



Third Session - Thirty-Seventh Legislature

of the

Legislative Assembly of Manitoba

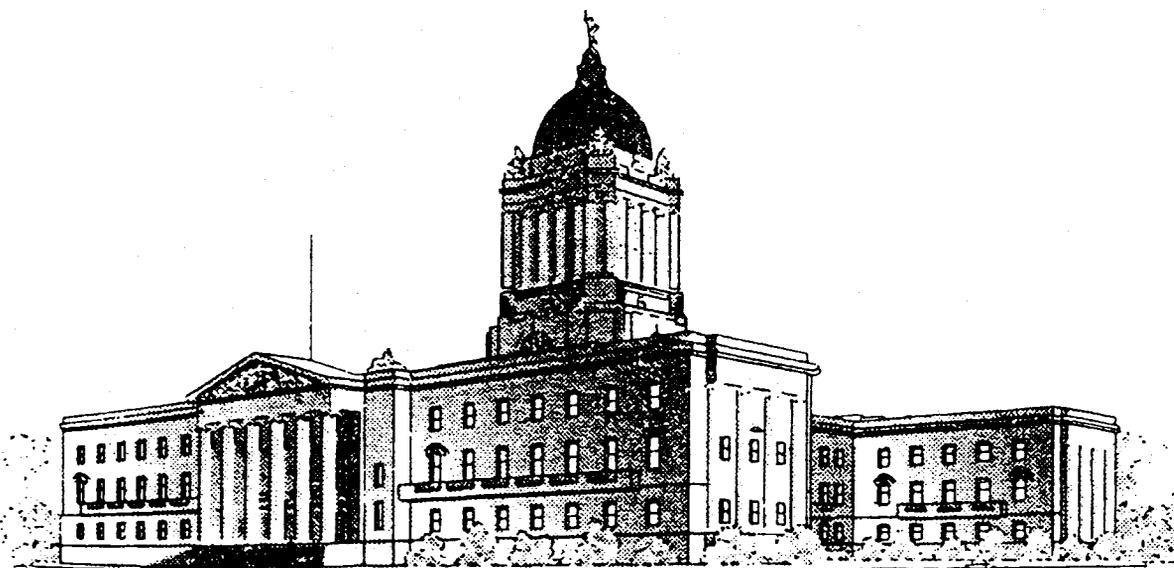
DEBATES

and

PROCEEDINGS

**Official Report
(Hansard)**

*Published under the
authority of
The Honourable George Hickes
Speaker*



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Seventh Legislature

Member	Constituency	Political Affiliation
AGLUGUB, Cris	The Maples	N.D.P.
ALLAN, Nancy	St. Vital	N.D.P.
ASHTON, Steve, Hon.	Thompson	N.D.P.
ASPER, Linda	Riel	N.D.P.
BARRETT, Becky, Hon.	Inkster	N.D.P.
CALDWELL, Drew, Hon.	Brandon East	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave, Hon.	Kildonan	N.D.P.
CUMMINGS, Glen	Ste. Rose	P.C.
DACQUAY, Louise	Seine River	P.C.
DERKACH, Leonard	Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary, Hon.	Concordia	N.D.P.
DRIEDGER, Myrna	Charleswood	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry	Lakeside	P.C.
FAURSCHOU, David	Portage la Prairie	P.C.
FRIESEN, Jean, Hon.	Wolseley	N.D.P.
GERRARD, Jon, Hon.	River Heights	Lib.
GILLESHAMMER, Harold	Minnedosa	P.C.
HAWRANIK, Gerald	Lac du Bonnet	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LATHLIN, Oscar, Hon.	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
LEMIEUX, Ron, Hon.	La Verendrye	N.D.P.
LOEWEN, John	Fort Whyte	P.C.
MACKINTOSH, Gord, Hon.	St. Johns	N.D.P.
MAGUIRE, Larry	Arthur-Virden	P.C.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McGIFFORD, Diane, Hon.	Lord Roberts	N.D.P.
MIHYCHUK, MaryAnn, Hon.	Minto	N.D.P.
MITCHELSON, Bonnie	River East	P.C.
MURRAY, Stuart	Kirkfield Park	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
PENNER, Jack	Emerson	P.C.
PENNER, Jim	Steinbach	P.C.
PITURA, Frank	Morris	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack	Southdale	P.C.
ROBINSON, Eric, Hon.	Rupertstland	N.D.P.
ROCAN, Denis	Carman	P.C.
RONDEAU, Jim	Assiniboia	N.D.P.
SALE, Tim, Hon.	Fort Rouge	N.D.P.
SANTOS, Conrad	Wellington	N.D.P.
SCHELLENBERG, Harry	Rossmere	N.D.P.
SCHULER, Ron	Springfield	P.C.
SELINGER, Greg, Hon.	St. Boniface	N.D.P.
SMITH, Joy	Fort Garry	P.C.
SMITH, Scott, Hon.	Brandon West	N.D.P.
STEFANSON, Heather	Tuxedo	P.C.
STRUTHERS, Stan	Dauphin-Roblin	N.D.P.
TWEED, Mervin	Turtle Mountain	P.C.
WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, July 11, 2002

The House met at 10 a.m.

PRAYERS

ORDERS OF THE DAY

GOVERNMENT BUSINESS

Hon. Gord Mackintosh (Government House Leader): Would you please call report stage on Bill 14, Mr. Speaker?

REPORT STAGE

Bill 14—The Public Schools Modernization Act (Public Schools Act Amended)

Mr. Speaker: Report stage, Bill 14, The Public Schools Modernization Act (Public Schools Act Amended) and the amendment proposed by the honourable Member for Minnedosa, who has 25 minutes remaining.

Mr. Harold Gilleshammer (Minnedosa): Mr. Speaker, I am pleased to be able to rise again today to speak on my amendment on The Public Schools Modernization Act. Again, I point out what a misnomer this is to refer to this as a modernization act. In fact, the fact that the Board of Reference is being so significantly changed I think should be a matter of concern for all of us.

The fact is that governments always have had a right to appeal, that there has been a use of this Board of Reference for many, many decades by individuals, by groups of people, by municipalities to draw the attention of government to the fact that there needs to be some changes in boundaries. What the minister is doing with this particular bill is he is seriously changing the manner in which the Board of Reference can be used, and at no point in this debate, at no point in the discussions about Bill 14 has the minister ever made a case of why this needs to happen.

I would acknowledge, however, that the minister has spoken many times on the need for symmetry. In fact, perhaps he has not spoken

lately about symmetry, but one particular day when he was questioned about this in the hallway, he used that term 15 or 16 times to justify why he was changing the Board of Reference. He indicated that he needed symmetry between the Board of Reference and the Public Utilities Board and the Municipal Board, except he does not acknowledge that those boards are completely and totally different.

The Public Utilities Board, probably one of the most important boards in the Province of Manitoba, deals with the public utilities of this province. It is the venue in which Hydro rates and Autopac rates are set. It is a place where witnesses are brought forward and put under oath to give testimony before the Public Utilities Board. It is a very judicial-like proceeding.

I know that members opposite have not regarded the Public Utilities Board with the type of respect that I think it is due. In fact, when we came to government in 1988, rates were set at the Cabinet table, most specifically for MPIC or Autopac. Between elections, the Autopac rates would be jacked up at the Cabinet table. As we approached an election in the last year, they would be reduced at the Cabinet table. Manitobans saw this as fundamentally wrong, fundamentally wrong, and, as a result, people threw that government out of office in 1988 because of the fact that they saw this as being very, very wrong.

Now, the minister wants to bring symmetry between the Board of Reference and the Public Utilities Board, yet he does not indicate what that symmetry means. In fact, the Board of Reference, is he going to put in place a regime whereby the Board of Reference is going to put people under oath? That really is not necessary. Is he going to create a Board of Reference which is going to, I think, dictate tremendous costs to be incurred by individuals or school boards in determining where the boundaries should be? I do not think so.

So the comparison between the Board of Reference and the Public Utilities Board I think is not a fair one. It is not an honest one. It is not one that makes any sense, yet the minister talks about bringing symmetry to that. In fact, that was the answer to each and every question he was asked on May 9 in the hallway. He was asked why government needed this so-called symmetry between the Board of Reference and the Public Utilities Board and the Municipal Board, and the only thing he could say was it makes good public policy.

The fact is those boards have very, very different functions. The Board of Reference as part of the Department of Education has worked very well over the years, and I think it is a terrible mistake to water it down and not allow it to move forward in the manner which it had before.

This bill was supposedly about school division amalgamation, yet in many ways it creates and makes other changes to the education landscape in this province that I think are going to have detrimental effect on the way school divisions operate.

One of the other things that he is doing in this particular bill is that he is taking into his hands special powers to micromanage school divisions that are being amalgamated. He is compelling them to send in to him their budgets prior to them being finalized and after he has announced the provincial funding, and that provincial funding usually is announced on January 15 and sometimes as late as the 1st of February. Yet those boards are going to have to struggle with their budgets, as they do every year. I mean, budgeting is not an easy thing. They are going to have to make decisions on what degree of change they are going to make within their school divisions. Then he is going to ask them to send their budgets in to his office for his approval, and he is going to compel them to make the changes that he deems necessary.

This is an intrusion on the rights of school divisions and school boards that we have not seen before in this province. It is no wonder we had many, many trustees come to the committee and tell the minister that they are not happy with his micromanaging of the school division

budgets. He is going to review them and then presumably in a week or three or four weeks send them back, and they are going to be forced to finalize those budgets by March 15 as they are dictated to by the Minister of Education (Mr. Caldwell).

This is fundamentally wrong, and, Mr. Speaker, I would hope that the Government rethinks this, especially given the fact that the Government is funding less and less of public education in Manitoba. There was a time in the history of Manitoba, if you go back to the 1980s, where the provincial government, the central government was responsible for 80 percent of school funding. Now we have seen that change to the point where the provincial government, on the operating side, is responsible for only 59.2 percent of school funding.

Yet the minister wants, through this legislation, to dictate to school divisions how they are going to spend that money, and he is going to adjust their budgets. The fact of the matter is he has less moral authority to do that today than ever before because of the fact that he is taking more and more control away from them, and, in fact, he is going to be telling them what level of special levy they should impose on the citizens. Part of this is because he, at the beginning of this process, said that he was going to find \$10 million of savings within the budgets of these amalgamated school divisions. We know now that that is impossible, but the minister is going to use the additional powers that he is gaining through this legislation to micromanage those school divisions to try and extract \$10 million of savings.

* (10:10)

Just this past week, officials from Antler River and Souris Valley school divisions were talking about the new boundaries. One of the trustees, I believe from Antler River, said even in 10 years, 10 years out, he did not see any savings. We have heard from other school divisions throughout this province who talk about the additional costs that they are going to be facing because of the amalgamation.

On top of that, we are also seeing a minister who probably is going to allow class size and

composition to go to arbitration because he has not made a decision, and he knows that he does not have to make a decision on the question of class size and composition. By just doing nothing, by not bringing in legislation, by not doing anything in that area he is going to allow that class size and composition be arbitrated.

This is going to drive up the costs of education in Manitoba, possibly by over \$100 million. There was an article in the news this past week where some research had been done, and, if class size and composition was put into place, it indicated that there were major cost drivers. Those major cost drivers would be the need for additional classrooms, classrooms in probably every school division in the province, and additional teachers. The additional costs were going to be in excess of \$100 million.

Who is going to be responsible for that? Is the central government going to increase the funding to school divisions to pick up those costs or is that going to be on the backs of the property taxpayer and, in fact, would be raised by special levy?

We heard testimony at committee from a trustee from Dauphin who indicated that the special levy in Dauphin is now 46 percent of the ongoing operating costs in the school division in Dauphin. As a result, the Province is paying 54 percent. Again we are seeing this pulling away from the responsibilities of the Province to fund education, and, in fact, they are funding less and less.

So this bill is very comprehensive and makes many more changes in it than simply the change in the school boundaries.

I want to get back to the Board of Reference. This has been a tried and true method of trying to adjudicate the differences that people have as far as school boundaries are concerned. It has been the tried and true method by which individuals, municipalities, native bands and others have brought to the attention of government that they want their children to be placed in a different school division.

Now, Schools of Choice has partially resolved that. Schools of Choice allows students

across this province to attend another school in another school division, but only if there is room. The Schools of Choice does not allow for the expansion of schools. Schools of Choice does not allow for additional teachers and additional classrooms to be put in place.

Maybe that is the next step if, in fact, the Board of Reference is not going to be given the authority and the power that it once had. The Schools of Choice may be the answer, where parents can have their children moved to another school, where they can select a school with the particular programming that is of interest to them. Something has to be put in place whereby parents can achieve for their children the type of education that they really want.

Now, across government, there have always been appeal processes. In every department of government I am sure that if people feel aggrieved by a decision of government, there is a way for them to have that decision appealed. They can go to some sort of tribunal, and those tribunals not only have to be fair, they have to seem to be fair. They have to be put in place so that when people disagree with a decision of government—and I would use the Municipal Board as a fine example of that. It is very similar to sometimes the issues that are issues of disagreement, points of disagreement between one school division and another where they could go to the Board of Reference.

Municipalities often face the same issues, that it may be to do with moving some property from a rural municipality into a jurisdiction, a town, a city, a village, where they want to change the boundaries. Now usually municipal corporations do not want to give up any property because that property is their tax base. Yet, there may be a greater need to change that boundary. There may be a greater need to move that boundary for cases of business expansion. Often when towns across this province maybe have an industrial section to the town, they want to expand and the expansion probably should go in that particular area and perhaps into a rural municipality. Well, then those boundaries should change, and municipalities are not like the department of highways which can use expropriation.

When Highways has a boundary issue or when Highways has an issue where they want to

expand a road, make it a four lane, build the road, a highway in a different area, they can use expropriation. Expropriation is never used lightly by government, because this is truly the heavy hand of government coming into play where land is taken away from an individual. Usually, the real issue is the price of that property, and, of course, if you are the seller you always see that property as being far more valuable than the buyer does. But government does have that final clout. Government does have that heavy hand. They can expropriate.

In other cases where municipalities are in dispute over boundaries, there, in fact, they can go to the Municipal Board. I can remember a case in the west side of the province not too many months ago where the town of Virden needed to expand into the rural municipality there. The two councils could not agree on it. So it goes to an adjudicative body, in this case, the Municipal Board. They hold hearings, both sides are represented, all people who want to speak are able to speak, and ultimately that Municipal Board, which is made up of a panel of three people selected from a larger group of perhaps 25 people who have been appointed, in this case by the Minister of Intergovernmental Affairs (Ms. Friesen), sit as a quasi-judicial body to make a decision on that.

Now, in terms of education, the Board of Reference has historically in Manitoba served this purpose, and they have served it well. In this bill to do with boundary changes, I do not understand why the minister feels he needs to restrict and change the Board of Reference. It has served Manitobans well. It has a proven track record, and now the minister is using his power under this bill, a bill that he is trying to ram through this House that is going to change boundaries.

In fact, the traditional way of doing that when you are looking at boundary changes is simply to suspend the Board of Reference and let the commission on boundaries do its work. The problem here is that the minister did not appoint any commission. There was no public discussion of new boundaries. He is relying on a document that is eight years old, and you and I know how much has changed in the last eight years.

There have been tremendous changes across this province, and he, very wrongly I believe, is using the Norrie Commission as his document to say that these boundaries should be changed. He has said, on numerous occasions, that he has taken instruction from this document, yet to find any similarity between the changes he has made in the boundaries and the Norrie Commission is virtually impossible. There is nothing that he has announced in his new boundaries which appears in the Norrie Commission final report.

* (10:20)

In fact, Mr. Speaker, the minister is, as I have said before, fond of the word "symmetry." If he wants to look for symmetry in boundary changes, he would certainly find it in the Norrie Commission. The Norrie Commission was not accepted by the previous government, I will give you that, but there was symmetry in the types of boundaries that the Norrie Commission was recommending. Here, in the city of Winnipeg, there were going to be four school divisions, all of similar size in terms of geography and in the number of students that they would accommodate. In the rural area, there was also symmetry, that school divisions were going to be between 4000 and 6000 strong.

That is the type of symmetry that I would hope that the minister would have been interested in. However, when you look at the map that he has drawn, there is a distinct lack of symmetry, and it just raises so many questions about how, on the one hand, he can praise and say he uses the Norrie report, and, on the other hand, he has crafted a map that bears no resemblance to that and has a very distinct lack of symmetry, yet he wants to stand by the use of the Norrie Commission. In fact, I think that he did not even consider the Norrie Commission when he announced his boundaries. It was only later, when it was pointed out to him that he could make those changes, he could make those changes by using the powers he already had, that he could make those changes at the Cabinet table, except that there was a prerequisite, and that prerequisite was and is that there be some public discussion of this before anything is finalized.

That public discussion never took place. That public discussion just did not happen, and

the minister is vulnerable because he could be challenged in court. In fact, he was challenged in court. It is very unusual that a minister will get himself into such difficulties as this Minister of Education (Mr. Caldwell) has, where he not only has one court proceeding challenging him, but, in fact, he has two. It should send a strong message to this Premier (Mr. Doer) that this minister has been acting in a very arbitrary way, one that is not acceptable to many of the people in that province, and, in fact, their remedy is to go to court.

Now, I would relate that to the Board of Reference. The Board of Reference was that mechanism that they could have used. That Board of Reference was in place to give the minister the ability to have an outside group adjudicate these boundary differences. In fact, when parents in the Springfield area wanted to trigger that Board of Reference, they were denied that opportunity by this minister. In fact, they had to go to court. Because of the draconian aspects of this bill, the court said, no, you cannot use the Board of Reference.

So these people were not only disallowed the opportunity beforehand, they were disallowed their ability beforehand to use some sort of a public discussion process because the minister did not have one. They were also cut off at the back end when they went to try and trigger a Board of Reference, that the court ruled that, because when and if this bill is passed, the Board of Reference would have no force. So this is a very heavy-handed bill in shutting off the ability of people to have their say on this piece of legislation and on these boundary changes.

Boundary changes are very, very important. People are interested in how their children are being schooled, how they are being educated, what schools they go to, who the trustees are. This is a very fundamental part of democracy in this country, that parents have access to those schools, to the teachers and administration and board of those schools. They are very interested in where these boundaries are and how it is going to affect the level and type of education their children are going to get. So this bill, by taking away that avenue of using the Board of Reference, is changing the playing field not only for now but on into the future.

The amendment that I have brought forth will help to restore some of the fair playing field that people have enjoyed in this province before. It would establish that 10 resident electors could trigger a Board of Reference where they could have that fair hearing, where they could come forward and talk to the issue and have a fair hearing and have it adjudicated.

Now, it does not mean that people are always going to win. They are not always going to get their way in how boundaries are drawn, but at least they have a fair opportunity to be heard. They have at their disposal a method of raising the issue in public, to bring evidence, to bring other families and people forward to give the best advice to government. The Board of Reference takes it out of the minister's hands. This bill, instead of being a pillar of democracy, in fact is putting in place more and more power for the Minister of Education (Mr. Caldwell), and we feel this is wrong.

Mr. Speaker: Order. The honourable member's time has expired.

Hon. Jon Gerrard (River Heights): Mr. Speaker, I rise to support the Member for Minnedosa (Mr. Gilleshammer) and his amendment. I think that when we look at this bill, which is to promote school board amalgamation, it is quite important that there be the ability for democratic input, and the changes which the Member for Minnedosa is suggesting would add the potential for democratic input in relationship to the Board of Reference.

In discussing this amendment, I would like to refer briefly to the Norrie report. The Norrie report was the result of some considerable consultations, consultations which were held around the province and brought in considerable expertise. The goals that the Norrie report used in formulating their recommendations were to further educational excellence, to facilitate effective and efficient program delivery and development in the public school system, to facilitate the goals of education in the province and to ensure that education reflects principles such as equity, openness, responsiveness, excellence, choice, relevance and accountability, ensure flexibility in student movement between and among divisions and districts, acknowledge

the increasing applicability of technology to facilitate program delivery, to foster partnership between and among government, community, parents, labour, business and industry, and to receive public acceptance.

The principles outlined here make mention of such important words as openness, responsiveness, accountability. These are factors which come into play when one considers the amendment being proposed by the Member for Minnedosa (Mr. Gilleshammer) and the revisions which should be put in place to Bill 14 in order to make sure that there is some increased openness, responsiveness and accountability.

I want to go now to the section of the Norrie report which deals with school boards. I quote from the Norrie report: "The commission recommends that governance of public education by boards of publicly elected school trustees be reaffirmed."

The important principle here is that school boards have the ability to make the decisions. The school boards have the ability to have a process which is accountable, which is responsive to the public, which can be appealed, in which the Board of Reference plays an important role. The goal is not for the minister to change things in ways that he will take all the powers unto himself and remove a lot of the normal, democratic process, remove the position of the Board of Reference, remove the ability of citizens to take cases to the Board of Reference.

* (10:30)

The goal here is to make sure, within the context of the functioning of school boards as key players in the running of the school system, public education in Manitoba, that, in fact, there is a form of accountability and there is a form of responsiveness and there is an ability for citizens to have input into the decisions which are being made and that we should not be subject to the kind of arbitrary decision making that the minister, in this instance, has chosen to take upon himself and that we need to make sure that there are appropriate checks and balances on ministers, not just now, but in the future.

The rush that the Government is in to put this through without adequately considering some of the long-term ramifications I think are

issues which we need to make sure are well considered before we push on and leave this behind us, because this is a very important bill, and we need to try and make sure that what comes out comes out is a legacy which can operate well for a long time into the future.

Unfortunately, the way the bill is structured at the moment, there are right away some problems. Clearly, the unfortunate thing is that, you know, in another set of amalgamations or changes to boundaries almost right away, we are going to have to get into amending this act instead of doing it properly in the first place. That is a problem. It is a problem because sadly the minister has decided to pick and choose from the Norrie report in ways that have the potential to harm the operation of the educational system in the province.

I think that the various amendments which have already come forward, including this amendment which we are debating today, should be given adequate and serious consideration and debate. It is a little bit disappointing that we have not heard a reply from the Minister of Education (Mr. Caldwell) on this particular amendment. It would have been, one hopes, a part of the normal democratic process in this Legislature to get a clear view from the Minister of Education.

I think that there are elements which we must consider, that these elements need to be taken in the context of what was said in the Norrie report. As far as I have been able to find, the Norrie report did not make recommendations relative to changes to the Board of Reference in any kind of way that this Minister of Education is trying to make changes.

So we are not really even allowed to have the full background of why these major changes to the operation of the Board of Reference, to the democratic process. The minister has not given the adequate detail and background that normally we would have with legislation of this sort. It would appear that his changes to the Board of Reference are designed more to end the possibility of appeals to the arbitrary decisions that he is making, rather than to provide a substantive move forward in a way that would enhance the democratic process in this province.

I would suggest to the members of this Legislature, there are some important additional issues which relate to the changes which the minister is making in an arbitrary fashion, and which we are looking at the subject of this bill, Bill 14, and this amendment. I have before me, page 139, Figure 46 of the Norrie report, which outlines a variety of changes to the situation with school boards. The map that the minister has chosen to draw, in terms of changes to school boards, is, in fact, quite different from the one that was drawn and suggested by the Norrie report. So one is left with the circumstance and the concern of where did some of these recommendations come from, and that is particularly true in the area of things like Transcona-Springfield.

So, I would submit, Mr. Speaker, that the ability for citizens to bring forward recommendations, as proposed in this amendment, is important and that this amendment should be given support in this Legislature. Thank you.

Mr. Speaker: Is the House ready for the question?

Point of Order

Mr. Speaker: Point of order? A point of order has been raised. The honourable Official Opposition House Leader, on a point of order.

Mr. Marcel Laurendéau (Official Opposition House Leader): Yes, Mr. Speaker, just the other day I was told to put away my newspaper. I think if you might peruse the room, there might be some newspapers to put away.

Mr. Speaker: The honourable member does have a point of order. It is in our rules that newspapers are not to be read or brought into the Chamber. I would ask the co-operation of all honourable members.

* * *

Mr. Speaker: Is the House ready for the question? The question before the House—

Some Honourable Members: Oh, oh.

Mr. Speaker: Order. The question before the House is the proposed amendment to Bill 14, The Public Schools Modernization Act (Public Schools Act Amended). Amendment moved by the honourable Member for Minnedosa (Mr. Gilleshammer)

THAT Bill 14 be amended in the proposed section 5, as set out in section 5 of the Bill, by striking out "or" at the end of clause (c), by adding "or" at the end of clause (d) and by adding the following after clause (d):

Dispense? Dispense.

(e) 10 or more resident electors of a school division or school district involved requesting that land be transferred from one school division or school district to another, or that land that is not in a school division or school district be added to that school division or school district.

Is it the will of the House to adopt the motion?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Voice Vote

Mr. Speaker: All those in favour of the amendment, say yea.

Some Honourable Members: Yea.

Mr. Speaker: All those opposed to the amendment, say nay.

Some Honourable Members: Nay.

Mr. Speaker: In my opinion the Nays have it.

Mr. Laurendeau: On division, Mr. Speaker.

Mr. Speaker: On division.

* * *

Mr. Speaker: We will now move to the next amendment. Report Stage, proposed amendment to Bill 14, The Public Schools Modernization

Act, proposed by the honourable Member for Minnedosa (Mr. Gilleshammer).

Mr. Gilleshammer: Mr. Speaker, I move, seconded by the Member for Tuxedo (Mrs. Stefanson)

THAT Bill 14 be amended by adding the following after section 6 of the Bill:

6.1 Subsection 7(2) is amended by striking out "except after a review by and the receipt of a recommendation from the review commission" and substituting "unless the review commission has conducted a review and made a recommendation, and then only if the minister exercises his or her powers within three years after receiving the recommendation of the review commission".

* (10:40)

Mr. Speaker: The amendment moved by the honourable Member for Minnedosa (Mr. Gilleshammer) that was seconded by the honourable Member for Tuxedo (Mrs. Stefanson), I would like to advise the House that the amendment is out of order because it contravenes *Beauchesne* Citation 698(8)(b) which states: "An amendment may not amend sections from the original Act unless they are specifically being amended in the clause of the bill before the committee," or, in this case, before the House.

Mr. Gilleshammer: Mr. Speaker, with the greatest of respect, I would challenge your ruling.

Mr. Speaker: The ruling of the Chair has been challenged.

Voice Vote

Mr. Speaker: All those in support of sustaining the ruling of the Chair, say yea.

Some Honourable Members: Yea.

Mr. Speaker: All those opposed to sustaining the ruling of the Chair, say nay.

Some Honourable Members: Nay.

Mr. Speaker: In my opinion, the Yeas have it.

Mr. Laurendeau: On division, Mr. Speaker.

Mr. Speaker: On division.

* * *

Mr. Speaker: Now we will move to report stage, the proposed amendment to Bill 14, The Public Schools Modernization Act (Public Schools Act Amended), which is proposed by the honourable Member for Minnedosa.

Mr. Gilleshammer: Mr. Speaker, I move, seconded by the Member for St. Norbert (Mr. Laurendeau)

THAT Bill 14 be amended in the proposed subsection 9(5.1), as set out in subsection 7(3) of the Bill, by striking out "clauses 5(a), (b) or (c)" and substituting "clauses 5(a), (b), (c) or (e)".

Motion presented.

Mr. Gilleshammer: I think it is important that we do spend some time focussing on the section of The Public Schools Act which talks about the process by which school boundaries are changed. In fact, school boundaries can be changed by the minister passing an Order-in-Council within the Cabinet room to change boundaries, except there is the troubling section of the act which indicates that this would happen only after a prerequisite has been met. That prerequisite is the fact that some public consultation has to occur and then the report is brought back to government and that report is discussed by government and then the minister can, by regulation, proceed with the changes that he wants to implement.

In fact, all of us I think have tremendous respect for the previous commission that was held in 1993 and 1994, that was chaired by Bill Norrie and had prominent Manitobans such as Brenda Leslie, Manson Moir, Joan Wright and Ian Restall as commissioners. They travelled the length and breadth of this province to look at the boundaries of school divisions. They heard submissions, I believe, from in excess of 250 Manitobans, many of them representing municipal corporations or representing groups of

trustees across this province, but most importantly hearing from individuals, individuals that had their opportunity to have their say.

This commission did a tremendous amount of work. This commission brought forward a report, which I think Manitobans were very, very pleased with, by and large, in the fact that they did such a comprehensive job. That comprehensive job was contained within this report which was delivered to government in November of 1994.

Now, this report was not implemented by government at that time. In fact, government chose to go the route of having a voluntary amalgamation. I believe we were just starting to see the fruits of voluntary amalgamation with the proper incentives put in place for boards to amalgamate. The fact of the matter is that, with the right incentives, boards were moving towards amalgamation, that they were more and more relying on the ability to hire professional staff to look after more than one school division.

I would use some of the school divisions that I am aware of, where perhaps they could hire clinicians which worked in Rolling River School Division, Beautiful Plains School Division because, by co-operating like that, they were able to pool their funds, pool their resources and more and more be able to hire those professionals that they needed to put into place. So this commission report was a comprehensive one. It was one that was well documented. Some very learned people spent a tremendous amount of time, and it is certainly no slight on them that this report was not implemented.

The issue that I want to bring forward today is the fact that this report is now eight years old. You know, I think it speaks to the minister's credibility when you attempt to rely on a report that is eight years old in terms of making changes. There is so much that has changed within the province during that time. Some school divisions have stabilized. Some school divisions have grown smaller. Some demographic changes have taken place. It is really questionable whether you can rely on a report that is eight years old.

I think the minister really, really had to scramble because I do not think, before he crafted the boundaries which he is asking Manitobans to accept today, I am not sure that he was learned enough in his knowledge of the current Public Schools Act. That Public Schools Act would have enabled him to make those changes at the Cabinet table as long as he had met that test of a prerequisite; that pre-requisite being that some sort of a boundaries commission, some sort of public input had to be in place before this would be acceptable.

What I have been suggesting is that we put a time limit on the type of report that we have before us, that there would have been a three-year time limit before-time within which the Government had to act because, after that time period, it is really questionable about whether the recommendations and the information is still totally, totally reliable and relevant, not that you cannot find good comments and good issues brought forward by the Norrie Commission within that time frame. However, I think, to have credibility, government has to be able to rely on something that is much more current than this. I question whether government or whether Manitobans, whether trustees are prepared to accept that this old report done by the Norrie Commission is relevant today.

The minister, of course, went much further than that. He put things into this bill which were not needed in terms of amalgamation. I just spoke recently to the Board of Reference and the changes that he made to the Board of Reference under the guise of creating symmetry, because symmetry offers some good public policy. Well, he has not proven that case. I do not think, Mr. Speaker, that he is able to do that.

* (10:50)

Mr. Conrad Santos, Deputy Speaker, in the Chair

Mr. Deputy Speaker, I think that Manitobans are not prepared to accept that the proper thought and the proper research and the thoroughness that they expect from their Government has taken place in the crafting of these new boundaries. Certainly, the Norrie report is not being accepted as current enough to have made those changes at this time.

So, Mr. Deputy Speaker, I have indicated that I think that there should be a shelf life to this kind of report, after which a new report, a new process would have to take place, and we simply have not seen that in terms of how this Government has acted.

Therefore, I would ask members of this Chamber to support this legislation, and, in fact, leave the status quo in place as far as The Public Schools Act is concerned, because I think it has served Manitobans well, that this can be done by government but only after that prerequisite, that test has been met. I would ask members of the House to consider this amendment.

Mr. Deputy Speaker: Is the House ready for the question? The question before the House is whether to adopt the motion.

Is it the pleasure of the House to adopt the motion?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Mr. Deputy Speaker: All those in favour, say yea.

Some Honourable Members: Yea.

Mr. Deputy Speaker: All those opposed to the motion, say nay.

Some Honourable Members: Nay.

Mr. Deputy Speaker: In the Chair's opinion, the Nays have it.

The motion is accordingly defeated.
[interjection]

For clarification, when voting is taking place, no one can raise any point of order. So I am ignoring the Member for River Heights (Mr. Gerrard), but we will do the procedure again.

The question before the House is whether or not to adopt the motion. Is it the pleasure of the House to adopt the motion?

Some Honourable Members: Yes.

Some Honourable Members: No.

Mr. Deputy Speaker: I heard both yes and no.

Voice Vote

Mr. Deputy Speaker: Those who are in favour of adopting the motion, say yea.

Some Honourable Members: Yea.

Mr. Deputy Speaker: Those who are opposed to the motion, say nay.

Some Honourable Members: Nay.

Mr. Deputy Speaker: In the Chair's opinion, the Nays have it.

Mr. Laurendeau: I am tempted, Mr. Deputy Speaker, but we will do it on division.

Mr. Deputy Speaker: On division.

* * *

Mr. Gilleshammer: I will not be speaking to amendments 4 and 5 at this time. I would like to move to amendment 6.

Mr. Deputy Speaker: May the member clarify what he is doing?

Mr. Gilleshammer: I have an amendment that I am going to move.

Mr. Deputy Speaker: The Member for Minnedosa (Mr. Gilleshammer) has an amendment, and he is going to move it.

Mr. Gilleshammer: I have a seconder as well.

Mr. Deputy Speaker: And there is a seconder. The Member for Minnedosa is not moving amendments 4 and 5, but he is proceeding with amendment No. 6. Is that correct?

Mr. Gilleshammer: I have an amendment that I am proceeding with.

Mr. Deputy Speaker: And that is amendment No. 6?

Mr. Gilleshammer: Well, there is not a number on it. I will table it for you.

Mr. Deputy Speaker: The member may proceed with the amendment he is proposing.

Mr. Gilleshammer: I move, seconded by the Member for St. Norbert (Mr. Laurendeau)

THAT Bill 14 be amended by striking out section 8 of the Bill.

Motion presented.

Mr. Gilleshammer: Section 8 is a new part of The Public Schools Act that would be introduced by this bill. It is called: "**Validation of Manitoba Regulation No. 61/02** and 9.3: *The School Division and School District Amalgamation (2002) Regulation*, Manitoba Regulation No. 61/02, made by the minister and confirmed by the Lieutenant Governor in Council in the *School Districts Amalgamation (2002) Confirmation Regulation*, Manitoba Regulation 63/02, in accordance with section 7 is validated and declared to have been lawfully made, and everything done pursuant to that regulation is validated and declared to have been lawfully done."

Mr. Deputy Speaker, this, of course, is a rather strange language to have as part of a bill that the minister feels the need to be validated. The fact is this is an admission that in the process that he embarked upon that he was very, very wrong in ignoring the direction that the current act gives him. The current act indicates that by regulation he can make the boundary changes and there is a prerequisite that those boundary changes take place after a public process has taken place. The fact of the matter is he did not have a public process. Therefore, when he passed this regulation in Cabinet, there is a need to have it validated, which is a very backhanded way of bringing forward regulation and boundary changes that only will have force and effect if in this House we validate what he has done. This is the proof, I believe, that he is admitting that he used the wrong process in achieving his aims and his ends.

* (11:00)

He also goes on to say and have us, by passing this legislation, indicate that not only is

section 7 validated but that they are lawfully made. The fact is that he was not following the law, that he was not following his act, that he was not proceeding in a way designated by the laws of this province. Therefore, he needs to be validated, and he needs to have us indicate by the passage of this act that this validation is lawfully made and everything done pursuant to the regulation is validated and declared to have been lawfully done.

The problem is that this regulation is very, very comprehensive. It prescribes the new boundaries that have been put in place across this province and some that have been changed already. I know that the Member for Dauphin (Mr. Struthers) was quite active in going up to the Dauphin School Division, the Duck Mountain School Division and redrawing boundaries after they had been announced by the minister. There is no wonder that there is confusion out there, that on announcement day the minister puts forward certain boundaries. Then, aided and abetted by his colleagues, they start redrawing them shortly afterwards. *[interjection]*

Well, the minister wants to get involved in the debate, indicates that he also did the same in Transcona-Springfield. This shows what shoddy work this minister has done, that no sooner was the ink dry on the regulations, that he has to start changing them because he made some grievous errors there, and yes, members on this side, the Member for Springfield (Mr. Schuler) did point out to him that he had made some serious errors. Again, this was supported by the minister, the Member for Transcona (Mr. Reid). I know that the minister will read this in Hansard. I regret that he is not here to hear it himself, and I am sorry that he left the Chamber, but I am pleased that the Deputy Premier (Ms. Friesen) is here, because she had lots to say on amalgamation when she was in opposition. I am surprised that she has sat so silent through all of this. She has sat so silent through this whole process, and I suspect that she must have been silent at caucus and Cabinet as well, as changes were brought forward that she so vociferously opposed before.

It is unusual and strange language that a bill has to contain this sort of language, that the minister needs to be validated, that he has to have, in force of law, legislation passed to say

that this has been lawfully made and lawfully done. I suspect that there were many members of Cabinet and of the bureaucracy that pointed out to the minister that he had acted in great haste and that he was in contravention of his own act and, as a result, that this was necessary. In fact, if he indeed followed the legislation and the act, he would not need this particular portion of the bill, and I suspect that perhaps he would support this, but the fact of the matter is that he was wrong then, and he knows that he did not follow his own recommendation.

Mr. Deputy Speaker, I would urge members of the Chamber to support this amendment and strike from this bill section 8, which is the validation of Manitoba Regulation 61/02 and that the amalgamations could still take place. The regulation has been passed, and this is a portion of the bill that is entirely unnecessary.

Mr. Harry Enns (Lakeside): I am moved to comment on this amendment because it does not matter what the issue is, it could be anything, but the motive, the principle behind the section that we are trying to move is so offensive that it really should attract the attention of all honourable members.

Aside from recognizing that we have in the opposition benches expressed our concern about the entire bill, the method, the methodology, the process, the avoidance of using tried and true institutions like the Board of Reference for the redrawing or the reshaping of boundaries that has taken place over the last 30 years with respect to school boundaries, let us assume for a moment that the changes that were being proposed by Bill 14 with respect to boundaries, while maybe not universally accepted without question, but let us assume for a moment that there were no specific challenges to the method used by the Department of Education and this minister in particular.

Mr. Speaker in the Chair

Let us assume that that was the case. Then perhaps the particular amendment that we are dealing with, the validation of Manitoba Regulation 9.3, would not be so offensive. But we have had in the last month to month and a

half specific action taken by citizens of this province who want to redress, who want to challenge the department, want to challenge the minister. They want to do it not by loud protests in front of the Legislative grounds, not by unacceptable behaviour, if you like, no, they want to do it in the time-honoured tradition that is open to all citizens in a free and open society, the use of the courts, to begin with, to challenge and to question the legitimacy of the minister's action.

What this amendment talks about is really giving honourable members on that side of the House, the government side of the House, just a moment to reflect about that for a moment. I mean, here are taxpaying citizens of our province who want to do one thing only. They want to have the right of appeal. They want the right to question the legitimacy of the actions that are taken in this instance by the Minister of Education (Mr. Caldwell) and the Department of Education.

That is all that my colleague the Member for Minnedosa (Mr. Gilleshammer) is presenting to us here. He is presenting us with a second chance to take a look at it, to make what I quite frankly believe is a bad bill a little less bad. That is all. That is a pretty modest request.

The Minister of Health (Mr. Chomiak) is not an unreasonable man in most circumstances. He could be surely prevailed upon that this is a very modest attempt.

I mean, Mr. Speaker, I have to acknowledge the Government has beat us down on this bill. We have virtually exhausted our parliamentary privilege of standing up time after time, speaker after speaker in voicing our concern about Bill 14, period. That is our right. That is what the general public expects us to do, to put legislation through this kind of scrutiny. Yes, we have certainly spent more time on Bill 14 than perhaps on any other bill during this session, I submit to you for good reason. We believe it to be bad legislation.

Now, Mr. Speaker, having thrown in the towel, you might say, having acknowledged that we are not going to stop a wilful minister, a wilful government from doing what they are

empowered to do, bringing in the legislation as they see it, what are we trying to do? We are trying to make it a little less onerous, a little more acceptable, a little more in keeping with the Manitoba way, granting our citizens their opportunity to have their day in court.

* (11:10)

Mr. Speaker, is that such an unreasonable request? Is that so unreasonable? The amendment does not change any of the principal matters concerning Bill 14. We acknowledge with regret that this Government is moving in this fashion and this direction. What the Member for River Heights (Mr. Gerrard), the Member for Minnedosa (Mr. Gilleshammer) have been attempting to do in the last days of the debate on Bill 14, is to make this bill a little more acceptable and a little bit more in keeping with what we have, over the years, not overnight, but step by step, the evolution of individual rights, in this case the rights of a group of parents concerned about their children's education. They want that opportunity, which is being denied to them in Bill 14. What is particularly obnoxious about this is that—some of us have had the temerity to suggest that the minister has acted in contravention of his own statutes. Some of us had the temerity to say that some of his actions in this case are questionable.

The minister, by presenting this validation of Manitoba regulations, what he is, in fact, saying is: You know what? You are right. I am a little concerned. I have cut a few corners. I have bent the rules, but I am going to fix it up by passing this regulation so that if I committed any sins, I have the blessing of the Legislature and nobody can touch me. In coarser language, it is called covering of one's—I better not say that. I am making every attempt to reform my legislative comments.

An Honourable Member: Covering his backside.

Mr. Enns: Covering one's backside. I thank you for that assistance. That is what we are doing here. What the member from Minnedosa is giving this Chamber is an opportunity—let us look at this. Is that really right? Does the minister really need that retroactive kind of

approval that we are granting him here? Many of us, we all have feet of clay and we make our errors, it would be great if we could, on any given day, rise up and pass some legislation that would wipe out past sins, and furthermore, prevent anybody from holding us accountable, which is precisely what this act is doing.

I really do want to prevail on you, Mr. Speaker. I appreciate your role as steward and guardian of this House, but, Sir, I remind you, you have a seat in this Chamber. You have a seat right in this Chamber here and you can come and leave that seat and come and vote for what is right.

You can do that, Mr. Speaker. I know whereof I speak. In my long years in this Chamber, I once witnessed that, in fact, happening. That was the occasion when the minority government of Ed Schreyer was introducing the public insurance corporation bill. They did not have, at least they did not know they had, all the votes. Speaker Ben Hanuschuk, an honourable man, was prepared to leave his Speaker's chair to cast his vote. That likely would have been the end of his career as Speaker.

I challenge you, Mr. Speaker. Think about it. You might have more time to engage in your former vocation of whale hunting. That is, before your Minister of Conservation (Mr. Lathlin) put an end to all of that. You might even be involved in the capture of polar bears, something like that. That is, before the Minister of Conservation puts a stop to all those kinds of activities that you and your family have such a proud tradition and history of.

But, Mr. Speaker, I look upon you as kind of a last resort. Reconsider your position and come and support the amendment being proposed by the honourable Member for Minnedosa (Mr. Gilleshammer). It is an amendment worthy for all our support. It is the kind of amendment that backbenchers could stand up and support. It is not going to destroy the principles of the bill. It allows the minister, who is hell-bent to bring about these amalgamations, to do that. All it will do, would be standing up for ordinary taxpaying citizens of Manitoba to have their voices heard.

So I call upon you, I call upon individual members who are not in the Executive Council benches, because I recognize that it gets a little tricky for executive councillors to break ranks, but that is not the same restriction. Certainly, the Deputy Speaker, who, from time to time, likes to, quite appropriately, bring to our attention moral issues, what is right and wrong, and give us in great detail his learned thoughts about how society should act and how we should be concerned about the defence of basic liberties that we enjoy in this country. Certainly, the Deputy Speaker, the Member for Wellington, could without any difficulty stand up and support this amendment, without any difficulty. He would not be basically challenging his Government. He would not prohibit his minister from doing what, in essence, Bill 14 wants to do, and I call upon him to let conscience be his guide.

Mr. Speaker, this amendment is worthy of our attention, is worthy of our support. Thank you.

Mr. Frank Pitura (Morris): I just want to put a few comments on the record with regard to this amendment brought forward by my colleague from Minnedosa and my support for the amendment.

Mr. Speaker, we have seen a series of events occur with this particular piece of legislation, Bill 14, which truly makes a mockery of the way the democratic process in Manitoba is carried out. We see countless times where the government of the day has proceeded to do things, found out that they were not legally able to do them, and so then, construct the legislation to make what they are doing legal. To me, that is not the way that government should run the affairs of the province, and we see this continually in other areas, most recently in Bill 41. The Government is going to pass legislation which legally allows the Government to take money from Manitoba Hydro which was illegal before.

So we are seeing things like that happening. We see that one of my major concerns with this legislation as it now reads, which is in section 9.3 and stating that Manitoba regulation, this regulation which was registered April 16, 2002,

well in advance before the legislation was tabled in the House, but this regulation is validated and declared to have been lawfully made, and everything done pursuant to that regulation is validated and declared to have been lawfully done.

I think the key word in there is "pursuant" to the regulation. Does that mean that the minister, once this regulation is formed and attached to this piece of legislation, once this legislation is passed, has the ability to actually make and do other things pursuant to this regulation, and then this particular piece in the legislation declares that it is all lawful? I think that that is a very serious question that has to be asked.

So, Mr. Speaker, I do support this amendment. I say that I am very much afraid of what this piece of legislation will do for the democratic principles in Manitoba. With those few words, I will pass it on.

* (11:20)

Mr. Gerrard: Mr. Speaker, just a few comments here with regard to this amendment, which I support. In section 8 we are provided for retroactive validation of regulations made by the Minister of Education (Mr. Caldwell). It is a curious circumstance, because we had these regulations, and then after these regulations we have had subsequent decisions and regulations of the minister with respect to changes in Duck Mountain or Transcona-Springfield School Division.

I think that it is important that the minister rise and speak to this amendment and clarify the circumstances here and the interpretation, because, if he is validating his original decisions, then the subsequent decisions made with respect to changes in Transcona-Springfield and Duck Mountain may be rendered invalid. Do we then have to pass another law to validate those as well and invalidate his original regulations? I think that we have to be very careful when we pass laws in this Chamber that we do not create areas of uncertainty and areas where the peculiarity of ministerial decision making can be open to a variety of different interpretations.

There is some curious wording here, and that is the pursuant to. Does it mean then that

every subsequent act of the minister comes under this and is validated, that all these subsequent regulations, which were made after the initial regulation, are validated? That is like sort of extending this as an umbrella to validate everything that the minister has done in a retroactive fashion. I think that we need to have a little bit of caution in trying to take that approach in this legislation.

I think that there is real concern and valid concern here that we do not put in legislation an attempt to validate some regulations in isolation. It brings into question what happens with those regulations which are invalidated by legislation and creates some law which may be somewhat difficult for people to interpret. Clearly, it speaks to the haste with which this bill was constructed that it is creating this uncertainty. Clearly, when this bill was put together, it was not envisioned that the minister would go around making all sorts of subsequent regulations willy-nilly, adding on changes in Transcona-Springfield and Duck Mountain and here and there. It kind of suggests that the approach that the minister is taking and which he is trying to validate is one in which the arbitrary decision making of ministers shall be affirmed in law as the primary way of making changes to school division boundaries. Although it might not be necessarily bad that the minister can propose changes, but to have no form of appeal in any way, shape or form that is substantive rather than just process is, I suggest, Mr. Speaker, not the way to go.

I would like, Mr. Speaker, to refer back to the Norrie report. I would refer specifically to the recommendations on page 125 and 126, which talk to the role of the minister. This suggests that the minister and the Department of Education and Training, the commission recommends that the minister and the department adopt a strong leadership role—well, that is fine—in articulating a vision for the future and establishing education policy for the province.

These should be communicated to all citizens of Manitoba and followed up to ensure that the necessary and desirable standards, including these policies, are achieved. The primary but not exclusive focus should be to establish jointly approved curricula with the

western Canadian provinces and others, assist Manitoba school divisions with implementation of these curricula, set acceptable standards of achievement for students and require accountability on the part of school divisions and staff in assisting students to achieve these standards, ensure the viability of appropriate training for and subsequent certification of public school teachers, provide sufficient funding to finance the provision of an equitable level of education to all students in the Manitoba public school system.

Manitobans are expecting the minister and department to provide visionary leadership that will allow all sectors of the public school system to work toward common goals that place the welfare of students as top priority. There is public support and demand for improved standards and accountability at all levels in the system. There is an urgent requirement for the department to provide this form of leadership in the organization and implementation of distance education. The commission is concerned that, without a dynamic co-ordinated approach, the small number of devoted individuals attempting to integrate available technology to the education delivery system may not succeed.

Now, I read this, and put this on the record because the Norrie report, in this section which talks about the primary role of the minister and the Department of Education, does not foresee the kind of arbitrary decision making that the minister has made in the context of Bill 14 and in the context specifically of this amendment which would validate a whole series of arbitrary decisions as to which decisions will be cut and chopped and diced and which divisions will come together and in what fashion.

The important point here is that we need to be quite clear on this amendment, on this section, and that the minister, as he has put it forward, has not done an adequate job. It is not clear that you need this section at all, except to satisfy the minister and protect the minister from appeal and from legitimate democratic support or opposition to his position. So I suggest, Mr. Speaker, that clearly the Norrie Commission did not foresee the kind of changes that were in Regulation 8 and that it would be appropriate to

remove this section and the validation which is part of it because of some of the uncertainties it will create and the lack of ability to appeal the decisions.

Now, I would now go to page 134 of the Norrie Commission and quote: "The Commission recommends that the Board of Reference be reactivated in its present form immediately upon dissolution of the Boundaries Review Commission and that it continue to perform its functions relating to transfer of lands between and among school divisions until and unless it is no longer required."

Now, clearly, the Norrie Commission, although in other sections it talks about some modest changes, but clearly the Norrie Commission was foreseeing that the Board of Reference, during this phase of the major recommendations in changes in school divisions' boundaries, that the Board of Reference would be playing an active role, that the decisions would not just be arbitrary decisions of ministers, which are quite different, in fact, than the Norrie recommendations. You know, it is too bad clearly that the minister did not provide justification for many of the arbitrary changes that he made, but it is also a concern that the minister did not follow the recommendations of the Norrie Commission in terms of process.

The Norrie Commission clearly recommended that there be a three-year period. Now the minister has chosen perhaps to interpret this as a three-year period after his arbitrary decisions, but the Norrie Commission, if you read it carefully, looked at a three-year window so that there could be adequate planning, right, and so that there would not be this rush. We would not be stuck in a situation that we are at the moment, Mr. Speaker, where the minister has not yet appointed the interim boards. He clearly has had all the authority he needs with this validation to make any decision he wants. Why has he held back on appointing the interim boards?

You know, he is using this bill as a grab to power, and yet he is holding up the process which he wants to accelerate. I mean, his course of action here is quite contradictory. Clearly, what should have been done was to pay closer

attention to the significant recommendations in the Norrie report in terms of how the process would roll out and to make sure there was an adequate opportunity for citizen input and appeal and time for planning.

The minister has imposed a lot of arbitrary decisions on the people of Transcona-Springfield, Morris-Macdonald, Snow Lake and various other communities, although some of the amalgamations seem to be working well and proceeding, there are real concerns about a number of these. There should have been an appropriate avenue for appeal of the decisions by the minister. There should have been a process by which these decisions should have been considered more carefully. We should clearly have had within that the cost-benefit analysis and the various other things that would go into that kind of careful consideration.

So, Mr. Speaker, I support the Member for Minnedosa (Mr. Gilleshammer) in this particular amendment and believe that the passing of this amendment would be in the interests of the citizens of Manitoba.

* (11:30)

Mr. Leonard Derkach (Russell): Mr. Speaker, I rise to put a few comments on the record with regard to the amendment of this bill on behalf of the constituents I represent. The amendment that was presented in the House with respect to section 8 of this bill is one we should consider quite seriously because it does bring us back to reality, I think. In the original bill the minister, in this section, brings forward an approach to legislation I have not seen in any other bill before the House in all the years I have served here. I do not think one will ever find a section like this in any other legislation that has been passed in this House.

The minister, in essence, is saying anything he has done prior to the passage of the bill is legal. We know there has to be some guilt on the minister's part if he indeed is asking to validate his actions in this section of the bill. Otherwise, this section would be irrelevant and would not be needed. The minister, through the bringing forth of this section of the bill, is conceding he has done something illegal and now he has to

bring forward this section of the bill to validate what, in fact, he has done that was deemed to be illegal before is now going to be deemed to be legal.

All we have to do is take a look at the minister's actions as they relate to the Morris-Macdonald situation and, for that matter, the Agassiz School Division. Let us take a look at those two examples. First of all, in the Morris-Macdonald School Division, the minister has used excessive powers to get rid of the board and put in his own trustee, because he, through his wisdom, has determined the Morris-Macdonald School Division absconded with a significant amount of money from taxpayers. There was no proof of that. No proper investigation was done. No forensic audit was done of the books of Morris-Macdonald and no tracing of where that money went to was ever done.

In having done that, the minister has to accept some responsibility on behalf of his department, because it is the minister's responsibility and the department's responsibility to ensure any money forwarded to any school division is done on the basis of some sound accounting principles and that there is accountability for that money.

The Morris-Macdonald School Division, on the other hand, was being used as a sort of a pass-through of money to the people who were providing the adult learning centres and the education to adults in the province of Manitoba. Who were these entities? Well, they were Classroom 56 started in 2000, not started under our administration; it was started under the NDP administration. It was the focus of the Auditor's report. Classroom 56 was the provincial auditor's focus when he did the audit on where this money had gone to.

Having said that it started under this administration, we are told by the Morris-Macdonald School Division issues were raised by them to the department, but the department took no action. It is the minister's own department that has responsibility when something has been reported to ensure their internal audit team goes out and does an investigation on these matters, but that did not happen. So, in a desperate move, the minister finally decided to

take excessive power, get rid of the board and put his own trustee in, in place of the duly elected trustees in the Morris-Macdonald School Division.

Mr. Speaker, where did that money go? Let us follow the money. We find the money ended up in the pockets of individuals who were very close supporters and friends of the NDP party and donors, even we could go so far as to say former members of the Chamber.

When we look at the money going to the Orlikows, the money going to the Anokiiwin centre run by the Cowans, we find it passing strange that the minister does not go after the money in terms of where it ended up but instead goes after the school division that kept some administrative monies, yes, for the cost of doing the administration, but the money actually ended up in the pockets of the Orlikows and the Cowans. That is where the majority of the money ended up.

Mr. Speaker, the minister says that is an illegal act and he is going to recoup \$2.5 million, but he has never done a proper investigation as to whether or not it is really \$2.5 million or is it something less or something more. He has just determined this is the amount of money he is going to take from the Morris-Macdonald School Division without consultation with the ratepayers there. They just simply have to now increase their tax base to ensure the Province can get its \$2.5 million back.

At the same time all of this was going on, Mr. Speaker, we find the Minister of Education (Mr. Caldwell) is slipping another school division \$450,000 for the same purpose. He is trying to cover it up so it is not detectable in the audit. Well, he was caught.

Now, on one hand, he is chastising and he is removing a board for doing what he does himself as Minister of Education with the Agassiz School Division. That is as clear as the nose on anybody's face because it is very clear. The Auditor referred to the fact that the minister did not have the legal authority under the school act to be able to extend that kind of funding to the Agassiz School Division. If the minister wanted to give the Agassiz School Division

money because they were in debt, because they had not managed their affairs properly, that was one thing, but he did it under the auspices of the adult learning centres when the money was not being spent for that purpose, and he knew it.

Then we come back to the bill. The minister in this section of the act is saying, now anything I have done in the past, the passage of this bill will deem it to have been done legally. The minister must have a guilty conscience in having to have this kind of an article in the legislation.

Mr. Speaker, we have seen many members in this House stand up and voice their concerns about this legislation. If this legislation was purely to deal with the amalgamation of school divisions, that would be one thing, but this minister has decided to, along with the amalgamation issues, introduce amendments that really have nothing to do with the amalgamation question.

The other issue here is the minister could have, using the existing school act, moved an amalgamation, used the Norrie report and moved an amalgamation by enacting the Board of Reference. In that way the process could have gone ahead with proper consultation of taxpayers in the province of Manitoba, with school trustees, with teachers, with interested parties, and the bill could have moved through this House very quickly and very easily, but the minister chose to take a different direction. He chose to do it without proper consultation, without even considering what the repercussions could be as a result of his actions.

* (11:40)

Today we have in the House a number of amendments. Now the minister said he needed this legislation passed by the first of July. If we were to believe the minister then we would not have had the minister come forth with an amendment to the act which was after July 1. What hypocrisy do we have here? We have the minister saying I need this bill by July 1, and then on the other hand he brings in an amendment that actually comes into this House after the 1st of July. So how seriously should we take this minister? I do not think we can take him very seriously at all. We have seen this

minister in trouble in his department with many issues.

Mr. Speaker, I do not know of any government that has had the taxpayers of the province take a government to court more than this Government has been taken. Well, we have the Minister of Education being taken to court by the Transcona-Springfield parents. We have the Minister of Education being taken—*[interjection]* Springfield school division. We have the Minister of Education being taken to court by the Morris-Macdonald School Division.

Now, let us take a look at the history where we had the minister in the Pawley administration, who was responsible for Autopac, taken to court by the chief executive officer whom he had dismissed and it cost this province \$2 million to settle that claim. Then we saw the now-Premier (Mr. Doer) of the province being taken to court by private citizens of the province of Manitoba for his actions, as well as the former premier, Mr. Pawley's actions, and there was an out-of-court settlement. Now this Government is famous for its out-of-court settlements.

An Honourable Member: And Stockwell Day got taken to court.

Mr. Derkach: So, well, yes, he did.

The now-Premier had to provide hush money to the private citizens so that they would not come forward with the truth about the matter, and he used taxpayers' dollars as hush money to keep these people quiet.

Now, we see the lotteries issue. We see citizen after citizen, former employee after former employee of the Lotteries Commission taking the minister to task for wrongful dismissal, and what is happening with this Government? They are settling these out of court. There are several that have taken place in that regard.

So we see the history and the character of this Government. We do have a lot of questions about the motives, about the direction it is going and about the management of this Government. I think Bill 14 is a good example of the mismanagement that this Government is so famous

for. When a minister has to bring forward an article in a piece of legislation that says anything that he has done in the past by the passage of this bill will be deemed to be legal, it really has to raise a lot of questions in the minds of ordinary citizens across the province. Why on earth would you ever have to have an article like this in a piece of legislation if, in fact, everything you have done in the past was done in accordance to the law? Why would you have to have that kind of an article in the bill?

An Honourable Member: It is an admission.

Mr. Derkach: It is an admission by the minister, by the Government, that we have done something a little shady, something a little sleazy and we are going to pass this bill which has in it an article that talks about anything that you have done in the past is going to be deemed to be legal, because we know that what we have done in the past is not quite legal, was somewhat shady and it is a cover-up.

Then we are going to prohibit Manitobans from appealing decisions, and even if a Manitoban appeals a decision and wins it in the court systems, the minister now says that by the passage of this bill, we will overrule that decision of the judge. Now when have we ever passed legislation of that nature in this Chamber? Now my member, my seatmate from Lakeside here, has been in the Chamber far longer than I have, and I do not know whether in his memory he has ever seen legislation passed of this kind where we simply put into a bill an article which says that you cannot take me to court. You cannot have a court overrule what I have done because this bill says that that will not hold up.

So, Mr. Speaker, there is reason why we are objecting to the passage of this legislation. There is reason why we question the motives of government. There is reason why we question the actions of government, because if the actions of this Government were pure, if they followed the law, if they followed the legislation that the minister has before him that he is supposed to govern himself by, then we would not need to have articles in a piece of legislation like this.

It is with regret that we have to put these kinds of comments on the record. It is with

regret that we have to hold up a bill for this long to show the minister that indeed he is on the wrong path. But that is our only ability as an opposition party, on behalf of Manitobans, to demonstrate to the public that indeed what this Government is doing is wrong, the direction it is going in is wrong. Yes, they have the majority in the House. The legislation will eventually pass because they do have the majority, but it will not pass with our consent, it will not pass with our support, and, I dare say, if we were to poll Manitobans, it would not pass with the support of Manitobans either.

This Government has not been listening to Manitobans. It is acting in a very cavalier fashion. It is acting without the support of Manitobans. Yes, on the amalgamation question, I do not think anybody in this House would disagree that it is time to look at boundaries and it is time to amalgamate some of our school divisions. But you do not do it in the fashion which we see before the House today. You do not do it by bringing in the kind of legislation that we have before us. We had a process in place, Mr. Speaker, a very good process, a process that the Norrie report speaks to, that should be followed. Yet that was not done.

Mr. Speaker, with those few comments I simply want to say that we cannot support the legislation, but I think that the Member for Minnedosa (Mr. Gilleshammer), who has brought forward this amendment, is on the right track. This is the kind of amendment that we should be supporting in totality in this House. Thank you.

Mr. Speaker: Is the House ready for the question?

An Honourable Member: Question.

Mr. Speaker: The question before the House is the proposed amendment to Bill 14. Is it the pleasure of the House to adopt the motion?

Some Honourable Members: Agreed

Some Honourable Members: No.

Voice Vote

Mr. Speaker: All those in support of the amendment, say yea.

Some Honourable Members: Yea.

Mr. Speaker: All those opposed to the amendment, say nay.

Some Honourable Members: Nay.

Mr. Speaker: In my opinion, the Nays have it.

Mr. Laurendeau: On division, Mr. Speaker.

Mr. Speaker: On division.

* * *

Mr. Speaker: Now we will move to the next proposed amendment to Bill 14, proposed by the honourable Member for Minnedosa.

Mr. Gilleshammer: Mr. Speaker, I move, seconded by the Member for St. Norbert (Mr. Laurendeau)

THAT Bill 14 be amended by adding the following after the proposed subsection 12.3(12), as set out in section 10 of the Bill:

Access to equivalent courses and support services

12.4 A student in a new division must have access in the new division to courses and educational support services that are equivalent to those that the student received in the former division.

Motion presented.

* (11:50)

Mr. Gilleshammer: Mr. Speaker, this is a very, very significant and important amendment. I hope that we get the support of all members of the House. The minister is making major changes to the boundaries of school divisions across this province. One of the people that is being affected by this is the student.

Students are being shifted from one school division to another. Fundamental to that is that they are able to maintain the courses that they have been enrolled in, the courses that have been developed within those school divisions over

many years by trustees, parent groups and teachers.

This change to school division boundaries is bound to bring some changes where students are not only shifted from one school division to another, but they also face the prospect of being shifted from one school to another.

I think it is incumbent upon the minister and the Government to ensure for students that they be guaranteed the programs that they have grown up with, the programs that have been fundamental to their education in the past. It is important that we have that continuity within the school division, within the schools, within the families, but what this bill is doing is shifting students into different school divisions and quite possibly different schools. The programming that they have in those communities has been built up over many years. Programming tends to reflect the importance that the community puts on their school and the courses that their students are able to access.

So, Mr. Speaker, I think it is very important, and I would suspect that the Government would have some interest in helping communities and students maintain these programs. This amendment would give some guarantee to that.

An Honourable Member: We are confident the school division will make sure of that.

Mr. Gilleshammer: Well, the Minister of Family Services (Mr. Sale) says he is confident that school divisions will do that. Well, the manner in which you have treated school divisions and treated trustees leads to have some doubts in their minds that this will be possible.

The minister knows that financial resources are going to be lacking in some of those school divisions because of the changes that have been made. In fact, Mr. Speaker, the access to some of those programs, and I would use Transcona-Springfield as a primary example: Students in the R.M. of Springfield or the Springfield part of Transcona-Springfield have been accustomed to accessing certain specialized programs within the Transcona schools; that is no longer going to be within the school division they reside.

Yes, the minister has brought in an amendment of his own. I might point out that, on the one hand, the minister is saying we are desperately in a hurry to have this legislation passed, yet on the 8th of July, as we near the end of this debate, he brings in an amendment of his own. This amendment, that was supported by the House, was passed and will be part of this legislation which, in effect, gives for a short period of time the children of Springfield, gives them access to Transcona schools in another school division.

Well, this is a very, very short-term solution, and parents that I have talked to in the R.M. of Springfield are saying, yes, it sort of gives us some limited access for a three-year period, but what happens after that? Parents look at the education of their children in the public school system for a period of at least 12 years, not counting kindergarten and nursery school. So they are saying, for political reasons the minister is sort of putting before us a short-term solution for a three-year horizon that they would have the opportunity to attend those schools. But they are saying, what happens after the three-year period: What happens to our children then? The answer that the minister is giving is that they can rely on the Schools of Choice legislation.

Well, Mr. Speaker, let me tell you that Schools of Choice was not intended to resolve the problems that are being created by this minister and this legislation. Schools of Choice was there for small numbers of students to access programs in other schools and in other school divisions. It did not contemplate that it would accommodate a massive number of students going from one school division to another, because what is going to happen, and it is already referenced by trustees, they simply cannot afford to have a large influx of students. It is only good as long as there are seats available.

Well, what happens if seats are not available to those Springfield students? The people of the River East School Division and the trustees are already signaling that we are not going to provide additional classrooms for additional students that would be foisted upon us by the fact that students from outside the school division are coming forward. In fact, one of the

trustees indicated that there would be an additional cost to the River East School Division of a 1.5% tax increase solely to fund the students from Springfield, and is the Government prepared to cover those costs? There is not the confidence. I know the Member for Rossmere (Mr. Schellenberg) knows this. There is not the confidence in his area that the local ratepayer is going to put up funds to educate students that are from outside of the River East-Transcona School Division.

So the minister is creating a short-term solution that has some long-term problems. By long term, these problems will become apparent within the next year or two, and it will have an impact on the electors of Rossmere. I will tell you, that the Member for Rossmere, who has gotten up and supported this legislation so wholeheartedly, has spoken in this House in favour of it, is going to feel the impact of that.

People are used to supporting their local school, their local school division, but they do not want to see costs imposed on them by the addition of out-of-school-division students. I can tell this House that there will be some impact.

Now, I would like to see the Government members support this amendment. They did, in bringing in the amendment that they brought in on July 8, give some credit to the committee stage and the hearings and the questions that have been asked. I think it is important that they take a sound look at this, because this not only affects Transcona-Springfield, but it also affects what is going to happen in some other areas of the province.

There have, in fact, been changes in other areas of the province. For instance, the Duck Mountain people, the students of the Duck Mountain School Division, when the initial recommendation and announcement came out from the minister, there was going to be a three-way split in the Duck Mountain School Division. Some of them were going to Swan River. Some of them were going to Frontier. Some of them were going to Dauphin. Then changes through the work of the Minister of Agriculture (Ms. Wowchuk), the Member for Dauphin (Mr. Struthers), changes were almost immediately made.

I would bring to your attention the comments made by the Member for River Heights (Mr. Gerrard) in that the passage of a resolution in Cabinet, a regulation in Cabinet, which we are agreeing to by the passage of this bill, really would be not incorporating the changes that have taken place in that Dauphin, Duck Mountain and Swan River School Division. So there are some real pitfalls here.

But getting back to this particular amendment which would guarantee students and

parents the right to programs or similar programs that they have been used to, the fact is, particularly in the R.M. of Springfield, the Springfield parents have grave concerns that sooner or later—

Mr. Speaker: Order. When this matter is again before the House, the honourable member will have 31 minutes remaining.

The hour being 12 noon, we will recess and reconvene at 1:30 p.m.

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Seventh Legislature

Member	Constituency	Political Affiliation
AGLUGUB, Cris	The Maples	N.D.P.
ALLAN, Nancy	St. Vital	N.D.P.
ASHTON, Steve, Hon.	Thompson	N.D.P.
ASPER, Linda	Riel	N.D.P.
BARRETT, Becky, Hon.	Inkster	N.D.P.
CALDWELL, Drew, Hon.	Brandon East	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave, Hon.	Kildonan	N.D.P.
CUMMINGS, Glen	Ste. Rose	P.C.
DACQUAY, Louise	Seine River	P.C.
DERKACH, Leonard	Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary, Hon.	Concordia	N.D.P.
DRIEDGER, Myrna	Charleswood	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry	Lakeside	P.C.
FAURSCHOU, David	Portage la Prairie	P.C.
FRIESEN, Jean, Hon.	Wolseley	N.D.P.
GERRARD, Jon, Hon.	River Heights	Lib.
GILLESHAMMER, Harold	Minnedosa	P.C.
HAWRANIK, Gerald	Lac du Bonnet	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSON, Gerard	Flin Flon	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LATHLIN, Oscar, Hon.	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
LEMIEUX, Ron, Hon.	La Verendrye	N.D.P.
LOEWEN, John	Fort Whyte	P.C.
MACKINTOSH, Gord, Hon.	St. Johns	N.D.P.
MAGUIRE, Larry	Arthur-Virden	P.C.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McGIFFORD, Diane, Hon.	Lord Roberts	N.D.P.
MIHYCHUK, MaryAnn, Hon.	Minto	N.D.P.
MITCHELSON, Bonnie	River East	P.C.
MURRAY, Stuart	Kirkfield Park	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
PENNER, Jack	Emerson	P.C.
PENNER, Jim	Steinbach	P.C.
PITURA, Frank	Morris	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack	Southdale	P.C.
ROBINSON, Eric, Hon.	Rupertsland	N.D.P.
ROCAN, Denis	Carman	P.C.
RONDEAU, Jim	Assiniboia	N.D.P.
SALE, Tim, Hon.	Fort Rouge	N.D.P.
SANTOS, Conrad	Wellington	N.D.P.
SCHELLENBERG, Harry	Rossmere	N.D.P.
SCHULER, Ron	Springfield	P.C.
SELINGER, Greg, Hon.	St. Boniface	N.D.P.
SMITH, Joy	Fort Garry	P.C.
SMITH, Scott, Hon.	Brandon West	N.D.P.
STEFANSON, Heather	Tuxedo	P.C.
STRUTHERS, Stan	Dauphin-Roblin	N.D.P.
TWEED, Mervin	Turtle Mountain	P.C.
WOWCHUK, Rosann, Hon.	Swan River	N.D.P.