

IN THE MATTER OF AN ARBITRATION

BETWEEN:

**THE CHURCHILL LOCAL ASSOCIATION NO. 37-3
of THE MANITOBA TEACHERS' SOCIETY**

- and -

THE SCHOOL DISTRICT OF CHURCHILL NO. 2264

Donald Baizley, Q.C.
Gerald Parkinson
Lawrie Cherniack

COUNSEL

Mel Myers, Q.C., for the Association
Robert Simpson, for the School District

AWARD

1. The Issues

The grievance submitted by The Churchill Local Association No. 37-3 of The Manitoba Teachers' Society (the "Association") to The School District of Churchill No. 2264 (the "School District") reads, in part, as follows:

On June 1, 1986, the Association gave notice in writing to the School District that effective August 25, 1986, all teachers represented by the Association and subject to the current Collective Agreement would arrive at school daily at 8:45 o'clock in the morning and leave promptly at 3:30 or 3:40 o'clock in the afternoon and that said teachers would discontinue supervision of all extra-curricular activities and refuse all voluntary administrative activities.

The School District, by letter dated August 22, 1986, replied to the above-mentioned notice and stated in its letter:

With respect to your threat to work to rule the activities to which you refer, you have been performing as long as we can remember and are considered to be part of the contractual duties for which the teachers are paid.

Any refusal to accept these assignments will be considered to be a breach of Contract, a breach of the Collective Agreement and an act of Insubordination, and the Board will have to treat it as such.

The Association submits that:

- (1) all work assigned to teachers prior to 8:45 o'clock in the morning and after 3:30 or 3:40 o'clock in the afternoon of each school day is not part of the contractual duties for which the teachers are paid, but are services provided by teachers gratuitously and voluntarily;
- (2) by written notice dated June 1, 1986 any previous practice (which is not admitted but denied) relating to the voluntary provision of services by teachers prior to a :45 o'clock in the morning or after 3:30 or 3:40 o'clock in the afternoon of each school day was rescinded, effective August 25, 1986; and
- (3) the refusal of the teachers to carry out assignments of work prior to 8:45 o'clock in the morning or after 3:30 or 3:40 o'clock in the afternoon of each school day does not constitute a breach of contract, a breach of the Collective Agreement, or an act of insubordination on the part of the teachers.

The Association therefore requests that the School District:

1. acknowledge that the written notice of June 1, 1986, referred to above constitutes notice that any alleged previous practice of teachers in carrying out assignments of work beyond their regular hours of work was terminated effective August 25, 1986;
2. acknowledge that the carrying out of assignments of work by teachers beyond the regular hours of work is voluntary on the part of the teachers and not obligatory, and unless mutually agreed to, teachers will not be required to carry out such work assignments;
3. acknowledge that a refusal by the teachers to carry out work assignments prior to 8:45 o'clock in the morning or after 3:30 or 3:40 o'clock in the afternoon of each school day, unless mutually agreed to, does not constitute a breach of contract, a breach of the Collective Agreement, or an act of insubordination by a teacher
4. acknowledge that there is no legal obligation for teachers employed by the School District to work prior to 8:45 o'clock in the morning and after 3:30 or 3:40 o'clock in the afternoon of each school day unless the teacher voluntarily agrees to do so; and
5. undertake to cease and desist from requiring teachers employed by the School District to carry out any work assignments prior to 8:45 o'clock in the morning or after 3:30 or 3:40 o'clock in the afternoon of each school day unless the teacher voluntarily agreed to do so .

At the outset of the hearing it was agreed that this Board was properly constituted and had jurisdiction to hear the grievance. The Association agreed as well at the outset of the hearing that there are certain activities which teachers are required to perform as part of their duties which

would require them to work beyond the hours set out above; these included meting out discipline (detentions), remedial help which could not be done during the school day, meetings with parents, staff meetings necessary for administration. and school activities which cannot be completed within a day {field trips. for instance). In addition, there are special circumstances for a Physical Education teacher.

The Association outlined those activities which it believed were not required for teachers to perform; these included sports activities (whether intramural or inter-school - the physical education teacher aside), social activities (dances, graduation) concerts (Christmas, drama nights), and recreational activities (clubs of all sorts).

In essence then, the Association's position is that it is a violation of the Collective Agreement between the parties for the School District to impose an obligation upon teachers - under threat of discipline - to continue the sports, social. and recreation activities, as well as the concerts. outlined above. Although the grievance is couched in terms of a particular workday consisting of certain hours during that day, it was clear throughout the hearing that the issue between the parties rested not so much on when work had to be done but rather on what kind of work a teacher is obligated to perform.

The term "extra-curricular activities" will be used to describe the sports, social, and recreation activities, and the concerts, to which the teachers object to being required to perform. This term is used solely because it conveys the concept of being out of the established curriculum, but is not intended to indicate acceptance that anything out of the established curriculum is necessarily not part of the job of a teacher.

The Board notes that the Association activity in withdrawing from "extra-curricular" activity was expressed by the Association to be for the purpose of achieving certain results in collective bargaining. In dealing with the grievance before us we were not asked by the Association or the School District to consider whether the activity at issue in the grievance violated the Public Schools Act of Manitoba or the Collective Bargaining Agreement. We are not ruling on that topic and would not want this Award to be taken as commenting on that situation. We have approached the question as though the activity of the Association was unrelated to collective bargaining for the purposes of this Award.

2. The Law

This is a complex area of the law. There is nothing specifically on the exact point we are dealing with. There are statutes, a collective agreement, and common law to be dealt with.

A. Statutory Law

The Public Schools Act (the "Act"), L.R.M. 1987, c. P250, requires that there *be a* written agreement between every teacher in Manitoba and that teacher's school board. That agreement is in Form 2 of Schedule D of the Act. It sets out in part:

The teacher agrees with the school board to teach diligently and faithfully and to conduct the work assigned by and under the authority of the said school board during the period of this employment, according to the law and regulations in that behalf in effect in the Province of Manitoba, and to perform such duties and to teach such subjects as may from time to time be assigned in accordance with the statutes and the regulations of the Department of Education of the said Province.....

Sections 41, 48 and 96 of The Public Schools Act shall form part of this agreement.

Section 41(1) requires school boards, in part, to:

(g)...employ teachers and such other personnel as may be required by the school division or school district;....

(i) subject to this Act and the regulations, prescribe the duties that teachers and other personnel are to perform.

Section 96 of the Act requires the teacher to "teach diligently and faithfully according to the terms of his agreement with the school board and according to this Act and the regulations".

In addition to the statutory duties imposed by the Act, the Act provides for collective bargaining between a local society and a school board. Thus the statutory scheme sets out three ways by which the relationship between a teacher and a school board is governed (i) statutory duties; (ii) the Form 2 contract; (iii) the collective agreement.

The regulations have some relevance.

Regulation 250/80 sets out, under the heading "DUTIES OF TEACHERS", the following:

35 The principal is responsible for the supervision of pupils, buildings, and grounds during school hours.

37 Every teacher shall be on duty in the school at least ten minutes before the opening of the forenoon session, and at least five minutes before the opening of the afternoon session, unless prevented from so doing by exceptional circumstances.

Regulation 4/81, Being a Regulation Under The Public Schools Act Respecting School Days, School Hours, and Vacations, sets out:

1. Unless the minister gives specific written approval of other arrangements, the instructional day shall be not less than five and one-half hours including recesses but excluding the midday intermission.

Regulation 6/81, Being a Regulation Under The Public Schools Act Respecting Persons, Other Than Teachers, Having the Care and Charge of Pupils. sets out:

1. Persons having care and charge of pupils are those who are...(b) teacher-aides...in this regulation called paraprofessionals; or (c) student teachers; or (d) volunteers.
2. A person having care and charge of pupils... (b) shall, subject to the Public Schools Act, this regulation, and the instructions of the school board, come under the direct supervision of a teacher designated by the principal of the school to which he is assigned.
3. A paraprofessional shall perform such duties as are assigned to him by the principal...but those duties shall not include:
 - (a) the organization and management of the classroom;
 - (b) the planning of teaching strategies; and
 - (c) the direction of learning experiences of pupils, including
 - (i) the assessment of individual needs of the pupils;
 - (ii) the selection of materials to meet pupil needs; and
 - (iii) the evaluation of pupil progress.

These portions of the Act and Regulations constitute the statutory law called to our attention dealing with the present situation.

B. The Collective Agreement

The parties have consented that we have jurisdiction to deal with this issue. The Collective Agreement between the parties does not explicitly deal with the question of hours of work or extra-curricular activities.

C. The Case Law

Two cases clearly govern the situation.

The first case is a decision of the Supreme Court of Canada in Winnipeg Teachers' Association No. 1 of Manitoba Teachers' Society v. Winnipeg School Division No. 1 [1976] 1 W.W.R. 403. Although disagreeing on the final remedy, the Supreme Court agreed unanimously with the reasoning of Laskin C.J.C. in his discussion of whether certain noon-hour supervision of students can be required of teachers:

what is...evident to me under the collective agreement relations between the parties here, is that the agreement, as extended by the referential documents, contemplates the assignment of duties to carry out the principal objects of the enterprise in which the parties are engaged and which they have agreed to promote under terms both general and specific.

Almost any contract of service or collective agreement which envisages service, especially in a professional enterprise, can be frustrated by insistence on "work to rule" if it be the case that nothing that has not been expressed can be asked of the employee. Before such a position can be taken, I would expect that an express provision to that effect would be included in the contract or in the collective agreement. Contract relations of the kind in existence here must surely be governed by standards of reasonableness in assessing the degree to which an employer or a supervisor may call for the performance of duties which are not expressly spelled out. They must be related to the enterprise and be seen as fair to the employee and in furtherance of the principal duties to which he is expressly committed.

On this view of the matter and having regard to the provisions quoted above from the Code of Rules and Regulations, I find it entirely consistent with the duties of principals and of teachers that the latter should carry out reasonable directions of the former to provide on a rotation basis noon-hour supervision of students who stay on school premises during the noon-hour, so long as the school premises are kept open at such time for the convenience of students who bring their lunches, or who purchase food at a school canteen, if there be one, It was not suggested in the course of argument that the rotation system was itself unreasonable, nor did the issue of compensatory time off arise in this context

Teachers are no doubt, inconvenienced if they have to supervise students during their common lunch-hour, and I should have thought it not unreasonable that consideration be shown to them by way of compensating time off as a quid pro quo. This issue is not before this Court and I say no more about it. I dispose of the first point on the simple ground that the parties' collective relations envisage that directions will be given from time to time by the principals of the schools which say, when issued, become part of the duties to be discharged under the collective agreement. I do not agree with the Association's contention that any such directions to be valid must be limited to instructional duties during the instructional day. At the same time, nothing said here should be taken as endorsing the right of the respondent to impose duties upon the teachers either in the early morning before they are required to report or in the late afternoon after the close of the school day, at least where those duties do not relate directly to instructional matters.

The criteria set out by the learned Chief Justice are clear and commanding. There is no question that unless the parties have specifically addressed the issues, the contract between the individual teacher and a school division has implied provisions that can be derived from the nature of the contract itself. The learned Chief Justice sets out those criteria in his often-quoted sentence: "They must be related to the enterprise and be seen as fair to the employee and in furtherance of the principal duties to which he is expressly committed." He deliberately excludes early morning and late afternoon activities "at least where those duties do not relate directly to instructional matters", however. Since noon-hour supervision does not appear to be an "instructional matter", we must try to reconcile his finding that noon-hour supervision is "in furtherance of the principal duties to which [the teacher] is expressly committed".

It is important to note that in this case noon-hour supervision was required in only ten out of eighty schools in the School Division. Not every school offered this programme; it is reasonable to infer that in these ten cases the schools remained open in order for certain students to be at school. Thus the furtherance of the principal duties can be seen to be the functioning of the schools - the actual attendance of students.

The second case is a decision of the Manitoba Court of Appeal in School District of Snow Lake No. 2309 v. Snow Lake Local Association No. 45-4 of the Manitoba Teachers' Society, (1986) 46 Man. R. (2d) 207, which overturned a decision of an arbitration board distinguishing the Winnipeg School Division case by virtue of the reference by Laskin C.J.C. to the existence of the Code of Rules and Regulations of the Winnipeg School Division and the Code's absence in Snow Lake. Justice O'Sullivan for the Court referred to the words of Laskin C.J.C. cited above, and indicated that the Supreme Court decision did not rest on the Code. He went in to say:

...I think that what Laskin, C.J.C...has said should be accepted as a statement of law of Manitoba in regard to employment contracts generally, and that what must be decided is whether the duties sought to be assigned by an employer are reasonable incidents of the employer/employee relationship in all the circumstances of the case.

By these tests, I think it is clear that noon-hour supervision is related to the enterprise of education, that it may be fair to require teachers on a rotation basis to supervise during the noon-hour provided each teacher has adequate time off for lunch, and that the supervision of children during the noon hour is in furtherance of the duty of education to which the teacher is expressly committed.

I deplore any tendency to relegate teachers to the sole function of classroom instruction. Education is much more than merely instructing; it is a process of formation. Teachers are not simply servants of the school division; they are professional persons who function as role models and as inspirers as well as providers of information and work skills.

The essential question for the arbitrators in this case was not to construe law, but to find whether the rota system in force in Snow Lake was or was not reasonable. In determining what is reasonable in the circumstances, no doubt an arbitration board may take into account matters such as the history of teaching in this province, the practices that have grown up not only in this school but elsewhere in the province, the importance of each teacher having an appropriate break during the day for lunch and relaxation, the availability of teacher aides, and so on. In some cases the parties may think it reasonable that an extra stipend or other quid pro quo should be given for supervision...

During the course of argument there was some suggestion that noon-hour supervision is a form of baby-sitting which is beneath the dignity of a professional. I deplore such a suggestion. Participation with pupils during noon-hour can be an effective method of formation by professional people. I do not say that such work is exclusive to professionals, but I think it would not be in the public interest to say that supervision should be automatically excluded from the teacher's role...

I would say...that the normal or general rule is that the teacher is not confined to any time period for carrying out his or her professional role. The hours of instruction are limited and the teacher is normally to have a proper lunch break. The principal must go outside the teaching staff to delegate functions even though related to the general teaching vocation where it is unreasonable to require teachers to give up too much of their lunch break. I repeat, what is reasonable will be governed by all the circumstances.

One test of whether an arrangement is reasonable or not is to see if the parties have agreed upon it, for what is agreed will usually be accepted as reasonable. However if agreement is not possible, then the school division has the right to impose by

assignment the duty of supervision during the noon intermission provided that it does so in a reasonable way.

The responsibility of the school division, or the principal and of the teachers cooperatively is not limited to the instructional hours of the day. Parents who entrust their children to the school to act in loco parentis "are entitled to expect their children will be looked after during the entire school day if the children do not go home for lunch.

We were provided with a copy of the original Snow Lake arbitration award. It is clear from the award that the School Board at one point found it absolutely necessary in order that certain students attend school to provide lunch-hour supervision in the schools.

3. The Evidence

We were told that the town of Churchill has approximately 900 residents, of whom 19 are teachers and approximately 270 are children attending the Duke of Marlborough School, a Kindergarten to Grade XII institution. The school day is from 9:00 a.m. to 3:30 p.m. with a lunch break from 12:00 noon to 1:00 p.m. for Kindergarten to Grade VI, and from 9:00 a.m. to 3:40 p.m. with a lunch break from 11:50 a.m. to 1:00 p.m. for Grades VII to XII.

The Association called two witnesses - teachers who had taught and lived within the District for many years - and the School District called one witness - the principal.

It appeared to this Board that there was not much disagreement on the facts.

Teachers have organized numerous activities, most often on the basis of their own interests, sometimes on the basis of the students' interests. Until a contract dispute over unrelated issues spurred the Association to request its members to withhold their extra-curricular activities, there had never been an occasion in recent (and not-so-recent) memory where there had been an activity requested by students not provided by teachers on what the teachers felt was a voluntary basis.

As well, we heard that in recent years it has been difficult to get parental involvement in activities emanating from the school, and that many teachers have felt it necessary to provide activities, such as an Exhibition Fair, to involve parents. We also heard that a few years ago the teachers complained of a lack of student participation in activities presented by them, and that the principal called -school meeting to discuss the issues; the students told the meeting that there were too many activities available to them.

A great deal of time was spent by both parties in examining witnesses on the nature of the activities performed by the teachers.

Although we were not presented with an agreed-upon list of extra-curricular activities, the following represents a list of them, and in some cases an indication of the teacher's contributions, that we have derived from the evidence:

Drama Club (recruiting, rehearsing, sets, stage direction);

Graduation Ceremonies (supervising food, decorations, letters to the community - 1 hour per week from April through May, and 3-4 hours a day and possibly a whole Saturday in June);

Arts and Crafts

Yearbook

Newspaper (dealing with content, editing, suggestions, typing);

Fashion show;

Student Council (setting up activities, Friend Day, Dances); Spirit Week;

Career Symposium (chaperone and providing some counselling for some students on a trip to Winnipeg);

Education Fair (coordinating display of student work, judging the work);

Christmas Concert (preparing certain students for presentation);

Operetta (preparing music);

Computer Clubs.

In each activity there is some connection between what is taught generally in the school and what students did in the activities.

In some cases the teachers developed activities which provided positive reinforcement for the classroom work (public exhibitions of student work); in other cases the activities could be linked to subjects offered to some students at the school. As the principal said, "If these activities had no educational value we wouldn't be involved."

On the other hand, not all of the activities specifically related to what a particular teacher was teaching; the Home Economics teacher, for example, helped on the student newspaper and in drama. Nor did the particular activity always relate specifically to what a particular student was learning; the plays put on were not the plays studied, for instance, and there appeared to be no course prerequisites for student participation in most of these activities.

Almost all the activities could have been overseen by parents or other volunteers. We heard that there is little parental school involvement in the town. On the other hand, there are numerous activities within the Town of Churchill which cater to children.

It is thus clear that the curriculum set out by the School Board and by the Minister of Education could be taught without these activities. The activities, therefore, enriched the education of those students who took part in them. It is important to note that the students are not required to participate in any of these activities.

The principal testified that currently in the school there is one teacher who does not do any extra-curricular work, and that is not taken into account when assigning her duties. The principal said that it is his responsibility to ensure that teachers are in the classroom. If the teacher volunteers for other activities, that is "okay" if the teacher also performs the job in the classroom.

If the outside activities interfere with the classroom activities, then an adjustment must be to the load. The principal also said that there is no quid pro quo for people doing detention work.

The principal indicated that the beginning of the school year he brings out a list of activities that have been done in the past and asks the teachers which, if any, activities they want to volunteer to oversee. As well, students would ask particular teachers or the principal to provide certain activities. It has never happened that an activity has not had a teacher, but he would in that case meet with staff and encourage someone to take on that activity. He said he did not think that he would get a good job done if he ordered a teacher to do an activity.

The principal also indicated that in his view, willingness to perform extra-curricular activities is not a condition precedent to hiring.

The Association presented excerpts from the Policy Manual of the Board. Section 3.12 reads:

EXTRA-CURRICULAR DUTY

Together with their regular duties as teachers, staff members are encouraged to take a reasonable share of extra-curricular duties. These duties should be arranged by the Principal in cooperation; and the discussion with his/her staff.

This policy has not been rescinded in the Manual itself.

4. Our Award

The system has worked up to now: for whatever reason - whether they believe it is their duties as Churchill residents, as parents, or as professionals -teachers in Churchill have been able to provide enrichment to the education of their students. Now, because of an impasse over other unrelated issues, we have to decide whether extra-curricular activities of the kind described are part of a teacher's work assignment and can be forced upon a teacher without his/her consent. The Association says that no extra-curricular activities of the kind can be assigned to a teacher without consent. The School Board says that it can assign these activities and hold the teacher responsible for the performance of the activities.

We hold for neither party. Extra-curricular activities of the kind described can be, but are not necessarily, part of a teacher's work-assessment. Our reasons follow.

We hearken back to the criteria set out by Laskin C.J.C.: The activities assigned "must be related to the enterprise and be seen as fair to the employee and in furtherance of the principal duties to which he is expressly committed."

A. Related to the enterprise of the public school system:

There is no question that each extra-curricular activity described is related to the Churchill public school system. The evidence of the principal and the two teachers is clear. Each of the extra-curricular activities enhances the education of the students.

B. In furtherance of the principal duties to which the teachers expressly committed:

The position of the Association is that the teachers are expressly committed to teaching the curriculum, and therefore extra-curricular activities which do not flow directly from teaching the curriculum cannot be in furtherance of the principal duties to which the teachers are expressly committed. They suggest that the proper definition of the teacher's role is to be found in Regulation 6/81:

- (a) the organization and management of the classroom:
- (b) the planning of teaching strategies; and
- (c) the *direction* of learning experience of pupils, including
 - (i) the assessment of individual needs of the pupils;
 - (ii) the selection of materials to meet pupil needs; and
 - (iii) the evaluation of pupil progress.

It is this role which is clearly entrusted to the teacher alone and cannot be delegated to any other person working with a student. Therefore, the Association argues, that is the proper definition of "the principal duties" to which the teachers are "expressly committed".

The School Board argues that the Regulation clearly is not meant to provide statutory authority for the definition of a teacher's role; that Regulation simply indicates what non-teachers cannot do without being supervised by a teacher. But a teacher has greater responsibilities than the minimum set out by the Regulation. In addition, the principal duties of a teacher clearly include, according to the Supreme Court of Canada and the Manitoba Court of Appeal, noon-hour supervision; and therefore neither the regulation nor the curriculum set out the sole responsibilities of teachers.

Furthermore, on the School Board's argument, the Act as well as the written contract clearly set out the obligation of the teacher "to conduct the work assigned by and under the authority of the said school board during the period of this employment according to the law and resolutions in that behalf in effect in the Province of Manitoba" in addition to "teaching diligently and faithfully". If the School Board assigns extra-curricular activities - which, according to the School Board, it has the clear legal right to do - then how can the teacher refuse without breaching the contract?

Furthermore, the School Board pointed out that the dispute arose not out of any disagreement about the way extra-curricular activities were being performed, but out of a completely unrelated issue in collective bargaining. Thus there is really no great dispute between the parties.

The School Board takes the position that all of these activities have education value - they relate to the enterprise, and are thus in furtherance of the principal duties of the teachers. Education is more than classroom teaching. Outside activities are educational in nature, and helps students develop personalities.

We believe that teachers can be required to offer what are commonly called extra-curricular activities, but that such requirement must be made in a way that deals with both the issues of fairness and the issues of what the principal duties of the teachers are.

We believe that the concept of "principal duties" is broader than the narrow concept advanced by the Association. We believe that elected school boards have the right to set out in broader terms than the Regulations the roles and responsibilities of teachers.

It is possible, for instance, to imagine a situation where teachers can be required to do janitorial work and participate in extra-curricular activities. That situation would exist where the School Board is able to establish aims of the School Division that clearly show an approach to education which includes more than simply teaching the curriculum.

One can imagine schools which are run on a cooperative basis in which both staff and students are required to clean up, cook meals, run the various programmed; one can imagine schools which expect students to participate in extra-curricular activities; one can imagine schools which expect teachers to offer certain activities outside of the school day which are clear supplements to the classroom education.

In those schools, it would clearly be in furtherance of the principal duties, because the schools will have clearly spelled out an approach to education which expects things both from the students and the teachers.

Thus as clearly held by the courts we interpret the concept of "principal duties" in a broader way than does the Association. Teachers are at the forefront of education; they do act as role models, as educators in a very broad sense. It is to enhance their very professionalism that we believe it would be wrong to narrow their responsibilities.

At the same time, since the principal duties are broad the concept of "fairness" becomes all that more important.

C. Seen as fair to the teacher:

There is a sub-text of the Association argument that we must clearly reject. In the grievance itself (modified in large measure by the position taken by the Association before this Board), and in some remarks made on behalf of the Association, there is the notion that the School Day in some way provides a demarcation of what is extra-curricular. We reject that completely. The School Day is no measure whatsoever of what is a fair amount of time. Teachers must be in school during the school day, but they clearly have other duties which require them to spend many hours outside of the school day. Thus the School Day marks at least the minimum time that must be spent by a teacher, but not the maximum: nor does it represent a demarcation line for what is extra-curricular.

On the issue of fairness, it must be noted that the teachers, the students, and the school board have never had a problem with the organization of the extra-curricular activities.

There is no question that the amount of time spent on extra-curricular activities by the teachers is fair. We even heard how the teachers complained a few years ago that the students were not taking advantage of the activities provided.

But the manner of organizing the activities is another question. The current manner is to ask for volunteers. The principal testified that there had never been a problem in finding volunteers. That is certainly a testimony to the willingness of teachers to provide a service to their students.

The policy manual, Section 3.12, makes it clear that the School Board encourages but does not require extra-curricular activities on that part of the teachers.

One of the issues, therefore, is whether or not ordering a teacher to do what s/he has been voluntarily doing is in itself fair. The Association argues that it is clearly not, and the teachers' and principal's evidence backs that up. The School Board argues that the issue of fairness relates only to the amount of time, and the issue of the amount is settled.

We do not agree with the School Board on this issue. Professionals can volunteer their time for any number of reasons, only one of which may be a sense of obligation arising out of their professional responsibilities. In a town like Churchill, with a large proportion of young persons, residents who are teachers may very well feel a sense of obligation to the community to develop skills among those young persons. The amount of time currently spent can only be seen as fair against the backdrop of volunteering. It is therefore not fair to order a teacher to perform those activities which s/he may have been performing voluntarily. On this ground we hold with the teachers.

However, we must add that we do not agree a teacher can withdraw from such activities in such a manner as to adversely affect the program. If a professional has made a commitment to such an activity, his or her notice of withdrawal must be reasonable in the circumstances. In most cases it would be reasonable to require the teacher to see the commitment through to the completion of the activity. In this case, the teachers had completed the activities and given 2 months' notice before the beginning of the next school year.

In addition, it *would* not always be fair to hold that the amount of work a teacher is required to do depends on whether students participate in the extra-curricular activities a particular teacher provides. That could make the workload subject to the whims of the students.

This provides us with the ability to develop criteria for fairness given our finding of a broad sense of the "principal duties" of a teacher.

In order for extra-curricular activities of the kind described above to be considered as part of the duties of a teacher, the following criteria should, inter alla, be followed:

1. The School Board must be able to establish aims that clearly show an approach to education which includes more than simply teaching the curriculum.

Mr. Cherniack believes that an assignment would not be reasonable if some student participation is not required as part of that approach. Mr. Parkinson does not agree. He does consider that in areas where participation of students is to be voluntary on a

case by case basis, insufficient participation could justify a withdrawal by the teachers from voluntary participation on what would ordinarily be less than reasonable notice and could similarly render a mandatory assignment to a teacher unreasonable. For purposes of this Award, the Chair does not find it necessary to determine this question.

2. The School Board must work out a method of equitable and reasonable distribution of responsibilities on the part of teachers, and must not act unreasonably, discriminatorily, or in bad faith in so distributing the responsibilities. This means that there must be consultation with the Association and with teachers, and that a plan of implementation should be drawn up.
3. The work-load on any individual teacher should not be unreasonable in the circumstances.

5. Conclusion:

In making this award we are mindful of the importance of teachers to the educational system. We do not want to demean their role by suggesting that their only place is in the classroom. Because of their special relationship to their students, we expect and we receive a professional standard of conduct wherein the individual teacher has the freedom to educate in his or her own way.

At the same time we are also mindful of the importance of the policy-makers - the elected representatives of the local School Board. Within the minimum guidelines set out by the Minister of Education, the local School Board has the right to set out its educational approach and to expect the professionals they hire to adhere to that approach. That approach can include expectations of students and teachers that deviate from the norm, so long as these expectations are reasonable, do not infringe on the rights of students or teachers, do not run contrary to the guidelines set out by the Minister, and are not administered in such a way as to harm individuals.

Thus on the evidence we hold that the extra-curricular activities performed by the teachers would not be fairly assigned if the teachers were simply required to do them, and that the extra-curricular activities performed by the teachers are not necessarily part of their principal duties.

We also hold that those activities could become part of their principal duties and could be assigned in a fair manner under those circumstances set out above.

DATED at the City of Winnipeg in the Province of Manitoba the day of July, 1988.

D.G. Baizley, Chairman

L. Cherniack, Board Member

G.D. Parkinson, Board Member