

## LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, 4 April, 1985.

Time — 10:00 a.m.

**OPENING PRAYER by Mr. Speaker.**

**MR. SPEAKER, Hon. J. Walding:** Presenting Petitions . . . Reading and Receiving Petitions . . . Presenting Reports By Standing and Special Committees . . .

### MINISTERIAL STATEMENTS AND TABLING OF REPORTS

**MR. SPEAKER:** The Honourable Minister for the Environment.

**HON. G. LECUYER:** Thank you, Mr. Speaker.  
I would like to table the Annual Report for 1984 for the Workers Compensation Board of Manitoba.

**MR. SPEAKER:** Notices of Motion . . .

### INTRODUCTION OF BILLS

**MR. P. EYLER** introduced, by leave, Bill No. 30, An Act to amend The Registered Respiratory Technologists Act.

### ORAL QUESTIONS

#### School of Psychiatric Nursing, Portage closure of

**MR. SPEAKER:** The Honourable Leader of the Opposition.

**MR. G. FILMON:** Thank you, Mr. Speaker.  
My question is for the Honourable Minister of Community Services and Corrections. I wonder if she can indicate whether or not senior civil servants in her department have been ordered not to talk to the media on various issues specifically including the impending closure of the School of Psychiatric Nursing at Portage la Prairie.

**MR. SPEAKER:** The Honourable Minister of Community Services.

**HON. M. SMITH:** Mr. Speaker, the rules we have in our department, I think, are similar to good practice throughout the Civil Service and government; that is, that civil servants are authorized to give information to the media, but on questions of public policy debate, they carry out that debate internally in the department and it is for the political people, namely, the Minister, to make comments on policy issues.

**MR. G. FILMON:** Mr. Speaker, how does this square with the New Democrats' idea of open government and freedom of information?

**MR. SPEAKER:** Order please.

The question is argumentative.

**MR. G. FILMON:** Mr. Speaker, has the Minister sought the advice and spoken to Dr. Glen Lowther with respect to the decision on the closure of the School of Psychiatric Nursing at Portage la Prairie?

**MR. SPEAKER:** Order please.  
The Honourable Minister of Community Services.

**HON. M. SMITH:** Mr. Speaker, the department has a structure for planning and policy development, and each person within that structure has a right and a responsibility to raise their concerns and have input appropriate to their position.

**MR. G. FILMON:** Mr. Speaker, in view of the fact that the Minister chooses not to consult and accept the advice of her Chief Medical Officer Dr. Glen Lowther, will she not remove the gag order and let the media ask what his opinion is on issues as important as this?

**HON. M. SMITH:** Mr. Speaker, all I can do is repeat the answer I made in the first instance, that members of the Civil Service are entitled to their own opinion; but when it has to do with department policy and policy development they have internal opportunity to contribute to the policy development, but they are expected to follow the usual procedures for speaking publicly.

**MR. SPEAKER:** Order please. The Honourable Member for Pembina.

**MR. D. ORCHARD:** Thank you, Mr. Speaker. Would the Minister care to answer the direct question of . . .

**A MEMBER:** Which Minister?

**MR. D. ORCHARD:** . . . the Minister of Community Services. I am very sorry to the Attorney-General - and I apologize profusely for such a great mistake.

My question is to the Minister of Community Services. Will the Minister of Community Services answer the direct question as to whether she has sought the advice of her Chief Medical Advisor Dr. Glen Lowther on the closure of the Portage school?

**MR. SPEAKER:** Order please. I'm sure that the honourable member would not wish to waste the time of question period by asking repetitive questions. The Honourable Member for Pembina.

**MR. D. ORCHARD:** Mr. Speaker, I appreciate the rules allow a Minister not to answer a question when she has not spoken to that person. My question now is to the Minister of Community Services. Can the members of the media be assured that Dr. Glen Lowther when asked questions as to the operation of the Portage school, that he will not be prevented from answering those questions of fact, not policy?

**HON. M. SMITH:** Mr. Speaker, Civil Servants are expected to provide information relevant to their departmental responsibilities. When it's a matter of policy debate or position, that is the prerogative of the Minister.

**MR. D. ORCHARD:** I thank the Minister for that positive response that members of the media can ask Dr. Glen Lowther questions of information on the running of the department.

Mr. Speaker, my question to the Minister of Community Services is, in view of the fact of her statements that her decision to close the Portage school has not been properly researched and that she does not have answers to very direct questions posed to her in this House and in Portage last night, will the Minister now reverse her decision on the closing of the Portage school and not proceed with this political decision to close the school in Portage?

**HON. M. SMITH:** Mr. Speaker, the best analysis we have still indicates that consolidating the nursing schools will improve the training and decrease the costs. Now there were some questions raised last night at my meeting with the instructors, the students and others at Portage.

Mr. Speaker, I undertook to review those questions to see whether in researching those specific things further it would influence the timing of the phasing out so that as we proceed with implementation and review all these questions, again, if they cannot be satisfactorily answered, and I repeat, if they cannot be satisfactorily answered, then we will review the process of consolidation. However, at this point in time, we will be proceeding and putting in place consultative groups with the psychiatric nurses and with the instructors to further review the questions that they raise.

As I say, there is a difference of opinion in the field, there is quite a wide-ranging perspective on the appropriate training on recruitment issues, on quality of care which deserve to be answered, Mr. Speaker, and I will pursue those issues in an orderly way but, as I say, the basic analysis to date does stand up.

**MR. D. ORCHARD:** Mr. Speaker, the Minister has just indicated to us that her decision was based on bad information. She has indicated that she is going to seek further information, that she is going to seek further input . . .

**MR. SPEAKER:** Order please. If the honourable member has a supplementary question, will he kindly put it.

The Honourable Member for Pembina.

**MR. D. ORCHARD:** Mr. Speaker, in view of the fact that the Minister now says that she is going to seek further information on the closing of the Portage School and involve the group she has involved, namely, the psychiatric nurses, her chief medical advisor and others presumably, can the Minister give the assurance to this House and to those people who are going to be consulted that their opinion will be valued and used as it should have been used before she made this ill-considered, unadvised decision?

**HON. M. SMITH:** Mr. Speaker, being human, I never know 100 percent of the information. I, along with other people involved in making decisions, make the best decision I can in the time frame I have within the resources available, Mr. Speaker.

The members opposite do seem to forget that they lecture us one day about managing our resources more efficiently and the other day turn around and say whenever we make a tough decision, a difficult decision, a responsible decision, Mr. Speaker, to back down. That's not the way we function on this side of the House. We are prepared to do the tough analysis and to make the tough decisions and to manage the system effectively.

There are many opportunities for input into the planning. There are many people involved in that process. The groups named are some who have input but there are many others, Mr. Speaker, and within the time frame that we operate, we seek that opinion, we value it, we debate it and then we do come to a decision.

### **Morgentaler Clinic - enforcement of law**

**MR. SPEAKER:** The Honourable Member for Elmwood.

**MR. R. DOERN:** Mr. Speaker, I would like to direct a question to the Attorney-General and ask him a question that's being asked by I think most Manitobans at this point in time.

Given that the Winnipeg Police are taking action, that the College of Physicians and Surgeons are taking action, when will the Attorney-General enforce the law in regard to the Morgentaler Clinic and stop giving preferential treatment to him?

**MR. SPEAKER:** Order please. The question is argumentative. Would the honourable member wish to rephrase his question to seek information?

**MR. R. DOERN:** Mr. Speaker, my question is very simple. When will the Attorney-General enforce the law in relation to the reopening of the Morgentaler Clinic on Monday?

**MR. SPEAKER:** The Honourable Attorney-General.

**HON. R. PENNER:** Mr. Speaker, the question is still argumentative. I do not understand the question. If the member could be more specific and ask me a specific question, learned in the law as he may be, as to what he proposes that the Attorney-General should do, I will be pleased to deal with those specific questions.

I am, Sir, enforcing the law. The person stands charged — (Interjection) — with those offences and will be tried for those offences. If he would now like to be more specific, I will be happy to answer the question.

**MR. R. DOERN:** Mr. Speaker, I'll quote somebody more learned in the law, Judge Kroft, and I simply ask the Attorney-General whether it is not in fact the case that he could prevent Dr. Morgentaler from reopening the clinic on Monday by making it a condition of his bail that he not break the law and perform abortions in this province.

**SOME HONOURABLE MEMBERS:** Oh, oh!

**MR. SPEAKER:** Order please, order please. The question is argumentative. Would the honourable member wish to rephrase his question to seek information, not to make an argument.

Order please, the question is argumentative.  
The Honourable Member for Elmwood.

**MR. R. DOERN:** Mr. Speaker, I'll try again on this question and ask the Attorney-General if he is indicating that there is no action that he can take at this point in time in regard to Dr. Morgentaler. Is he going to be a spectator and sit on the sidelines because there is no action that he can take?

**HON. R. PENNER:** Mr. Speaker, first of all, when Dr. Morgentaler was arrested the conditions of bail were imposed by the bail magistrate of the kind suggested by Judge Kroft. The following day his attorney moved to set aside those conditions; Crown attorneys argued to maintain those conditions; the trial judge seized of the matter found against those conditions because of the presumption of innocence, so we have done what it is suggested now two years later by those who, like the learned member, choose to be selective in the information they pick out. We have done our duty in that respect but the courts who are there to decide these issues have said that in the particular circumstances of the case that kind of a bail order cannot be given. But the Crown attorney asked to maintain those bail conditions and was turned down by the judge.

Secondly, Judge Kroft, so that the member shouldn't be selective, said in exactly the same terms that I have said in this House time and time again that in the particular circumstances of this case the Attorney-General cannot get an injunction. So I have done that. We have as a department - following investigation by the police within the sphere of their duty, and we have not intermeddled with their duty - laid charges. So we have done that.

Let there be no suggestion that this Attorney-General is not following the law in a fair and honourable way. If there is to be any such suggestion, let that honourable member or any other be specific as what they think the Attorney-General should do.

The Attorney-General sought to maintain bail conditions. A judge said inappropriate. — (Interjection) — A learned member said change the law. It's a federal law. You've got a Federal Conservative Government. If you think that the Federal Conservative Government should change the law, that's where you should go with your pleadings about the law.

**MR. R. DOERN:** Mr. Speaker, I'd also like to ask the Attorney-General whether he would not concede that he has seriously impaired the ability of his senior staff to function in regard to the Morgentaler case by publicly stating that he is pro-choice, whether that has not, in fact, impaired their ability to properly perform their duties?

**HON. R. PENNER:** Mr. Speaker, I cannot speak for other honourable members and certainly I would not

purport to speak for that honourable member, but I am honest and if I have a personal view, I will let it be known.

But it has been clear to everyone who wants to be clear and isn't trying to make a political mess out of this, that I have followed the law. Those honourable members who seek politically to exploit a delicate situation and to fan the flames of a delicate situation are dishonouring the law. I will not.

### Unemployment in Manitoba reason for increase

**MR. SPEAKER:** The Honourable Member for St. Norbert.

**MR. G. MERCIER:** Thank you, Mr. Speaker.

I have a question, Mr. Speaker, for the Minister of Labour. We regret to note that the most recent unemployment statistics for this province in Canada show an increase in unemployment in Manitoba from 48,000 to 52,000 people, and an increase in the actual unemployment rate from 9.4 percent to 10.1 percent in the province. Could the Minister of Labour inform the House as to the reasons for this increase in unemployment in Manitoba?

**MR. SPEAKER:** The Honourable Minister of Employment Services.

**HON. L. EVANS:** Mr. Speaker, The Department of Employment Services puts these figures out and we have some information for the honourable member.

I want to remind the honourable member, indeed others in the House, that we still compare quite favourably with most other provinces in Canada. As a matter of fact, Mr. Speaker, this month there's been an increase of 2,000 jobs alone, this month over last month.

I also want to remind the honourable member that we've had in the past three years, for the first time since the figures were tabulated, we've had a positive inflow on interprovincial migration. As a matter of fact, we've now got 35,000 more people in Manitoba than we had three years ago. The fact is in the past month, to answer the member's question specifically, Mr. Speaker, the labour force has increased enormously. Nevertheless, we've got more jobs but the labour force is expanding.

I'd like to point out, Mr. Speaker, that we're going to continue to do our best through the Manitoba Jobs Fund to enhance job opportunities in Manitoba. I only wish we had some help from the Federal Government. You know, instead of cutbacks at Gimli, Churchill, the CBC - as a matter of fact, the figures show, Mr. Speaker, that under public administration, it's down by 10 percent in the first three months of this year compared to last year and that is essentially federal cutbacks. Those are the figures of federal cutbacks.

A final point, Mr. Speaker, the Federal Minister of Employment has already announced a cutback in . . .

**SOME HONOURABLE MEMBERS:** Oh, oh!

**MR. SPEAKER:** Order please.

**HON. L. EVANS:** . . . job creation money for the Province of Manitoba. Let us have some help from Ottawa and we'll have more jobs.

**MR. SPEAKER:** Order please, order please. Order please.

Answers to questions should not develop into speeches, as I'm sure the Honourable Minister knows. The Honourable Member for St. Norbert.

**MR. G. MERCIER:** Mr. Speaker, I thought I asked a reasonable question. I sort of expected a reasonable, rational answer.

Mr. Chairman, in view of the fact that the Minister made two points in his answer: (1) that we compare favourably nationally, would he explain why then from March of '84 to March of '85 Manitoba's unemployment rate has increased from 9.3 percent to 10.1 percent, a 0.8 percent increase in unemployment, whilst across Canada from March '84 to March of 1985, the unemployment rate has decreased 0.2 percent?

With respect to the other part of his answer when he says that there's been an inflow and a growth in the labour force in Manitoba, would he explain why the labour force in Manitoba increased by 6,000 persons since the last month while the total increase across Canada has been 181,000? And if you took 5 percent as the normal average it should accrue to Manitoba, the labour force should have increased by over 9,000 people in view of the national statistics. Could he explain those two aspects of his answer, Mr. Speaker?

**HON. L. EVANS:** Mr. Speaker, I did include that information in my answer - basically the numbers the honourable members have - but basically what's happened is that the labour force has expanded more rapidly than the number of jobs have expanded. That is essentially the basis of the unemployment rate.

But, Mr. Speaker, what happens in Canada, we are a national economy, and essentially what is happening in Canada is that the Province of Ontario in particular is benefiting by an expansion of the automobile industry where it is concentrated in this country along with some other manufacturing developments that have been occurring, thanks essentially to the kind of federal industrial policies that we have in this country. We've always said there should be greater industrialization assistance for Western Canada but essentially, Mr. Speaker, we still compare favourably.

### **Unemployment in Manitoba increase among youth**

**MR. G. MERCIER:** Mr. Speaker, a further question to the Minister of Unemployment. Could he explain to the House why the increase in unemployment among youth has increased 1.5 percent since last March and 3.3 percent since March of 1984, to a rate of 18 percent, Mr. Speaker? Is that a result of the fact that in December of 1984 Manitoba was the lowest in job creation? The increase in growth in the employment force in Canada was eighth in January and was eighth in February.

**HON. L. EVANS:** Mr. Speaker, we've always said that the youth unemployment problem was the most serious,

but it is true across Canada. It is the unemployed youth under 25 where the greatest problem is. Again while it is up we still have the third lowest rate of unemployed youth in Canada. While it is up we're not satisfied, and that is why, Mr. Speaker, we have dedicated \$14 million for youth programs and student programs this summer more than any province in Canada on a proportionate basis more than ever before, and I do regret again that my colleague in Ottawa has cut us back by over \$2 million for jobs for youth in this province in the coming months.

**SOME HONOURABLE MEMBERS:** Oh, oh!

### **Workers Compensation Board increased costs in administration**

**MR. SPEAKER:** Order please, order please. The Honourable Member for St. Norbert.

**MR. G. MERCIER:** Mr. Speaker, a question to the Minister responsible for the Workers Compensation Board. He has filed a report today which, on Page 15, shows an increase in administration expenses of over 20 percent. This follows upon years of increases in administration expenses of 35 to 40 percent. When is the Minister responsible for the Workers Compensation Board going to take control of this operation in order to prevent increases in assessments that have occurred in Manitoba to employers of up to 60 percent?

**HON. G. LECUYER:** Thank you, Mr. Speaker. The Member for St. Norbert chooses to refer specifically to that statistic, and we'll have an opportunity to go over all the others in the Estimates, but the member should know that the Compensation Board of Manitoba's operation compares still very favourably in comparison to most provinces of Canada and the reflection of the addition of administrative expenses, as the member can readily see, is due to two basic factors.

One is the implementation of the data processing system in the Compensation Board to bring it into the 20th century - as I did indeed indicate in my remarks the other day - to provide the services that the employers and the workers of Manitoba are entitled to; and, secondly, the other factor is the increases of staff services costs which are reflected due to increases in staff.

At this point in time, the ratio of claimants and staff in Manitoba compares most favourably as compared to all of the other boards in Canada.

### **Burns Meats headquarters to Winnipeg**

**MR. SPEAKER:** The Honourable Member for Ste. Rose.

**MR. A. ADAM:** Thank you, Mr. Speaker. I would like to ask a question of the Minister of Agriculture. I would like to ask the Minister if he could confirm that Burns Meats plan to move their headquarters to Winnipeg from Calgary?

**MR. SPEAKER:** The Honourable Minister of Agriculture.

**HON. B. URUSKI:** Mr. Speaker, I can advise the honourable member that in fact that is the case, that Burns Meats has made a decision to move its head operation to Manitoba.

Sir, this will have the impact of having all their export work centered in Winnipeg, that all exports nationally and internationally will be carried out of Winnipeg. It is very clear that Burns, in our discussions over the last years with my colleagues, the Minister of Industry, Trade and Technology and the Minister of Labour, that we have a good work force in the Province of Manitoba, a stable work force. Sir, we have good labour relations, a good climate for both business, labour and government. It's a co-operative approach that we have in the Province of Manitoba.

**SOME HONOURABLE MEMBERS:** Oh, oh!

**MR. SPEAKER:** Order please, order please. Order please.

### Emerson census - removal of RCMP cost to community

**MR. SPEAKER:** The Honourable Member for Emerson.

**MR. A. DRIEDGER:** Thank you, Mr. Speaker. My question is to the Attorney-General.

The mayor of the Town of Emerson has indicated that they have undertaken a second census which shows a continued decline in population. Based on this information, is the Attorney-General now prepared to accept these figures and remove the unwarranted RCMP policing cost to the community?

**MR. SPEAKER:** The Honourable Attorney-General.

**HON. R. PENNER:** I am glad they are not losing their "senses." Mr. Speaker, as a matter of policy, this government and, to my knowledge, virtually all governments delivering programs based on population numbers use the Stats Canada figures. If we were to begin picking and choosing between statistical models, then we would have a hodgepodge and we would be constantly open to arguments about which census figure was right.

There is in fact, and I think the members will appreciate, only one - it seems to us - just way of administering programs that are based on numbers and that is to accept a given statistical model and use it uniformly. Now there are other statistical models which might be used; for example, the Manitoba Hospital Commission data base, and that is something that we can look at. But at the moment we feel that in mid-census, as it were, Stats Canada census, to shift to some other model on a selective base would not serve the interests of public policy at all.

**MR. A. DRIEDGER:** Mr. Speaker, to the Attorney-General. Could the Attorney-General indicate that Mr. Hill from the RCMP, he and the mayor had tentatively come to some agreement to accept the figures that the Town of Emerson was using?

**HON. R. PENNER:** Mr. Speaker, I think there is a sense in which the question is right; that is, I did not dispute

the census which the town had taken. Why would I dispute the veracity of a very honourable man such as the mayor of that town? I didn't.

We simply said that we would look into the question of whether we could shift base in a statistical sense, and we have come to the conclusion after very earnest consideration, because we are mindful of the problems of towns in and around that population figure, to see whether or not we could shift base and we have decided as a matter of policy that we cannot do that. But, however, the Minister of Municipal Affairs is looking very very seriously at some other way of distributing the policing cost with particular appreciation of the problems, and we are sensitive to those problems that small towns have.

**MR. A. DRIEDGER:** Mr. Speaker, to the Attorney-General again. Emerson is the main port of entry into the Province of Manitoba and policing RCMP services are required almost at that point of entry. If the community does not wish to have RCMP services, will they be imposed on them by this government?

**MR. SPEAKER:** Order please. The question is hypothetical. Would the honourable member like to rephrase his question?

**MR. A. DRIEDGER:** To the Attorney-General then. Is this government prepared to go to court with the Town of Emerson to establish whether they have to pay those costs?

**HON. R. PENNER:** The honourable member should know that the Attorney-General never goes to court unless anyone drags him there. Mr. Speaker, I send my Crown attorneys.

The answer to that question is this - and I would defer to my honourable colleague, the Minister of Municipal Affairs - my very strong recollection is that there is a provision in The Municipal Act, 268-270, somewhere around there - I believe that's about it, and indeed the Clerk might bring me the statute and if I'm long enough about this answer I will get it before I finish - there is a statutory provision that requires towns and municipalities to operate a police force. Now they have the option of doing it on their own. They have that option, but if they choose not to exercise that option, they then have another option and that is to use at some cost the services of the RCMP.

I think I will leave the answer at the moment. I will get the particular section of the statute and send it over to the member in due course. Unless he asks me a supplementary, I'll have time to find it.

**MR. A. DRIEDGER:** A final question. Is the Attorney-General telling the people of Emerson and the mayor that this government is prepared to go to court and spend thousands of dollars to try and illustrate according to the act instead of using common sense in making some kind of an arrangement with them?

**HON. R. PENNER:** Mr. Speaker, Section 286(1) of The Municipal Act says, "Every city and town and every village having a population of 750 or more inhabitants shall appoint a chief constable and may, in addition, appoint one or more constables for the municipality."

So it is a matter of law. I would not think that the Town of Emerson, represented as it is by the honourable member, would disobey the law and require us to enforce it by police action. Surely, we haven't come to that state in southern Manitoba where the towns and villages of southern Manitoba are going to rise in revolt and break the law.

**SOME HONOURABLE MEMBERS:** Oh, oh!

**HON. R. PENNER:** "Are we back at the time of the French Revolution?" I hear honourable members ask. No, we are not. The law is clear and I would think that they will obey it.

### Brandon University act - introduction of

**MR. SPEAKER:** Order please, order please. Order please.

The Honourable Member for Turtle Mountain.

**MR. B. RANSOM:** Mr. Speaker, I have a question for the Minister of Education. Can the Minister advise the House whether she knows yet whether or not she will be introducing a Brandon University act during this Session?

**MR. SPEAKER:** The Honourable Minister of Education.

**HON. M. HEMPHILL:** Mr. Speaker, when the legislation is tabled, that is when we will know what is being introduced in this Session.

**SOME HONOURABLE MEMBERS:** Oh, oh!

**MR. B. RANSOM:** Perhaps the Honourable Minister could indicate to the House whether her department is working on a draft of a Brandon University act.

**HON. M. HEMPHILL:** Mr. Speaker, when we are preparing for a Session my department works to prepare me and the Department of Education for anything that may come up. So we often prepare background and papers and information, some of which goes forward and some of which does not.

**MR. B. RANSOM:** A supplementary to the Minister. Can she indicate whether or not the information relative to a Brandon University act and the work that's been done relative to the Brandon University act has come forward to her or not?

**HON. M. HEMPHILL:** Mr. Speaker, the member opposite dropped his voice just when he got to the question part. Was he asking if material has been presented to me, prepared and presented to me from the Brandon University act?

**MR. B. RANSOM:** Mr. Speaker, a great deal of work has been done with respect to a possible Brandon University act. I'm simply trying to find out from the Minister whether she is considering that. She indicated to me that some information comes forward to her that the department's working on and some doesn't, and

I'm interested in whether the information respecting the Brandon University act has come forward to her.

**HON. M. HEMPHILL:** Yes, Mr. Speaker, I am quite aware that a lot of work has been done in preparation for the possibility of having a Brandon University act as there is for the University of Winnipeg.

Both universities are interested in and have asked that consideration be given to bringing in legislation giving them both an act. That information has been given to me and is being presently considered.

### School instruction in the home - financing of

**MR. SPEAKER:** The Honourable Member for Morris.

**MR. C. MANNES:** Thank you, Mr. Speaker. My question is to the Minister of Education. It is my understanding that at least one individual who is a certified teacher and who is prepared to teach the approved specified curriculum of the province, wishes to instruct his own children within his own home. He wishes to apply for a private school grant and the financing that would be eligible under that status.

My question to the — (Interjection) — Minister of Education . . .

**MR. SPEAKER:** Order please.

**MR. C. MANNES:** . . . has a policy with respect to this type of situation been developed and if so, what is it?

**SOME HONOURABLE MEMBERS:** Oh, oh!

**MR. SPEAKER:** Order please.

The Honourable Minister of Education.

**HON. M. HEMPHILL:** Mr. Speaker, I'm aware of the case that has just been brought to my attention by the member opposite, and the answer that has been given to him when he raised the question about funding and being recognized as a private school does not relate to policy, but it relates to The Public Schools Act and the law. We have provided him with a great amount of detailed information suggesting that although he is a qualified teacher, and although he wants to teach his children at home and has a child presently being taught through the Correspondence Branch and with some support through his teaching at home, that the wording of The Public Schools Act does not allow or recognize teaching in a home as a private school. It is not under the definition of a private school and he has been so informed.

**MR. C. MANNES:** Mr. Speaker, I'm wondering if the Minister could divide the specific sections of the specific acts that preclude this from taking place.

**HON. M. HEMPHILL:** I'd be delighted to, Mr. Speaker. In The Education Administration Act - I think it's - subsection 1(9) states: Private school means any school other than a public school which provides a curriculum

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and a standard of education equivalent to that provided by the public schools, but does not include any home or place to which Clause 261(b) of The Public Schools Act applies; and PSA subsection 261(b) says, no person is unable to any of the penalties set out in this act for failing or refusing to . . . - oh, I'm sorry, that one does not apply, that part that I was referring to.

**MR. SPEAKER:** Order please. May I remind the honourable member that he should not ask questions to seek information which is set out in documents accessible to the public.

The Honourable Member for Morris.

**MR. C. MANNES:** A final supplementary, Mr. Speaker. Are not the actions that are being initiated by this individual and other people who are demanding increased service within the area of correspondence courses, are they are not a sure sign that the quality and the excellence of education within the public school system are failing under the direction of this Minister?

**MR. SPEAKER:** Order please. The question is argumentative. Would the honourable member wish to rephrase his question to seek information?

#### **Children's Aid Society - dispersment of monies held in trust**

**MR. SPEAKER:** The Honourable Member for Rhineland.

**MR. A. BROWN:** Thank you, Mr. Speaker. My question is to the Minister of Community Services. Can the Minister tell this House how the considerable amount of money that is being held in trust by Children's Aid of Winnipeg is going to be dispersed now that Children's Aid Winnipeg no longer exists?

**MR. SPEAKER:** The Honourable Minister of Community Services.

**HON. M. SMITH:** I'll take that as notice, Mr. Speaker, so that I can bring a full report to the House.

**MR. A. BROWN:** Thank you, Mr. Speaker. I understand that some of these monies were designated towards certain projects and certain individuals and I wonder, is the Minister going to make an attempt to see that these monies are going to go to those persons and those projects that this money was intended for?

**HON. M. SMITH:** Mr. Speaker, the analysis of the source of the fund and any guidelines surrounding it and the proposed use of it and authority for who disperses it will be part of the answer that I bring.

**MR. SPEAKER:** Order please.

The time for Oral Questions has expired.

#### **ORDERS OF THE DAY**

**MR. SPEAKER:** The Honourable Government House Leader.

**HON. A. ANSTETT:** Thank you, Mr. Speaker. Would you please call the Adjourned Debate on Second Reading on Bill 2 and then following that the introduction of bills for Second Reading?

**MR. SPEAKER:** On the proposed motion of the Honourable Minister of Health, the Honourable Member for Pembina.

**MR. D. ORCHARD:** Mr. Speaker, it's my wish that the bill stand at this time, but if any member of the government wishes to address comments, I would have no objection.

**MR. SPEAKER:** Stand? (Agreed)

#### **SECOND READING**

#### **BILL NO. 22 - AN ACT TO AMEND THE MUNICIPAL BOUNDARIES ACT**

**HON. A. ANSTETT** presented Bill No. 22, An Act to amend The Municipal Boundaries Act for Second Reading.

**MOTION presented.**

**MR. SPEAKER:** The Honourable Minister of Municipal Services.

**HON. A. ANSTETT:** Thank you, Mr. Speaker. These proposed amendments to The Municipal Boundaries Act are basically of an administrative character. Sir, at present the legal descriptions for municipalities are all contained in this act. However, some of the members opposite may recall that in 1976 specific legislative recognition was provided for the Municipal Board to deal with alterations to municipal boundaries and other changes to municipal boundaries flowing from both Municipal Board decisions and legislation. Members will also understand the complexity that is associated with the task of updating all of the legal descriptions for municipalities that have been made over several decades.

The proposed amendments will enable the descriptions to be established by regulation rather than by statute, thus a boundary change can be reflected in an amended regulation with no necessity to bring each of the individual regulations before the House. Legal descriptions have been prepared which will reflect either the boundary changes or the clarification of the existing descriptions.

I'd like to advise members opposite of a minor change I am going to propose to the bill in committee stage. That further amendment deals with the question of bringing sections into force by proclamation and I'll explain the reason for that now so that there is full understanding of the intent of the legislation at the Second Reading stage.

This bill does not in any way deal with the procedures for amending municipal boundaries, only with the legal description for the boundaries when they are established either by legislation or by the Municipal Board.

The passage of the bill will enable the department to consult with municipalities to ensure that any changes

in description are clearly understood. As well municipalities will be able to appreciate the process by which each municipality will have its own regulation establishing the legal description and the process by which boundary changes can be reflected in the issuance of an amended regulation. I'd like to emphasize that, Mr. Speaker. The bill proposes the mechanism but does not propose to be a means by which boundaries can be changed. It's a mechanism for recognizing changes that have been made through the normal legal process.

The new regulations will be passed gradually over the next year since approximately 200 legal descriptions are involved. Obviously certain descriptions are contained in special legislation. Those cities or towns which have their own Charter such as Thompson, Brandon and Winnipeg, a proposed amendment at committee stage will provide that each legal description contained in the act could be repealed on proclamation. That proclamation would coincide with the establishment of an updated legal description put in by regulation. In this fashion, the existing descriptions will remain in place in the act until their process of revision and consultation is completed. The new descriptions will then be placed by proclamation.

It seems to be the most effective way of providing this mechanism of transition from the act to regulation for something that probably should have been in regulation from Day One.

I'm certain members will appreciate that this will allow the regulations to provide the clarity of detail while retaining the necessary authorities in The Municipal Act, the local charters, and The Manitoba Municipal Board Act.

Former Ministers of Municipal Affairs on both sides of the House will recognize the significance of this administrative process and I trust will endorse the proposed amendments so that the lengthy process of establishing the regulations can be initiated.

If there are any questions at this stage, Mr. Speaker, because I realize this is a technical matter, I would be pleased to address them. Otherwise, I commend this bill to the members on both sides of the House.

**MR. SPEAKER:** The Honourable Member for St. Norbert.

**MR. G. MERCIER:** I have a question, Mr. Speaker to the Minister.

Could the Minister inform the House whether passage of this bill would allow the Cabinet to change the boundaries of the City of Winnipeg?

**HON. A. ANSTETT:** Not to my knowledge, Mr. Speaker. I did not ask staff that question and I have not received specific advice to that question. But my understanding is that the boundaries of the City of Winnipeg are contained in The City of Winnipeg Act and can only be changed by amendment to that act.

The intent of this legislation is to provide a prescriptive form for changing descriptions by regulation. It does not provide authority to the government to actually change the boundary, to only change the language. Since that is the case I don't believe, although I can get a definitive answer, I'm 99.9 percent sure that

nothing in this act could be construed as allowing us to change any boundary, the City of Winnipeg, rural municipality, town or village. It's purely a prescription for providing changes in the description to make them more readily understood.

**MR. G. MERCIER:** Just to clarify that, Mr. Speaker, would the Minister undertake to obtain from Legislative Counsel an opinion as to whether or not this act would authorize Cabinet sitting behind closed doors by the stroke of a pen, to alter and change the boundaries of the City of Winnipeg? Would he undertake to obtain that opinion from Legislative Counsel?

**HON. A. ANSTETT:** Mr. Speaker, Legislative Counsel will be at committee consideration of the bill. The honourable member can ask Legislative Counsel at that time. I will advise the Legislative Counsel of the honourable member's interest in obtaining an answer to that question. The Legislative Counsel will then be prepared to address that at committee stage.

But I am convinced that there is no such opportunity. The member of course has direct access himself to Legislative Counsel to ask that question. I believe the member knows that nothing in The Municipal Boundaries Act provides it with the authority to override or take primacy over any other provincial legislation, and The City of Winnipeg Act provides the boundaries for The City of Winnipeg Act. So in law I can't conceive of how this act could amend those boundaries; but not being Legislative Counsel I'm not going to give the member a 100 percent guarantee. I know even lawyers are seldom willing to do that.

**MR. SPEAKER:** Are you ready for the question?  
The Honourable Member for Virden.

**MR. H. GRAHAM:** Well, Mr. Speaker, I would like to ask a couple of questions and the first question I would like to address to the Honourable Attorney-General. I would like to ask the Attorney-General if boundaries of a municipality . . .

**MR. SPEAKER:** Order please, order please. The bill has been introduced into the House for debate. If there are questions that members might have of the member who has previously spoken, they may do so for clarification. It is not another question period or an opportunity to take the time of questions on this or similar matters. If the honourable member has a question of the member who has just spoken, he may give it. If not, he may give his opinion in speaking to the bill.

The Honourable Member for Virden.

**MR. H. GRAHAM:** Mr. Speaker, the purpose of asking a question is to try and find additional information from the Minister with respect to what has been proposed at this particular time.

I would like to ask the Honourable Minister of Municipal Affairs that if the boundaries of a municipality are changed, does that necessarily mean that the population count of that municipality may change between the five year periods when they do an official census?

**HON. A. ANSTETT:** Mr. Speaker, that's a very complex question, but I appreciate the member raising it.

The question is not appropriately directed to this statute. This statute contains no mechanism for the changing of municipal boundaries. That's provided for in other statutes under the administration of the Minister of Municipal Affairs.

But I can tell the honourable member understanding that this statute only provides for the writing of the new description and putting it in place by regulation rather than requiring enactment every time.

I can tell the honourable member though, that where municipal boundaries do change, usually on the recommendation of the Municipal Board after the holding of hearings in the local community and after the receipt by the Minister and referral to that board of a petition either of a percentage of residents or on a receipt of a petition from the municipality or municipalities involved, then the population, the equalized assessment, everything else respecting that municipality is adjusted, to reflect using the base line formula of the last census - the last census still forms the base line formula - to reflect the redistribution of those census numbers within the new boundaries, but we don't use a new base.

Does that clarify the member's question? The base year is still the same. For the census purpose, this act does not change the boundary. There is a process already in place.

The previous Ministers of Municipal Affairs on both sides will recall that our present Municipal Boundaries Act is grossly out of date because as changes have taken place over decades the act has not been amended. The difficulty is we don't make amendments every year and open up the statute for some reason. It's been suggested rather than doing that, after boundaries are legally amended in accordance with the other statutes, the actual writing of the description that flows from that can be communicated properly and be clear, be provided for by regulation rather than in Part 3 of the current act.

**MR. SPEAKER:** Are you ready for the question?

The Honourable Member for Virden.

**MR. H. GRAHAM:** I have another question to the Honourable Minister. I would like to ask the Minister if this proposal comes as a result of a resolution that was passed at the last meeting of the Union of Manitoba Municipalities. Did the union propose this change at their annual convention?

**HON. A. ANSTETT:** Mr. Speaker, I don't believe there was a resolution at this year's convention. I know both the union and the association have expressed concerns to previous Ministers going back quite a number of years. It's really a very minor issue from their perspective, but they have expressed a concern in some cases that their boundary in the act is not in accord with their boundary as approved by an Order-in-Council after a Municipal Board decision making a recommendation for a change that the two did not agree. So there are some sources of confusion.

I am sure the Honourable Member for Swan River and the Member for St. Norbert can advise the Member

for Virden just as well as I that the inconsistency has been there for decades and the desire to make that change, both on the part of staff of the department and people at the local municipal level, has been communicated to a number of Ministers.

I think there has always been a hesitation to open up the act because of the concern that people would suddenly feel that that government, Cabinet or the Assembly was now going to start changing boundaries willy-nilly. That's why I emphasized this is not a mechanism for changing boundaries. It is a mechanism for changing the description. It doesn't change the legal boundary. The boundary remains the same as the mechanism for revising the descriptions to accord with all kinds of things.

I will give the member one example. There is land in the R.M. of Cartier which is now on the north side of the Assiniboine River because over decades the river has moved, but there is no way we can accommodate that without addressing the legal description. Well we could move the river. There are two ways we could address it. We could move the river or we could change the description from following the centre line course of the river so that that land actually moved to where the description legally would have it placed. There's all kinds of anomalies like that, that technically should all come to the floor of this House to be changed under the present statute.

I am recommending to the House that the authority to make those changes be provided in regulation - not the changes in the boundary - purely the changes in the description.

**MR. H. GRAHAM:** Mr. Speaker, I beg to move, seconded by the Honourable Member for St. Norbert, that debate be adjourned.

**MOTION presented and carried.**

### **BILL NO. 17 - THE TRANSBOUNDARY POLLUTION RECIPROCAL ACCESS ACT**

**HON. R. PENNER** presented Bill No. 17, The Transboundary Pollution Reciprocal Access Act, for Second Reading.

**MOTION presented.**

**MR. SPEAKER:** The Honourable Attorney-General.

**HON. R. PENNER:** Mr. Speaker, just a brief explanation. The difficulties arise where a person in one jurisdiction is damaged by pollution caused by a source in another jurisdiction. Frequently the law is such that the person suffering damage cannot bring an action in the courts in his or her own jurisdiction because the person causing the pollution is not within that jurisdiction. In addition, the person suffering damage is frequently restricted in bringing an action in the court in the offending jurisdiction because the damage was not caused in that jurisdiction.

A situation, Sir, of this kind arose not too long ago where the pollution caused by a paper mill in Ontario resulted in damage to fishermen in Manitoba who were

unable to obtain any recourse through the courts either in Manitoba or in Ontario. It's a peculiarity of the law dealing with conflict of laws as it is sometimes called.

The Uniform Law Conferences of both Canada and the United States have recommended a bill - and this is the bill - which would allow persons of foreign jurisdictions, as that term is used in law, to bring actions in any jurisdiction enacting the bill - and we would be one - with respect to pollution originating in that jurisdiction. This right, however, would arise only if the jurisdiction of the person seeking to bring an action in Manitoba provided similar access to its courts for Manitobans suffering similar damage.

The bill has the endorsement of provincial Ministers responsible for the Environment because it is seen as an additional control measure. It is, Sir, a quid pro quo if a Manitoban can bring action in Saskatchewan, then a Saskatchewan person could bring an action in Manitoba under these circumstances. That's what it's about.

**MR. SPEAKER:** The Member for St. Norbert.

**MR. G. MERCIER:** Mr. Speaker, I wonder if the Minister would agree to have his staff provide me with copies of the excerpts from the Uniform Law Conference of Canada and United States in support of the bill.

**HON. R. PENNER:** Yes, Mr. Speaker.

**MR. SPEAKER:** Are you ready for the question?  
The Honourable Member for Niakwa.

**MR. A. KOVNATS:** Yes, just for clarification, Mr. Speaker, if I could ask the Honourable Minister, would this also cover the City of Winnipeg water supply coming in from Ontario that has the possibility of being polluted? Could action be taken? Is this the reason or part of the reason? Could the City of Winnipeg take action under this bill?

**HON. R. PENNER:** Mr. Speaker, the member provides a good example. The source of Winnipeg's water supply arises in Ontario. If someone in Ontario polluted by an

action the source of that supply, then a problem would arise in bringing an action in Ontario for damage suffered in Manitoba. We could run into a conflict of law situation in which the courts in Ontario would say that the damage that you seek to redress is caused in Manitoba, go to the courts in Manitoba. And if we went to the courts in Manitoba to sue someone in Ontario, they would say the defendant is in Ontario, you can't sue here. This gets rid of that problem, or it's designed to do that.

**MR. SPEAKER:** The Honourable Member for St. Norbert.

**MR. G. MERCIER:** Mr. Speaker, I move, seconded by the Honourable Member for Niakwa, that debate be adjourned.

**MOTION presented and carried.**

**MR. SPEAKER:** The Honourable Government House Leader.

**HON. A. ANSTETT:** Mr. Speaker, it had been my hope that the Minister of Finance would have an opportunity today to introduce that bill. I believe he slipped out for a moment to get his speaking notes. Well, Mr. Speaker, it's not a major piece of legislation. I'm sure his speaking notes will only take 5 or 10 minutes at another sitting. So if we could have that matter stand, I regret that he was unable to be here at this time. If we could have that matter stand, Mr. Speaker, I believe there is a predisposition to dispense with Private Members' Hour today. We had agreed we would not start detailed Estimates review in Committee of Supply until Monday.

So, Mr. Speaker, I believe that exhausts our agenda for this week. Unless there are any other items that members wish to bring before the House in accordance with the Order Paper, I would be inclined to move, seconded by the Member for Lakeside that the House do now adjourn.

**MOTION presented and carried** and the House adjourned and stands adjourned until 2:00 p.m. on Monday.