving clause which says that if enough parents petition the Board they may opt into a program. The same day that I voted to abolish mandatory religious exercises, on the following day or in the following weeks, I signed a petition to have my children included in them. My kids attend religious exercises every morning. That's because I'm part of a majority but I am not forcing anybody to attend religious exercises. It's my choice that I decide to single out my kids. But it's not over the PA. They are in a separate room. The people who are there are there because their parents have decided they want them to be there and it's all voluntary. That's the difference. I personally believe, now it is me as a person not as a public official, that half of our hassles today would not exist if there was more reliance on churches, more reliance on morals. Personally I'm a staunch believer in instilling strong morality in kids to give them the guidance to deal with later issues.¹¹¹

Speculating that perhaps his vote might have been different had he not been in Law School, Trustee Santos believed his legal arguments may have influenced other trustees:

There was always a four, four tie on this Board and on previous ones. What really brought the matter to the fore was the students from Tec Voc. They officially put

it on the plate and I was forced to reconsider the issue. At the same time, courts in British Columbia and Ontario issued two decisions. I was persuaded by the arguments of the Court of Appeal in Ontario and the trial judge in British Columbia. I could see what they were getting at. The province has developed and immigration has changed the make-up of the population but I, as a Catholic, did not see it as such a big deal in the past. In the past I sort of thought well I'm not forcing anybody. I was a staunch defender of the church and in the previous year we had battled the Bible issue. Initially I could see the [Bible] vote going the other way and then I was able to persuade another colleague to come our way. So when I decided to vote the other way [on school prayer] I knew very well that there would be others on the Board who would be looking at what I did and also go the other way.¹¹²

A belief in a need for a multicultural, multi-religious approach to religious exercises formed the basis for the rationale behind Trustee Roman Yereniuk's support for the by-law:

I think it was some of the consultations I did with my friends in the Jewish community. I think that played an important role in trying to understand what it was like, from a personal issue, of being non-Christian and having a Christian prayer inserted into your daily habit. I think the problem was we had made one religion the exclusive conveyor of spiritual values. I'm a very strong believer in multiculturalism and I respect and encourage ethnocultural communities to show and share their diversity. I also want this to be translated into the multi-religious aspect of our society. I believe strongly in the spiritual values of the various religions in our society and although I am an Orthodox Christian, I don't see that one tradition, especially in a multicultural, multi-religious society like ours, should be distinguished as a superior position. To have a prayer that is of my tradition given to people of other faiths was a meaningless exercise for many of them. I was very involved with the Manitoba Multicultural Society and the Manitoba Intercultural Council for a number of years and my sensitivity to the issue played a very important role.¹¹³

Trustee Yereniuk also acknowledge that the legal arguments suggested by Trustee Santos contributed to his decision to

vote in favor of removing mandatory school prayer. Like Trustee Kowalchuk, however, it would have been Trustee Yereniuk's preference to have a more varied approach to religious exercises but "was disappointed to hear from our lawyers that we really didn't have very many options."¹¹⁴

Trustee Pat McTaggart's support for the passage of By-law 1000 also reflected the legal and multicultural arguments articulated by Trustees Santos and Yereniuk. Although not raised "in a strong practising religious family,"¹¹⁵ Trustee McTaggart was convinced, "that some time should be set aside for spiritual reflection."¹¹⁶ This belief came from a fond remembrance, "of the wonderful experience of religious exercises as a child."¹¹⁷ Her recollection characterized these religious exercises as "quiet times that eventually became important reflective moments."¹¹⁸ Trustee McTaggart had a "tough time"¹¹⁹ deciding how to vote on the by-law because of her strong emotional reminiscences. She eventually supported the by-law because of the opportunity afforded those who wanted religious exercises to opt in. She referred to this provision as "the loop hole."¹²⁰

Whether in support of the by-law or against it, most trustees were sympathetic to the thoughts of Trustee Haigh that, "It was a personally difficult decision. It was a difficult one because you wanted to be sure that you were making the right decision."¹²¹ Most trustees also agreed

that the decision to remove mandatory religious exercises "was not a major issue in the scheme of things."¹²²

Although Trustee Neville did not consider it a major issue, she suggested it may have been for other trustees:

It depends where you come from. For some it was a very hot issue because of their own personal conflicts and the ultimate fear of repercussion from the voters should they run again. It was less of a hot potato for me because I felt fairly firm in my own position about it. Ultimately with the knowledge that it was in the courts in Manitoba and the decisions had been made in other jurisdictions in the country, it was less daring, less volatile than it might have been a couple of years prior to it.¹²³

Disagreeing with this viewpoint, Trustee Gillespie contended, "It dragged out for a long, long time. It was a big issue and the debates were not civil, especially as we had more delegations."¹²⁴

Despite the presence of these strong differences, Trustee Neville suggested:

It didn't divide the Board. There were many more contentious issues in terms of dividing the Board. [School prayer] wasn't number 1, 2, or 4 of the leading issues. Hungry children was a much more prevalent issue than the prayer issue. It was at a time when there was much disclosure going around the school and sexual abuse was receiving a lot of attention. It was a hot, big issue, in terms of the revelations that were going on, to teachers at the time.¹²⁵

Trustee Kowalchuk also sensed that the issue could have been a much more contentious issue:

I don't sense it as a major decision. It was a decision with potential for a lot of conflict but there wasn't any. There were excellent presentations. Positions were solidly put forward. It was a good discussion. I'm not certain that it was a discussion that surprised anybody. I think all the parameters of the discussion were long known by everybody and it was merely a matter

of stating them. The thing that made it probably acceptable was the inclusion clause.¹²⁶

Trustee Yereniuk, while agreeing with these sentiments, placed the school prayer debate within the context of the duties of the Board of Trustees:

I don't think it was looked at as a major hurdle. I think this was an issue that we handled in a way that had input from various peoples. The hard decision had to be made by the trustees themselves. 'Is it a major accomplishment?' I would say it's probably no different than other accomplishments within the context of the education policies that we have to deal with. It was debated. We talked about it. It was not done immediately. I think we had quite definitely a polarization that was very clear right from the very beginning. I don't think there were any trade offs or anything of that type on this issue. I think it was pretty clear. Everybody was given a free vote and everybody voted according to their own wisdom and their own conscience. For some of us this was not an easy decision to make. 'Who says trustees have got easy decisions to make?'¹²⁷

Epilogue

In the same manner that the Chris Tait Affair seemed to remain a local concern, most of the trustees in Winnipeg One viewed the school prayer issue as a community issue. No formal or public initiative was taken after the passage of the by-law to pressure the Provincial Government into making a decision on the Public Schools Act because of this view and the more pressing needs of other priorities.

Trustee Santos explained:

Am I going to waste my time with (the Provincial Government)? It would be a waste of time first of all. I need money right now. I'm in the process of trying to

get money from them for programs that we have. Am I going to get upset with them over this issue? No. We'll deal with our own affairs. We'll handle ourselves the way we have. It's not my responsibility that some school boards are completely ignoring the law. That's the Minister of Education's responsibility. Not mine.¹²⁸

On January 20, 1992, eleven days after the passage of By-law 1000, the following memo was sent to all Principals in the Winnipeg School Division No. 1 by Chief Superintendent J.C.Smyth:

On January 9, 1992, the Board of Trustees passed ByLaw No. 1000 of The Winnipeg School Division No. 1 which in accordance with Section 84(6) of the Public Schools Act cancels religious exercises in all schools in the Division for the remainder of the 1991-92 school year effective immediately.

Religious Exercises as defined under Section 84(2) of the Public Schools Act are those defined under the regulations of the advisory board established under the Education Administration Act.

Under Section 84(8) of the Public Schools Act, parents of at least 60 students in a school may forward a petition to the Board to have religious exercises conducted for their children only for the school year.

Those children who are to have the religious exercises will have to be accommodated outside the regular classroom unless the parents of all the students in the class have signed the petition. The religious exercises to be conducted in this event are those prescribed under the Education Administration Act.

If you have any questions regarding this matter, please contact your superintendent.¹²⁹

Implementing the by-law occurred at the local school level, according to Trustee Yereniuk, without the expected public outcry:

Once we made our decision and the implementation went to the various schools, there was actually very little

feedback. There was very little response in the sense its good or bad. Basically it seems to have been accepted very well at the local school level. We did not get any response that implementing it is creating problems.¹³⁰

Concurring in this observation, Trustee Mihychuk suggested:

There was no backlash. I did get calls. I got called to explain the legislation to I believe two schools after the fact. After I explained the legislation and what provisions were going to be offered, all those concerns were met with and there has been no backlash. I think most people recognized that it was inappropriate. That it was time for this legislation to be changed. Then of course we had the legal decision that, in fact, it was an infringement of human rights.¹³¹

On January 21, 1992, the day after the Superintendents memo went out to all Principals, Trustee Orlikow moved and Trustee Yereniuk seconded a motion regarding 'Teaching About Religion':

WHEREAS, the recent debate about school prayer revealed numbers of people in Winnipeg who think it is important to teach about religion; and

WHEREAS, recent textbook studies conclude that most textbooks largely ignore the role of religion in history and society, and thereby, our students receive an incomplete education; and

WHEREAS, it is possible to teach about religion in public schools, as opposed to religious indoctrination,

THEREFORE BE IT RESOLVED, that the administration prepare for the Board of Trustees:

- 1) the situation of teaching about religion in Winnipeg public schools,
- 2) more significant efforts conducted elsewhere in schools in North America, and
- 3) two or more alternatives in teaching about religion.¹³²

The motion carried. Many Board members had expressed a desire for the development of religious studies programs to

facilitate an awareness and understanding of the diversity of religious belief within the Division. Superintendent Smyth, however, doubted that there would be any substantive curriculum development in this area in the foreseeable future.¹³³

The difference between The Winnipeg School Division No. 1 and other school divisions, alluded to earlier, was illustrated by the stance of other Manitoba Superintendents concerning school prayer, which was reported in the Winnipeg Free Press on May 20, 1992:

If Manitoba's 56 school superintendents had their way, the law on the Lord's Prayer in the classroom would stay exactly the way it is - flawed, perhaps, but flexible.

School officials across the province said the Public Schools Act now provides enough latitude for divisions to reflect their communities' needs.

"Our recommendation is that it remains as it is," said Colin Jamieson, first vice-president of the Manitoba Association of School Superintendents.

"Of course, the problem with that position is whether it would meet any legal challenge," he acknowledged.

Jamieson said school superintendents don't want to invite controversy by tinkering with a law that appears to meet Manitoba's needs.

The law dictating mandatory school prayer is now the subject of a constitutional challenge.

That law has:

- Allowed the province's largest school division, Winnipeg School Division No. 1, to dispense with school prayer under normal circumstances while allowing prayers in a separate room if enough parents at a school request it.
- Allowed some school divisions to leave the decision up to individual principals and teachers, depending on the makeup of the classroom.
- Allowed most schools in the province to include the Lord's Prayer as part of the morning exercises.

Strictly speaking, the law requires school prayer unless school boards pass annual motions doing away

with it. Even if they do so, they must still provide an opportunity for school prayer for children whose parents request it if enough parents make the demand.

"We've told principals, 'You decide,' depending on the makeup of the class and school," Brent Pooles, chairman of the Fort Gary school division, said.

Pooles said there was one school where children in one Grade 3 class said the Lord's Prayer but the children in another Grade 3 class did not.

"It is policy (to follow the law) but in practice..." Poles said.

Beyond the Perimeter Highway, Jamieson said, adherence to provincial law reflects a community's religious strength.

Jamieson, also superintendent of the Western board which surrounds Morden, said the Lord's Prayer is said in all schools there from kindergarten to Grade 9.

Western's lone high school doesn't have students say the prayer because there is no home-room class nor time set aside for it, he said.

Ward Tweet, superintendent of the Pelly Trail division in western Manitoba, said the prayer is recited in all classes and is piped through the intercom at the board's collegiate.

Court challenges using the Charter of Rights and Freedoms have forced two other provinces - Ontario and British Columbia - to drop any reference to the Lord's Prayer as part of opening exercises.

The Manitoba Teachers' Society doesn't have a formal policy on the issue.

The Manitoba Association of School Trustees passed a resolution in 1990 calling for local boards to exercise discretion reflecting community standards.¹³⁴

Coincidentally the same paper, on the same day, reported the start of the trial to hear M.A.R.L.'s long-standing court challenge:

The Lord's Prayer went to court yesterday.

Manitoba is the only province still requiring religious exercises in its schools, but a three year-old civil challenge against a section of the Public Schools Act requiring the prayer has come to trial.

"It makes a mockery of freedom of religion and conscience," said plaintiff lawyer David Deutscher.

The lawsuit was launched by the Manitoba Association of Rights and Liberties and by individuals Jesse Vorst and Ivan Pokus.

Pokus, a Grade 12 teacher at Steinbach Regional Secondary School, told court he feels a lot of pressure

by being forced to lead his class in religious exercises.

Deutscher asked Pokus why he did not simply exercise his legal right to excuse himself from the classroom and ask another teacher to conduct the prayers and Bible readings.

"If I were to say in one word, that word would be fear," replied Pokus, who said he was not a religious person and worried about pressure from parents once they learned he was not leading religious exercises.

"Possibly my job would be in jeopardy."

The province's lawyer, Glenn McFetridge, argued there is no element of coercion in school prayer because individuals are allowed to opt out.

Vorst, a Jewish father of three, testified that he was indeed able to get his six-year-old son excused from weekly assemblies where Christian religious stories were read.

But he said he was forced to come to school each week and sit with his son in the library so he wouldn't be left unsupervised in the hallways.

Manitoba is the only province that still requires its public schools to provide daily religious exercises. Similar laws in other provinces have been successfully challenged under the Charter of Rights and Freedoms.

The issue reached a head in this province in 1986, when McGregor High School student Chris Tait refused to stand for the prayer, resulting in his suspension and community retribution. The incident was the impetus for the original MARL lawsuit. Amendments were subsequently passed allowing individuals to opt out of school prayer.

The provincial government is currently considering amendments to the Public Schools Act - including the section on prayer - and will be closely following the outcome of this challenge.

The province is arguing that, under the Manitoba Act of 1870, mandatory religious exercises are exempt from Charter review.

At present, school divisions can decide to exempt their entire division or individual schools from the prayer provision by passing an annual bylaw. Parents can ask that their child be exempt and, since 1988, teachers can be excused from religious exercises.

Deutsch told court only five of the province's 57 school boards have chosen to opt out of the prescribed religious exercises.

The trial, being heard [by] Mr. Justice Michel Monnin of Court of Queen's Bench, is to conclude today.¹³⁵

On July 28, 1992, without fanfare or public outcry, the Board of Trustees of The Winnipeg School Division No. 1 passed By-law 1006, in accordance with the requirements of the Public Schools Act(1987), to annually renew the suspension of mandatory religious exercises. The second reading of By-law 1006 had been delayed, on June 16, 1992, by a motion from Trustee Santos, seconded by Trustee Gillespie, that required the following section be inserted into the by-law:

WHEREAS Section 84(8) of the Public Schools Act states:

"If a petition asking for religious exercises, signed by the parents or guardians of 75% of the pupils in the case of a school having fewer than 80 pupils or by the parents or guardians of at least 60 pupils in the case of a school having an enrolment of 80 or more pupils, is presented to the school board, religious exercises shall be conducted for the children of those parents or guardians in that school year";¹³⁶

This section had appeared in the draft recommendation of By-law 1000 but had not been included in its final form.

Trustee Santos' motion carried and the amended By-law 1006 was passed by a final vote of 5 to 2. Up to this point in time, the opt-in option, according to Trustee Yereniuk, was being used by a significant number of schools:

We found over the very first six months about 14, 15 schools that in fact did opt-in. Many times it would be quite a large significant majority in our schools.¹³⁷

On August 13, 1992, seven months after The Winnipeg School Division No. 1 removed mandatory religious exercises from its schools, Justice Michel Monnin, of Manitoba's Court

of Queen's Bench, rendered his decision on the petition brought before the court by Manitoba Association for Rights and Liberties Inc., Jesse Vorst and Ivan Pokus. In finding for the plaintiffs, Justice Monnin concluded:

I am satisfied that denominational schools, as they were intended to be and as some have existed despite the wants and machinations of the majority, would not be subject to this kind of application, but I am not dealing with a denominational system - I am dealing with a secular one introduced in spite of constitutional guarantees. That system has no protection under the provisions of s. 22 [of the Manitoba Act, 1870] and is therefore subject to the provisions of the Charter.

The public school system in Manitoba is no different than the systems in Ontario and British Columbia. The students and the teachers come from wide and varied backgrounds and religious beliefs. I see no valid reason to prefer one religion over another and that is precisely what the present regulations provide.

I accept the fact that schools are extremely important in the molding of the minds of our young people and that morality and ethics have a place in a school system but that morality and those ethics should be the same independently of one's religious beliefs. To prefer one religion over another, as is now being done in the school system of this province, contravenes the provisions of the Charter relating to freedom of conscience and religion.¹³⁸

In response to the court decision, John Carlyle, Deputy Minister of Education and Training, on August 26, 1992, sent the following communique to all superintendents and principals in Manitoba:

SUBJECT: RELIGIOUS EXERCISES - COURT JUDGMENT

I am writing to you concerning the recent court judgment delivered by Justice M. Monnin of the Court of Queen's Bench respecting religious exercises in public schools.

The judgement strikes down Section 84 of The Public Schools Act including subsection (1) after the words "non-sectarian" up to and including subsection (7). This means there no longer is any legal provision

for mandatory religious exercises in public schools. The judgement was effective August 13, 1992. However, legislation providing for a petition for religious exercises is provided under subsection 84(8) of The Public Schools Act. The subsection states:

84(8) If a petition asking for religious exercises, signed by the parents or guardians of 75% of the pupils in the case of a school having fewer than 80 pupils or by the parents or guardians of at least 60 pupils in the case of a school having an enrolment of 80 or more pupils, is presented to the school board, religious exercises shall be conducted for the children of those parents or guardians in that school year.

Please note that a petition for religious exercises must be presented on an annual basis.

The Department is currently reviewing the implications of the court judgment. In the meantime you are advised that religious exercises may now only be conducted in public schools as a result of a petition under the aforementioned subsection.

It is the Department's view that the applicable sections of M.R. 554/88 (Religious Exercises in Schools Regulation) namely 1, 3, 4(2) and 4(3) are relevant to section 84(8) of The Public Schools Act and are still valid and in effect.

I hope this clarifies the matter for you.¹³⁹

This clarification effectively nullified the need for The Winnipeg School Division No.1 to continue to annually renew the by-law removing mandatory prayer from its schools.

Two months later, as a result of school board elections held in October, three new members were seated on the Board of Trustees. Trustee Irene Haigh had not sought re-election. Trustee Enid Gillespie, who opposed the by-law, and Trustee Pat McTaggart, who supported the by-law, both ran unsuccessfully. Neither trustee felt that their individual decision on the school prayer issue influenced the outcome

of the election. The expected push by the Protestant fundamentalists to demand a debate of religious issues in the context of education failed to materialize. It was suggested that the vibrant nature of the concurrent mayoralty and civic election may have garnered the attention, and sapped the energy, of those who would normally have taken a more active interest in school board politics.

The final draft of the Report of the Panel on Education Legislation Reform was published in February, 1993. The Report's findings and recommendations arising from the Provincial Government enquiry Creating a Framework for the Future, begun in April 1991, regarding the practice of mandatory religious exercises were:

This is the single issue which received the most submissions. A great majority favoured legislation which would permit religious exercises in the public schools on a voluntary basis. They also supported all religious groups having the right to participate in religious exercises in harmony with their beliefs. Participants emphasize that the right of others who do not wish to have their children attend religious exercises must be respected. The major reason for support is the belief that these exercises, properly conducted, have a positive influence on the students.

Most believe that the content of the religious exercises should be determined by parents.

Many schools in the province do not conduct religious exercises even though school boards did not pass the required by-law¹⁴⁰ exempting schools from these exercises. From the information the panel received, it became obvious that where the exercises were conducted, they were not conducted properly. When there was strong community support, the situation was much better.

The panel has noted the general acceptance of all religions. The majority of those who supported religious exercises believe all religious denominations

should have the right to exercises in harmony with their beliefs. Permitting religious exercises on an opt-in basis will provide opportunities for parents and students to participate in religious exercises.

Therefore, it is recommended:

96. That the current legislation respecting religious exercises be repealed and that provisions be enacted requiring school boards to conduct religious exercises for pupils whose parents petition the school board for such exercises and that these exercises be conducted in accordance with the provisions of human rights legislation and The Charter of Rights and Freedoms.
97. That parents, requesting religious exercises for the children, in cooperation with the school boards determine the content and format of the exercises.¹⁴¹

The Report also dealt with the related issue of Religious Instruction which was also proposed as an alternative by the Board of Trustees of Winnipeg One:

This issue also received much attention. There was no desire to change current legislation. The majority believe that religious instruction should be available to all students from any recognized religion and believe that participation should be on an "opt-in" basis.

Those who favoured religious instruction in public schools believe that for their children, this type of instruction will provide a "well rounded" education. They also believe that historically this right was guaranteed and that The Charter of Rights and Freedoms gives them the right to have such instruction.

Several submissions recommended that a course on world religions be available in schools starting at the grade 9 level. They believe this would lead to greater understanding and acceptance.

The Public Schools Act permits school boards to provide for religious instruction. A school board is required to pass a by-law authorizing instruction in religion if it receives a petition from parents or guardians

Instruction in religion can be conducted during school hours at such time and on days specified in the by-law but for no longer than 2 1/2 hours per week.

Any parent or guardian can request that their

child not participate in religious instruction. A pupil over the age of majority can also make this request. Their request must be granted.

The panel received no information which would lead members to conclude that there are serious problems with the current legislation.

Therefore, it is recommended:

98. That the current legislative provisions respecting instruction in religion be retained.¹⁴²

Encouraging as this government support might have seemed for those who wanted to retain school prayer, the issue and practice had slowly faded in The Winnipeg School Division No.1. The significant use of the opt in clause mentioned by Trustee Yereniuk during the first six months after the passage of By-law 1000 had not been sustained. As the 1992-93 school year began, the present Chair of the Board, MaryAnn Mihychuk, reported only a small number of schools had received "opt in" petitions requesting religious exercises. This confirmed her belief that the Board acted in accordance with the wishes of the majority of people in the Division:

Some of the trustees counting up those names on the signatures tried to argue the majority is for retention of the prayer. I firmly believe that the majority of people, especially in Winnipeg One, prefer this option. In fact, out of the 83 schools, I believe there is only 3 or 4 now that opt to conduct religious ceremonies.¹⁴³

Summary

In response to a "Tec Voc" student presentation regarding the inappropriateness of the Lord's Prayer during

that school's opening exercises, Trustee Lionel Orlikow moved a motion on August 27, 1991, which began a process, provided for under the provisions of Section 84(6) of the Public Schools Act, that ultimately led to the passage of a by-law removing mandatory religious exercises from the schools in The Winnipeg School Division No.1. On September 6, 1991, a memorandum was sent to all Parent Councils seeking public submissions concerning the appropriateness of the predominantly Christian mandated prayer in the opening exercises of the schools of the multicultural, multi-religious division. The second step in the by-law process reflected the Board's continuing desire to broaden the parameters of its decision making by encouraging public consultation on all major issues. At the same time, the Board asked Superintendent Smyth to provide them with information concerning the actual practice of religious exercises in the Division's schools. Superintendent Smyth's subsequent report informed the Board that almost 20%, and possibly as high as 50%, of their schools were not conducting religious exercises according to Manitoba Regulation 554/88. Superintendent Smyth also informed the Board that only 4 of the 14 Parent Councils that responded to his memorandum had requested that religious exercises be discontinued. In response to the call for public input, the Board received, over a five month period from September 1991 to January 1992, almost 150 letters, presentations and

delegations representing the opinions of thousands of citizens from both inside and outside the Division. By a margin of over 2 to 1, the public submissions favored the retention of school prayer. Comments favouring school prayer generally cited the integral need of spiritual contemplation in one's life and the positive moral values that permeate out from religious exercises into the school environment. Comments opposed to mandatory school prayer cited the inappropriateness of their Christian nature in a multicultural society and their infringement on human rights guaranteed under the Charter of Rights and Freedoms. Interestingly, no concerted effort was mounted by the mainline churches to oppose the by-law. Official explanations of this stance referred to a sympathetic understanding of the rights of other religious traditions. Although a number of submissions and indeed, a number of trustees, were interested in exploring alternative religious exercises, legal counsel advised that alternative exercises could not be accommodated under the present provision of the Public Schools Act. Despite this seemingly overwhelming support for the mandated practice, the Board of Trustee drafted By-law 1000 and passed it with a standing vote of 7 for and 2 against. The passage of By-law 1000, on January 9, 1992, distinguished The Winnipeg School Division No. 1 as the first school division in Manitoba to officially remove mandatory school prayer from the school's daily routine. In

accordance with Section 84(8) of the Public Schools Act, parents who still wished to have their children take part in religious exercises, could opt-in by petitioning the Board to have religious exercises conducted, where numbers warranted, at local schools. Although it had been forewarned during the debate, the by-law was implemented in the absence of any substantial public outcry or administrative crisis. The failure of any substantial backlash to materialize was attributed to the constituency's reasonable understanding of the changing nature of the Division's cultural and religious components and an awareness of the judicial imprimatur given the by-law by various court adjudications in other jurisdictions. Eventually, the decision of the Winnipeg Board to draft and pass By-law 1000 was also judicially validated by the ruling of Justice Michel Monnin, of the Manitoba Court of Queen's Bench, on August 13, 1992, when he found in favor of a Manitoba Association of Rights and Liberties petition requesting that mandatory religious exercises be ruled unconstitutional under the provisions of the Canadian Charter of Rights and Freedoms. Initially, a substantial number of "opt-in" petitions were received but within a year the number of schools conducting religious exercises had dwindled to less than a handful.

During the Board's deliberations, four trustees, Lionel Orlikow, Anita Neville, Irene Haigh and MaryAnn Mihychuk, expressed their philosophical opposition to the inclusion of

religion in public schools. A number of other personal considerations also influenced their decision to support the removal of school prayer. Trustee Lionel Orlikow moved the motion to nurture the ideals of democratic citizenship and to assuage his long-standing desire to remove religion from the schools. Trustee Anita Neville supported the by-law because of her belief that mandated religious exercises marginalized children and her personal stance that religious exercises do not have a place in public schools. Trustee Irene Haigh considered mandated prayer and its exclusionary aspects as another facet of systemic racism and as such was inappropriate in a multicultural society. Trustee MaryAnn Mihychuk's support for the by-law came from her belief in the separation of religion and state which allowed her to view school prayer as a moral and human rights issue.

Two trustees, Enid Gillespie and Ed Kowalchuk, were consistent in their public defence of religious components in the education system. Trustee Enid Gillespie, while considering the removal of prayer as an abandonment of faith, defended the practice in terms of its quieting influence and its historical roots and saw its removal as another example of declining educational standards. Trustee Ed Kowalchuk, instrumental in removing the Board's traditional invocation, cast his vote, not as an expression of his support for the retention of prayer, but rather as a sign of his dissatisfaction with the by-law process and its

failure to seriously consider alternatives.

Three Trustees, Mario Santos, Roman Yereniuk, and Pat McTaggart were characterized as swing votes because of their previous support for the continued distribution of Bibles and their present endorsement of the removal of mandatory prayer. Trustee Mario Santos supported the by-law for moral and legal reasons that reflected the covenant in the Charter of Rights and Freedoms to protect minority rights. Trustee Roman Yereniuk's belief in the need for a multicultural, multi-religious approach to religious exercises formed the basis of his decision to endorse the by-law. Trustee Pat McTaggart, though sympathetically in favor of school prayer, countenanced the passage of the by-law because of the availability of the opt in clause for those who wished to continue to express their faith in a public school.

In addition to the stated position of each trustee, a number of important factors seem to have also influenced the final outcome of the by-law process. Paramount among these was the timing of the motion. School prayer had been an issue on the Board from the time it had become a mandated practice in 1955. Revisiting the issue in 1991 placed mandatory prayer within the context of a changed society, a changed Board membership, and judicial precedents on similar issues in other provincial jurisdictions. Winnipeg in the 1990s was a vibrant diverse multicultural community while many of its educational statutes continued to reflect the

passions of the 1950s and earlier. The changing constituency was represented on the Board of Trustees by a more 'progressive' Board that had the political will to implement left leaning social, economic and political policies. The makeup of this progressive Board was characterized by the personal experiences of its members. Almost every trustee had felt stigmatized, to some extent, at some time, and therefore was empathetic to the plight of the physically, emotionally and spiritually disadvantaged. Trustees Orlikow, Neville and Mihychuk specifically remembered experiencing childhood ostracism. In addition, the presentation of the Tec Voc students appeared after similar student grievances, seeking redress through the provisions in the Charter, had been adjudicated favourably in the courts of Ontario and British Columbia. Had Trustee Mario Santos, a Portuguese immigrant, not been completing law school, the by-law might not have passed. Prior to his law studies, Trustee Santos avoided addressing the school prayer issue. With his legal training, he now viewed the arguments against school prayer under the new light of Charter guarantees and judicial reasoning. The legal arguments he raised were cited by other trustees as influential factors in their own decision to support the by-law.

In all, the decision to pass the by-law reflected considerations anchored in the multicultural diversity of the Division; legal reasons that respected the provisions of

the Charter of Rights and Freedoms; considerations which would overcome the exclusionary aspects of the practice that required dissenting students to identify themselves as outside the mainstream by leaving the classroom; and, philosophic reasons that considered the separation of church and state to be the norm and viewed any religious exercises as inappropriate in a public school system. In addition, there is the intangible political reason that may have caused a trustee to vote in support of their political or social allies or with a self-serving wink and a nod towards their own constituency. The implications of the decision of the Board of Trustees of The Winnipeg School Division No.1 to pass By-law 1000 will be examined in the next chapter along with a general summary and conclusions to the study.

ENDNOTES TO CHAPTER V

1. Trustee Anita Neville, interview with author, 5 March 1993.
2. Trustee MaryAnn Mihychuk, interview with author, 19 February 1993.
3. Mihychuk, 19 February 1993.
4. Trustee Roman Yereniuk, interview with author, 17 February 1993.
5. Yereniuk, 17 February 1993.
6. Yereniuk, 17 February 1993.
7. Trustee Ed Kowalchuk, interview with author, 19 February 1993.
8. Trustee Irene Haigh, interview with author, 9 February 1993.
9. Haigh, 9 February 1993.
10. Trustee Mario Santos, interview with author, 5 February 1993.
11. Trustee Lionel Orlikow, interview with author, 26 February 1993.
12. Orlikow, 26 February 1993.
13. Orlikow, 26 February 1993.
14. Public consultation had been initiated in April 1991, by Manitoba Education and Training in its consultation paper, "Creating A Framework for the Future: Education Legislation for the 1990s." The final recommendations of this report would not be tabled, however, until February, 1993.
15. Yereniuk, 17 February 1993.
16. The Winnipeg Free Press, 5 September 1991.
17. Ed Kowalchuk, Memorandum to All Parent Councils, 6 September 1991.
18. Yereniuk, 17 February 1993.
19. Kowalchuk, 19 February 1993.

20. Kowalchuk, 19 February 1993.
21. Santos, 5 February 1993.
22. Santos, 5 February 1993.
23. Kowalchuk, 19 February 1993.
24. Santos, 5 February 1993.
25. Santos, 5 February 1993.
26. Kowalchuk, 19 February 1993.
27. Neville, 5 March 1993.
28. Neville, 5 March 1993.
29. Orlikow, 26 February 1993.
30. Trustee Enid Gillespie, interview with author, 2 February 1993.
31. Mihychuk, 19 February 1993.
32. Mihychuk, 19 February 1993.
33. Yereniuk, 17 February 1993.
34. Yereniuk, 17 February 1993.
35. Sr Lorraine St. Hilaire of the Roman Catholic Archdiocese of Winnipeg, telephone conversation with the author, 3 May 1993.
36. Mihychuk, 19 February 1993.
37. Yereniuk, 17 February 1993.
38. Kowalchuk, 19 February 1993.
39. Haigh, 9 February 1993.
40. Haigh, 9 February 1993.
41. Yereniuk, 17 February 1993.
42. Yereniuk, 17 February 1993.
43. Santos, 5 February 1993.
44. Yereniuk, 17 February 1993.

45. J.C. Smyth, Memorandum to Board of Trustees, 22 October 1991.
46. Kowalchuk, 19 February 1993.
47. Kowalchuk, 19 February 1993.
48. Santos, 5 February 1993.
49. Santos, 5 February 1993.
50. Santos, 5 February 1993.
51. Santos, 5 February 1993.
52. Neville, 5 March 1993.
53. Neville, 5 March 1993.
54. Haigh, 9 February 1993.
55. Haigh, 9 February 1993.
56. Mihychuk, 19 February 1993.
57. Orlikow, 26 February 1993.
58. Yereniuk, 17 February 1993.
59. Yereniuk, 17 February 1993.
60. Yereniuk, 17 February 1993.
61. Yereniuk, 17 February 1993.
62. J.C. Smyth, Chief Superintendent of The Winnipeg School Division No. 1, interview with the author, 8 April 1993.
63. Smyth, 8 April 1993.
64. Orlikow, 26 February 1993.
65. BOT Minutes, 22 October 1991.
66. The Winnipeg Sun, 24 October 1991.
67. Winnipeg Free Press, 3 November 1991.
68. Orlikow, 26 February 1993.
69. Mihychuk, 19 February 1993.

70. Mihychuk, 19 February 1993.
71. Mihychuk, 19 February 1993.
72. Yereniuk, 17 February 1993.
73. Yereniuk, 17 February 1993.
74. Yereniuk, 17 February 1993.
75. Yereniuk, 17 February 1993.
76. BOT Minutes, 3 December 1991.
77. BOT Minutes, 3 December 1991.
78. BOT Minutes, 3 December 1991.
79. The Winnipeg Free Press, 5 December 1991.
80. BOT Minutes, 10 December 1991.
81. BOT Minutes, 17 December 1991.
82. The Winnipeg Free Press, 6 January 1992.
83. BOT Minutes, 9 January 1992.
84. BOT Minutes, 9 January 1992.
85. In fact, the Division banned only mandatory prayer. The option remained for parents to petition prayer for their children, in accordance with the provisions of the Public Schools Act(1987).
86. The Winnipeg Free Press, 10 January 1992.
87. Orlikow, 26 February 1993.
88. Orlikow, 26 February 1993.
89. Orlikow, 26 February 1993.
90. Orlikow, 26 February 1993.
91. Neville, 5 March 1993.
92. Neville, 5 March 1993.
93. Haigh, 9 February 1993.
94. Haigh, 9 February 1993.

95. Mihychuk, 19 February 1993.
96. Mihychuk, 19 February 1993.
97. Mihychuk, 19 February 1993.
98. Mihychuk, 19 February 1993.
99. Mihychuk, 19 February 1993.
100. Gillespie, 2 February 1993.
101. Gillespie, 2 February 1993.
102. Gillespie, 2 February 1993.
103. Gillespie, 2 February 1993.
104. Gillespie, 2 February 1993.
105. Kowalchuk, 19 February 1993.
106. Kowalchuk, 19 February 1993.
107. Kowalchuk, 19 February 1993.
108. Kowalchuk, 19 February 1993.
109. Santos, 5 February 1993.
110. Santos, 5 February 1993.
111. Santos, 5 February 1993.
112. Santos, 5 February 1993.
113. Yereniuk, 17 February 1993.
114. Yereniuk, 17 February 1993.
115. Trustee Pat McTaggart, telephone interview with the author, 29 July 1993.
116. McTaggart, 29 July 1993.
117. McTaggart, 29 July 1993.
118. McTaggart, 29 July 1993.
119. McTaggart, 29 July 1993.
120. McTaggart, 29 July 1993.

121. Haigh, 9 February 1993.
122. Orlikow, 26 February 1993.
123. Neville, 5 March 1993.
124. Gillespie, 2 February 1993.
125. Neville, 5 March 1993.
126. Kowalchuk, 19 February 1993.
127. Yereniuk, 17 February 1993.
128. Santos, 5 February 1993.
129. J.C. Smyth, Memorandum to All Principals, 20 January 1992.
130. Yereniuk, 17 February 1993.
131. Mihychuk, 19 February 1993.
132. BOT Minutes, 21 January 1992.
133. Smyth, 8 April 1993.
134. The Winnipeg Free Press, 20 May 1992.
135. The Winnipeg Free Press, 20 May 1992.
136. BOT Minutes, 16 June 1992.
137. Yereniuk, 17 February 1993.
138. Manitoba Association of Rights and Liberties, Inc., Jesse Vorst and Ivan Pokus and the Government of Manitoba, the Minister of Education for Manitoba and the Advisory Board, Court of Queen's Bench, Manitoba, 13 August 1992.
139. Communique from J.D. Carlyle, Deputy Minister of Education and Training to all Manitoba Superintendents and Principals, 26 August 1992.
140. This requirement became unnecessary with the ruling by Justice Monnin, on 13 August 1992, that mandatory school prayer was unconstitutional.
141. Manitoba Education and Training, Report of the Panel on Education Legislation Reform, February, 1993, 53-55.

142. Manitoba Education and Training, Report of the Panel on Education Legislation Reform, February, 1993, 55-56.
143. Santos, 5 February 1993.

CHAPTER VI

EXEGESIS: AN INTERPRETATION OF THE CASE

It was the purpose of this study to examine the circumstances and process that led to the drafting and passage, by the Board of Trustees of the Winnipeg School Division No.1, of By-law 1000. The passage of this by-law removed mandatory religious exercises from the schools in the Board's jurisdiction. The case study method was used because it provided the best means of defining the root causes of the school prayer issue and of extracting the unique perspective of each trustee on the nature of the issue and their rationale for either voting for or against the by-law. A semi-structured interview, with the nine then-sitting trustees and a number of other interested parties, was used as the primary research instrument. Interview data was reinforced and supplemented with data obtained from the minutes of the Board of Trustees' meetings, newspaper and magazine articles, historical accounts, and legislative and legal documents.

This chapter begins with a brief review of the historical and contemporary events that defined school prayer as an issue. The rationale, both expressed and underlying, of each trustee for the by-law motion is then succinctly given. A number of conclusions are drawn on the basis of the events and opinions expressed in the study.

Finally, a number of implications arising from the perspectives of the trustees concerning the school prayer issue and from the collective decision of the Board to pass By-law 1000 are briefly discussed, especially as they concern educational policy, schooling practices and further research.

Summary

The educational efforts of the Catholic, Anglican, Presbyterian and Methodist missions were instrumental in the early development of a permanent school system in the Province of Manitoba. The dominant role played by religion in these early schools continued to be evident in the terms and spirit of the Manitoba Act(1870) and in the establishment of the province's denominational school system in 1871. In the dual school system, religion became the dominant force in the Catholic section of the Board of Education but the difficulty of accommodating a variety of denominational philosophies tended to create more secularized schools in the Protestant section. Within a few years of joining the Union, the changing social fabric in the province and the maturing of provincial politics made change to the education system inevitable. Religious and linguistic friction and political chicanery eventually led to the enactment of anti-Catholic and anti-French

legislation in 1890. The ensuing political and religious debate, concerning whether the institutions of French-speaking Roman Catholic Quebec or English-speaking Protestant Ontario would prevail in the province, became known as the Manitoba School Question. It was hoped, by the pro-legislation supporters, that the abolition of the denominational system and the official status of the French language could be accomplished by the consent of the population as a whole and not just by the weight of the English Protestant majority which had become increasingly influential through the assimilation of new immigrants. In the end, Manitoba's French-Catholic population was robbed of its constitutional rights and privileges and political and legal moves to redress their grievances proved unsuccessful. The Laurier-Greenway Compromise, agreed to by the Federal and Provincial Governments in 1896, created a public school system that satisfied none of the parties concerned and failed to resolve either the political or religious issues. The unsatisfactory nature of the compromise legislation ensured that the religious and linguistic elements of the issue would continue to be featured in future debates in the Manitoba legislature and elsewhere.

A decision in 1916 by the Manitoba Government to repeal the bilingual clause in the Public Schools Act(1890) further exacerbated the dissenting minorities' feelings of abuse and left optional religious exercises and instruction as the

only remnant of religion's former dominance. An apparent growing indifference on the part of students toward religious matters and the difficulty school boards faced in providing acceptable religious teaching, when requested, contributed to the Manitoba Provincial Government's decision, in 1955, to enact legislation making religious exercises compulsory in all its public schools. This decision was supported by the findings of a 1957 Royal Commission on Education which also recommended a degree of public funding for private schools. The 1955 mandatory school prayer legislation satisfied those who believed in the need for a connection between religion and education in order to develop better character along with better minds but displeased those who thought the public school system should be a purely secular institution. The legislation also displeased the growing non-Christian community who could not, under the provisions of the Public Schools Act(1987) and the 1964 Christian-dominated approved religious exercises of the Advisory Board, nurture their religious beliefs in the school setting. Dissenting and non-Christian students were left with only two, equally-unconscionable options - passive participation or voluntary abstention by leaving the classroom. The requirements of the mandatory legislation and the objectionable consequences of the options available became points of contention in litigation fought in Manitoba, and similarly in Ontario and British

Columbia, after the arrival of the Canadian Charter of Rights and Freedoms in 1982. The Charter provided an opportunity to move the debate concerning mandatory religious exercises out of the confining jurisdiction of local school boards and into the public arena of the courts. The judicial reasoning used to resolve these disputes garnered some of its inspiration from American court decisions.

Manitoba's first challenge to mandatory religious exercises came from Chris Tait, a high school student, whose arguments showed that mandatory religious exercises offended the Canadian Charter of Rights and Freedoms and Manitoba's human rights legislation. Tait's arguments were also reflected in a petition filed in Manitoba's Court of Queen's Bench in December 1988 by the Manitoba Association of Rights and Liberties, Inc, Jesse Vorst and Ivan Pokus. Although not resolved by the time By-law 1000 was passed, this petition did motivate the Provincial Government to remove, from its regulations, the requirement for teacher participation in the mandatory religious exercises. The resolution of the Tait affair and the filing of the M.A.R.L. petition occurred at the time when the Board of Trustees of the Winnipeg School Division No.1 were engaged, through a Task Force on Race Relations, in public dialogue on a variety of educational issues arising out of the multicultural diversity of the division. In its final report, the Task

Force made a typically American distinction between the teaching of religion and the practice of religious exercises and recommended more of the former and an abolition of the latter. Although the school prayer issue had been raised periodically on the Board and even though the Board itself had discontinued the tradition of beginning Board meetings with an invocation, no decisive action was taken on this recommendation. Similarly, in its first major debate on a religious issue, the Board rejected a motion, moved by Trustee Lionel Orlikow, to stop the distribution of Gideon Bibles to Grade Five students.

A little over two years after the Task Force on Race Relations recommended the removal of mandatory religious exercises and shortly after the Provincial Government began its own review of religious exercises in public schools, the Board of Trustees, on April 30, 1991, received a presentation from the Technical-Vocational High School Leadership Team. This student presentation, which requested that the Lord's Prayer be removed from that school's opening exercises and be replaced with "a moment of silence," became the catalyst for the Board to finally address the school prayer issue. Consideration of the issues raised by this presentation and the desire, on the part of some Trustees, to give practical meaning to democratic citizenship, resulted in a motion being put forth by Trustee Lionel Orlikow, on August 27, 1991. This motion began a process,

provided for under the provisions of Section 84(6) of the Public Schools Act, that ultimately led to the passage of a by-law removing mandatory religious exercises from the schools in The Winnipeg School Division No.1. On September 6, 1991, as part of the Division's practice of providing for public consultation on all major issues, all Parent Councils were asked to comment on the appropriateness of the predominantly Christian mandated religious exercises in the opening exercises of the schools of the multicultural, multi-religious division. In response to the call for public input, the Board received almost 150 letters, presentations and delegations representing the opinions of citizens from both inside and outside the Division. By a margin of over 2 to 1, the public submissions favoured the retention of school prayer. Comments favouring school prayer generally cited the integral need of spiritual contemplation in one's life and the positive moral values that emanate from religious exercises into the school environment. Comments opposed to mandatory school prayer cited the inappropriateness of their Christian nature in a multicultural society and their infringement on human rights guaranteed under the Charter of Rights and Freedoms. Although a number of submissions and indeed, a number of trustees, were interested in exploring alternative exercises as an option to removing school prayer, legal counsel advised this could not be accommodated under the present

provision of the Public Schools Act. Despite the overwhelming support for mandated religious exercises in the public submissions to the Board, the Trustees passed By-law 1000 with a standing vote of 7 for and 2 against.

During the Board's deliberations, four trustees, Lionel Orlikow, Anita Neville, Irene Haigh and MaryAnn Mihychuk, expressed their philosophical opposition to the inclusion of religion in public schools. A number of other personal considerations also influenced their decision to support the removal of school prayer. Trustee Lionel Orlikow moved the motion to nurture the ideals of democratic citizenship and to satisfy his long-standing desire to remove religion from the schools. Trustee Anita Neville supported the by-law because of her belief that mandated religious exercises marginalized children and her personal stance that religious exercises do not have a place in public schools. Trustee Irene Haigh considered mandated prayer and its exclusionary aspects as another facet of systemic racism and, as such, inappropriate in a multicultural society. Trustee MaryAnn Mihychuk's support for the by-law came from her belief in the separation of religion and state which allowed her to view school prayer as a moral and human rights issue.

Two trustees, Enid Gillespie and Ed Kowalchuk, were consistent in their public defence of religious components in the education system. Trustee Enid Gillespie, while considering the removal of prayer as an abandonment of

faith, defended the practice in terms of its quieting influence and its historical roots and saw its removal as another example of declining educational standards. Trustee Ed Kowalchuk, instrumental in removing the Board's traditional invocation, cast his vote, not as an expression of his support for the retention of prayer, but rather as a sign of his dissatisfaction with the by-law process and its failure to seriously consider alternatives.

Three Trustees, Mario Santos, Roman Yereniuk, and Pat McTaggart were characterized as swing votes because of their previous support for the continued distribution of Bibles and their disposition to favor the removal of mandatory prayer. Trustee Mario Santos supported the by-law for moral and legal reasons that reflected the covenant in the Charter of Rights and Freedoms to protect minority rights. Trustee Roman Yereniuk's belief in the need for a multicultural, multi-religious approach to religious exercises formed the basis of his decision to endorse the by-law. Trustee Pat McTaggart, though sympathetically in favor of school prayer, countenanced the passage of the by-law because of the availability of the opt-in clause for those who wished to continue to express their faith in a public school.

The passage of By-law 1000, on January 9, 1992, distinguished The Winnipeg School Division No. 1 as the first school division in Manitoba to officially remove mandatory religious exercises from the school's daily

routine. In accordance with Section 84(8) of the Public Schools Act, parents who still wished to have their children take part in religious exercises, could "opt-in" by petitioning the Board to have such exercises conducted, where numbers warranted, at local schools. Eight months after the passage of By-law 1000, on August 13, 1992, the Board's decision was judicially validated by the ruling of Justice Michel Monnin, of the Manitoba Court of Queen's Bench. In finding in favour of the M.A.R.L. petition, Justice Monnin ruled that mandatory religious exercises were unconstitutional under the provisions of the Canadian Charter of Rights and Freedoms. Initially, approximately one-fifth of the Division's schools received requests from parents to conduct religious exercises for their children. Within a year, however, the number of schools required to conduct religious exercises had dwindled to less than a handful.

Conclusions

The passage of By-law 1000 was the product of several factors operating together, the most important being the personal experiences and "philosophy" of each trustee and the timing of the motion. Trustees Lionel Orlikow, Anita Neville, Irene Haigh and MaryAnn Mihychuk, were a "bloc of four" who steadfastly opposed the inclusion of any religious

exercises in a public school. The position of each trustee represented a personal belief in the complete separation of church and state and, therefore, also in the inappropriateness of Christian-dominated religious exercises in a multicultural society. The testimony of each of these trustees indicated that their stance on this issue was shaped, in large part, by their own personal experiences before they joined the Board and, as such, each was prepared to move on this issue at any time.

Three trustees, Mario Santos, Roman Yereniuk, and Pat McTaggart were considered swing votes and their support for the by-law was mainly due to persuasive external factors they encountered after joining the Board. Trustee Santos was influenced, through his law studies, by the requirements of the Charter of Rights and Freedoms and the judicial decisions in other provinces on similar issues. Trustee Yereniuk, active in multicultural and multi-religious organizations, supported the by-law after his awareness of multicultural and multi-religious issues was given specificity through discussions concerning school prayer with non-Christian friends. Trustee McTaggart supported the by-law, not because she opposed school prayer, but because the multicultural and legal arguments against the practice became acceptable when she saw that the Public Schools Act provided for the voluntary inclusion of religious exercises for those who wanted to continue to give expression to their

religious beliefs.

Of the two trustees who opposed the by-law, only Trustee Enid Gillespie, an advocate of spiritual contemplation, supported the continuation of mandatory school prayer per se, although she defended the practice in non-religious terms. Trustee Ed Kowalchuk's opposition to the by-law reflected his dissatisfaction with the process of the decision rather than with the outcome of the by-law's passage, although he did not believe in forcing people to pray.

The personal considerations articulated by each of the trustees may not, in themselves, have been enough to secure the passage of the by-law had not the climate of the times been ripe for action. Although the nature and appropriateness of religious exercises had been a topic of discussion on other Boards, revisiting these concerns, at this time, made religious exercises an issue because of the changes in society, the change in Board membership, and the judicial rulings on similar issues in other provincial jurisdictions. Winnipeg, in the 1990s, is a vibrant diverse multicultural community but many educational statutes continue to reflect the passions and priorities of the 1950s and earlier. The school board elections of 1989 resulted in the formation of a self-described 'progressive' Board of Trustees that had the collective political will to address a number of social, economic and political issues that

previous Boards had either refused to deal with or had addressed ineffectively. Additionally, and most specifically, the presentation of the "Tec Voc" students might not have been the catalyst it was, had it not appeared after similar student and parental grievances, seeking redress through the provisions in the Charter, were adjudicated favourably in the courts of Ontario and British Columbia. It was a careful reading of these judicial rulings that persuaded Trustee Santos that he had a moral and legal obligation to vote in favor of the by-law. His legal argumentation and his decision to support the by-law provided supplementary support for the decisions of Trustees Yereniuk and McTaggart also to vote in favor of the by-law.

It seems that the final resolution of the school prayer issue was not so much a decision reached through the workings of a deeply political process, either among trustees who supported the by-law or between trustees and their constituents. Rather, it reflected more the linkage between each trustee's personal experiences, motivations, outlook and philosophy and the outcomes each perceived could be achieved through the passage of the by-law. A majority of the trustees approached the school prayer issue with their own unique perspective which, for the most part, had not been shaped or influenced to any great extent by other members of the Board, although the "bloc of four" did provide a solid foundation on which to move the motion to

draft the by-law. Each of the other three trustees supporting the by-law was instrumental in its passage but Trustee Santos was seen as the key player because any suggestion of alternatives to mandatory religious exercises could not assuage his support for the by-law on moral and legal grounds. Thus, to a large extent, the issues in this debate and their resolution were clearly defined for a number of trustees even before the Board began its deliberations. In this respect, it is interesting to note that the majority view among trustees was that the passage of the by-law could not be distinguished as a major decision of the Board. This suggests that few political risks were involved for most trustees in either voting for or against the by-law.

An examination of the passage of By-law 1000 also shows that the debate concerning the nature and purpose of schooling continues to rage on. However, this interminable debate, which includes the need for the 3 R's and the duty of schools to instill values and morals, has been infused with two new considerations - how to identify and fulfil the needs of a multicultural society, and, the recognition that, increasingly, the parameters of educational practice will be defined by judicial interpretations of the impact of those practices on individual rights guaranteed by the Charter of Rights and Freedoms. The most obvious illustration of these new considerations was the decision of Trustee Santos to

support the by-law.

Implications

The passage of By-law 1000 removing mandatory religious exercises from The Winnipeg School Division No.1 and its subsequent judicial validation raises a number of implications for the Division and for educational policy and practice in general. The most obvious question to be raised by the removal of religious exercises is, "What effect does the removal of mandated prayer have on related religious aspects of schooling?" Supporters of school prayer were initially encouraged by the substantial number of parents who took advantage of the opt-in clause but the number has since dwindled to the point where the norm now appears to be the absence of any religious exercises. It also seems apparent that the recognition of the inherent difficulties associated with providing a multi-religious exercise precludes any attempt to implement this practice although a "moment of silence" still remains an acceptable alternative for a number of trustees who countenanced the retention of some form of spiritual contemplation. This apparent abandoning of religious exercises is perhaps a harbinger of the fate of other religious activities in the school system. Of concern is a question studiously avoided by the Board during its deliberations over prayer: "If the Division is

removing prayer, does this mean that other religious activities and celebrations such as Christmas, Ramadan and Chanukah must also be removed from the schools?" The continuation of these activities may ultimately reside in the degree of autonomy the Board gives to local decision making bodies. Similarly, a program of religious education, recommended by the Task Force and endorsed by a Board motion, is unlikely to be developed in the near future because of problems that could immediately surface when a teacher of one religion attempted to dispassionately teach about another religion. Such renderings of religious dogma would probably not be acceptable to parents of that tradition. A superficial sharing of religious practices would also fall short of the potential such courses could have in providing a proper understanding of the beliefs of other faiths. Also it seems contradictory to teach respect and understanding for religious traditions and then refuse the practical expression of those traditions except by special petition. Without the presence of religious education courses and the continuation of some religiously specific activities, for example, Christmas celebrations, students may be left to conclude that religious ideas or practices are of no consequence in human life.

The passage of the by-law also raises some interesting questions about the nature and meaning of multiculturalism and multicultural education. Canada, and Manitoba in

particular, is quickly losing its traditional mainstream identity and may soon reach the point where the term "mainstream" begins to reflect a purely economic function rather than a badge of social membership. The breakdown of these social barriers increases the pressure to make education more responsive to the cultural diversity that characterizes this society and to prepare students to live in a multicultural community. Do present and popular conceptions of multiculturalism and multicultural education merely require the periodic exposure of students to a variety of cultural attributes or practices from various sources? Is the eventual outcome of this kind of multicultural experience the assimilation of all groups into one homogeneous civic culture which appropriates unproblematically a variety of selected cultural characteristics and a norm of tolerance? If, in contrast, society is characterized as multicultural because it allows its cultural groups free expression of their unique ethos, does this not mean that a public school system, espousing the same multicultural ideals, must also allow in its schools, on a regular basis, the expression of that cultural ethos which may include language, dress, dietary considerations, spiritual predispositions and religious beliefs?

In this multicultural vein, it is interesting to note the efforts of The Winnipeg School Division No. 1 to

establish a number of alternative educational programs based on linguistic considerations that also incorporate a number of religious components. A question that arises is, "Who decides to what extent these religious components merely facilitate the learning of the language or actually become an important component in the daily activity of the school?" For example, in the Hebrew bilingual school the Torah is used as a teaching aid and Christmas celebrations play an important part in the Ukrainian bilingual program. In addition, aboriginal cultural and spiritual considerations are integral to the *raison d'être* of the establishment of the Children of the Earth School. Although the Hebrew and Ukrainian programs were established as linguistic programs, the religious components appear to reflect a fundamental part of the school curriculum and it is doubtful that these schools could have a neutral attitude to these religious components. The question most apparent is, "What makes language the definitive consideration in the establishment of these schools?". In practice it seems that language programs, although open to all, by their very nature become community specific and thus inherently exclusionary. If it is recognized that much more than just the language is transmitted in these institutions, should not other similar schools be permitted, for example, for Muslims, Hindus, or Sikhs? Are not the aboriginal schools in Winnipeg No.1 already a precedent? Arguably, the purpose and functioning

of Children of the Earth could not be fulfilled without its spiritual component which, in effect, dissuades the vast majority of non-aboriginal students from attending the school. Officially it is suggested that all students in the Children of the Earth School have "opted-into" the spiritual exercises at that school. Children of the Earth is, therefore, in reality a "special interest" or "cultural school" in the public domain supported by public funds. Yet the spiritual circle and sweet grass ceremony, which are characteristic of the exercises promoted in the Children of the Earth School, would seem to be inconsistent both with the Board of Trustees' decision on school prayer and the legal reasoning which produced the court rulings on religious exercises. Although these aboriginal exercises have not, as yet, been judicially examined it is not inconceivable that they could be, on essentially the same basis as Judeo-Christian exercises were brought under the eye of the courts. The perpetuation of schools like Children of the Earth and of the philosophical orientation which seems to underpin them raises an important question, "Are trustees in Winnipeg No.1 prepared to accept a level of exclusion in order to maintain racial harmony and foster a view of multiculturalism which sees the public school as a vehicle for distinctive cultural resuscitation and retention?"

The arguments in favor of the inclusion of religious

exercises in schools because of their perceived ability to imprint on students a set of community sponsored morals and values also suggest important implications. Although there may be certain values that can be inculcated without reliance upon a faith-centered approach, the transmission of appropriate morals and values is too important a matter to simply be left to the discretion of principals or classroom teachers and the normal course of events in the classroom. It must be said that it was hoped, by a majority of the trustees supporting its passage, that By-law 1000 would facilitate the removal of all religious beliefs from the public school system and make schools religiously neutral. What the by-law may have accomplished is the replacement of the schools' Christian-dominated worldview with an officially secular and humanistic one. As a worldview, though, secular humanism is as contentious for some as organized religion is for others. The extent to which this viewpoint is pervasive or is seen to be actively promoted in public schooling may create new issues in the future. In short, are secular values acceptable to all parents? If they are not, would parents feel that schools were not supporting them in their endeavour to pass on to their children the values they cherish and wish to preserve? It would seem that such parents might consider it a curious situation when public schools are willing to install condom machines yet refuse to countenance the airing of related moral principles

grounded in religious teachings. If a neutral environment cannot be provided for the enculturation of morals and values, should not an environment be provided which will facilitate the expression or non-expression, as people chose, of their value preferences, whether they be religiously determined or not? In part, the establishment of the Children of the Earth School and the special educational arrangements provided by the Assiniboine South School Division¹ for "the Christian Brethren" who oppose the inclusion, in their children's classrooms, of a variety of educational technologies, would seem to answer this question in the affirmative. Should not similar accommodations be made, through the establishment of a number of publicly funded denominational schools for example, for parents who disagree with the ethos characteristic of an officially secular public school?

It is very likely that school prayer became an issue in The Winnipeg School Division No. 1 because of the cultural and religious diversity of the division. However, the Board of Trustees that passed By-law 1000, although self-described as a "progressive board", had no visible minorities or aboriginals as members and yet the Board's decisions have a direct impact on these groups. Although the visible minorities may not, as yet, be of sufficient numbers and political strength to shape Board policy directly as trustees, that time may be drawing near. As a changed Board

membership becomes more distanced from the perceived mainstream, Board policy may be dramatically affected.

Finally, the deliberations of the Board of Trustees and the findings and considerations in this study suggest a number of areas where related research could be conducted. Of particular interest to this study would be an examination of the reasons for the decline in the number of "opt-in" petitions and the general decline in support for religious exercises in the Division. An additional area of useful investigation would be the establishment of an aboriginal elementary school and high school in the Division and the degree to which the purpose and function of these facilities is critically anchored in cultural and spiritual considerations. Secondly, since there is in existence, a Hebrew-bilingual and a Ukrainian-bilingual program, it would be of interest to find out what part religious components play in the schools' programs. Finally, it would be of interest to examine the implications for governance and administration of The Winnipeg School Division No.1 given its apparent policy of broadening its decision making to include a significant component of local involvement as a means of responding to the varied needs and interests of a diverse constituency.

ENDNOTES TO CHAPTER VI

1. Telephone conversation, on August 13, 1993, with Greg Carpenter, one of three teachers involved in providing an alternative K-12 program for "the Christian Brethren" children. Attempts by this group to secure an alternative education program is reported in the Winnipeg Free Press on 27 August 1992 and 26-27 November 1992.

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APPENDIX A

LETTER TO TRUSTEES

I am a Master of Education student at the University of Manitoba engaged in research for my M.Ed thesis. My study is an examination of the circumstances and process surrounding the passage of By-law 1000 - Religious Exercises in Schools, by the Board of Trustees of The Winnipeg School Division No.1. I believe this decision merits study as an example of how a school board identifies and deals with a contemporary educational issue in the light of the educational needs of its changing constituency. Additionally, this study is warranted because the passage of By-law 1000 uniquely distinguished The Winnipeg School Division No.1 as the first Manitoba school division to officially suspend religious exercises from the daily school routine.

As you were a participant in the decision-making process of By-law 1000, I am interested in complementing the public information available from the Board of Trustee minutes, reports, memorandum and other sources with your personal comments, insights and perceptions on the by-law decision and possible implications of its passage. In this regard, I would like to arrange to tape an interview with you at your convenience. The initial interview would be concerned with, but not limited to, the topical questions on the attached Interview Schedule. The interview would take approximately one hour and may be followed up by brief meetings or telephone conversations for clarification purposes.

It is not the intent of the study to use the entire transcript of your interview, but specific interview commentary, if cited in the study, will be attributed to you unless you indicate otherwise either on the attached "Reply" form or if you request anonymity at any time during the interview. Certainly you may refuse to participate in the study or, indeed, withdraw at any time, without penalty. At the study's completion the interview tapes will be destroyed and you, as a participant, will be provided with the general results.

If you have any questions or concerns regarding the study or your involvement, please phone me at (office), or (home). Information concerning the study may also be obtained from my thesis advisor, Dr John Long, Faculty of Education, University of Manitoba () or from my committee members Dr Romulo Magsino() and Professor Ken Osborne(). I look forward to talking with you.

Sincerely,

Robert DeBrouwere

Dr John Long
Advisor

Dr Romulo Magsino
Head of Department

INTERVIEW SCHEDULE

1. How did you view religious exercises? From a historical perspective? As a school practice? As an issue?
2. How did you view the Chris Tait affair?
3. What was the genesis of the Task Force on Race Relations and how were its terms of reference decided?
4. How well did you think the final report of the Task Force on Race Relations articulated the division's educational goals?
5. In what manner and to what extent was your decision regarding By-law 1000 influenced by the findings and recommendations of the Task Force on Race Relations?
6. How did you view the relationship between the issue of the distribution of Bibles and the issue of religious exercises?
7. By whom was the issue of religious exercises raised and how was it advanced within the membership of the Board of Trustees?
8. How did the arguments in the public presentations to the Board of Trustees influence your decision?
9. How did Court decisions concerning religious issues in Ontario and British Columbia and the case then pending in the Manitoba Court of Queen's Bench influence your decision?
10. What arguments were advanced by members of the Board of Trustees in favor of the issue of banning school prayer?
11. What arguments were advanced by members of the Board of Trustees against the issue of banning school prayer?
12. What do you perceive to be some of the possible implications of the passage of By-law 1000 on educational and community goals? On the administration of the schools in Winnipeg School Division No.1?

13. To what extent were your own views on religion, or indeed, your own religious beliefs a factor in your decision to support or oppose by-law 1000?
14. Are there any written documents, correspondence, memoranda or reports which would help me understand your position or the position of other board members and the issue generally which I have not mentioned?
15. Are there any other considerations in your decision or the board's deliberations regarding the by-law which I have not specifically raised?
16. As a general observation, why do you think By-law 1000 was passed by the Board of Trustees

REPLY TO THE REQUEST TO BE INTERVIEWED

To: Robert M DeBrouwere

Winnipeg R

I _____ am _____ / am not _____
 willing to be interviewed as part of your research into the
 passage of The Winnipeg School Division No.1 By-Law 1000
 regarding religious exercises.

I am _____ / am not _____
 willing to have specific interview commentary attributed to
 me. I understand that even if I do not indicate a desire for
 anonymity on this form, I can request it at any time during
 the interview.

I also understand that I can refuse to participate or
 withdraw from the study at any time without penalty.

If you are willing to be interviewed, I will contact you
 upon return of this letter to arrange an interview at a
 place and time convenient to you. Would you please confirm
 these details:

Telephone: Work _____ Home _____

Address: Work _____ Home _____

In order to reduce inconvenience to you, please also
 indicate if there are dates within the next few weeks when
 you will not be available for an interview:

Thank you for your attention to my request. Please return
 this reply in the attached self-addressed, stamped envelope.

 Your Signature

 Date

APPENDIX B

MISSION STATEMENT OF THE WINNIPEG SCHOOL DIVISION NO.1

1. MISSION STATEMENT

The Mission of the Winnipeg School Division No.1 is to provide a learning environment that promotes and fosters the growth of each student's potential and provides an opportunity for the individual student to develop the knowledge, skills, and values necessary for meaningful participation in a global and pluralistic society.

2. GUIDING PRINCIPLES

- 2.1 The Winnipeg School Division No.1 believes in the equality, worth, potential, and dignity of all individuals.
- 2.2 The Winnipeg School Division No.1 believes that the public school is an essential component of society and culture. By working cooperatively with the home and the community the Division can ensure that its programs reflect the changing needs of society and the values, beliefs, and traditions of the local school community.
- 2.3 The Winnipeg School Division No.1 believes that in addition to basic literacy and communication skills all students must be challenged to develop the ability to interpret and evaluate information.
- 2.4 The Winnipeg School Division No.1 believes that each student must be given the opportunity to develop the values, attitudes, and moral principles that enable them to become responsible citizens who relate to others in an empathetic and moral manner.
- 2.5 The Winnipeg School Division No.1 believes its greatest resource is the staff. The Winnipeg School Division No.1 is committed to providing professional development for all employees and an opportunity to participate in the decision-making process of the Division.
- 2.6 The Winnipeg School Division No.1 will advocate on behalf of students to ensure appropriate care and support services are provided for all children.
- 2.7 The Winnipeg School Division No.1 believes in the dignity of the individual and supports the staff in the maintenance of proper student conduct to ensure a safe nurturing learning environment within the schools.

3. GOALS

The Winnipeg School Division No.1 is committed to the following goals:

- 3.1 To develop the maximum potential of each student in the development of basic literacy, communication, and computation skills.
- 3.2 To provide opportunities for students to develop analytical and creative skills.
- 3.3 To provide opportunities that promote the optimum growth of the whole individual.
- 3.4 To provide students with a stimulating and challenging environment which promotes:
 - the active involvement of students in the learning process
 - the ability to become self directing
 - an enquiring attitude
 - the ability to adapt to and manage change.
- 3.5 To provide learning environments where each student may develop self confidence and the satisfaction derived from personal achievement.
- 3.6 To provide a climate which fosters an objective and sympathetic understanding of all value systems in one's own culture and other cultures.