



**Third Session - Thirty-Seventh Legislature**

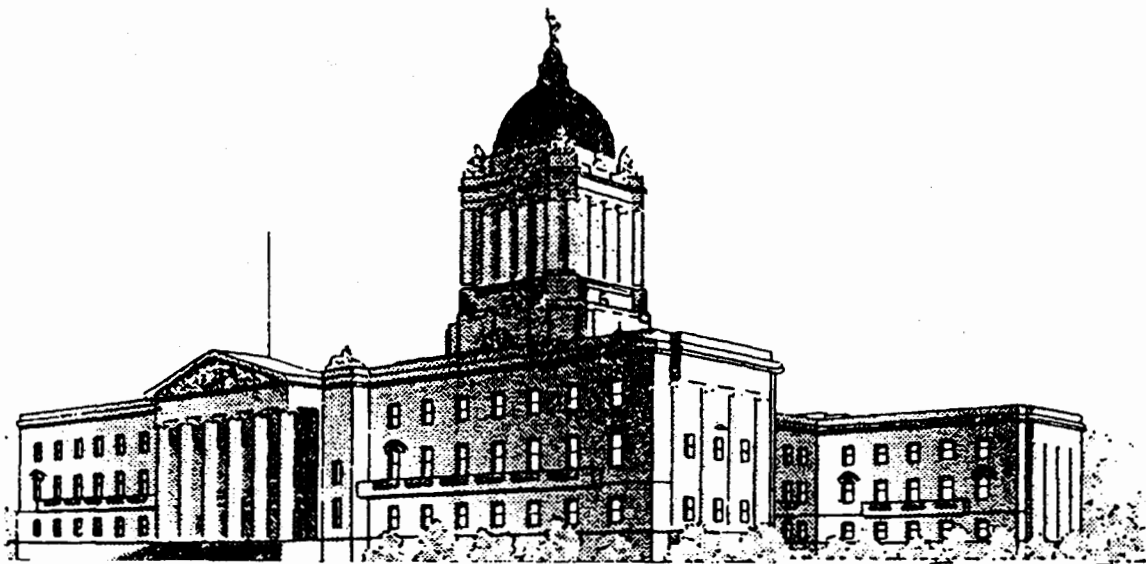
**of the**

**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**

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| GERRARD, Jon, Hon.      | River Heights       | Lib.                         |
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| HAWRANIK, Gerald        | Lac du Bonnet       | P.C.                         |
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## LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, May 23, 2002

The House met at 10 a.m.

### PRAYERS

### ORDERS OF THE DAY

### GOVERNMENT BUSINESS

#### House Business

**Hon. Gord Mackintosh (Government House Leader):** Mr. Speaker, there are a couple of matters for consideration of the House before starting.

First, Mr. Speaker, would you canvass the House to determine if there is leave to receive the report from the Standing Committee on Industrial Relations from last night and leave to proceed to report stage later today?

**Mr. Speaker:** Is there leave? *[Agreed]*

**Mr. Mackintosh:** Mr. Speaker, given the lack of clarity in procedures, would you just confirm by leave of the House that, despite calling Bill 3 this morning, we can call it again this afternoon, with or without adjournment in the meantime?

**Mr. Speaker:** Is there agreement for when Bill 3 is called, that it will be debated and then can continue on in the afternoon with or without adjournment?

**Mr. Marcel Laurendeau (Official Opposition House Leader):** Mr. Speaker, there is no adjournment. We are just in recess until the afternoon, so we do not need leave to have the bill proceed into the afternoon.

**Mr. Mackintosh:** Well, just to clarify that I just assumed that there may be adjournment on Bill 3 this morning, and if there is adjournment on Bill 3, that it can be called again this afternoon.

**Mr. Speaker:** So the agreement is if there is adjournment on Bill 3—Bill 8 this morning, that it can still be called back again in the afternoon. Is there agreement? *[Agreed]*

**Mr. Mackintosh:** Mr. Speaker, would you please call the following bills in order: Debate on third readings, Bill 8, and then the second readings in the order as they appear on the Order Paper. Then we will determine where we go from there following the introduction for second reading of Bill 22.

### MATTER OF PRIVILEGE

#### Apology—Comments during Debate

**Hon. Jon Gerrard (River Heights):** Just very briefly on a matter of privilege, yesterday in the Chamber I understand that I may have offended some of the members with my comments on Bill 8. I want to formally say I am sorry if that is the case. I am pleased that my comments actually moved a number of other members to put comments on the record in support of the churches in Manitoba as well as Aboriginal people.

**Mr. Speaker:** I would like to thank the honourable member for River Heights (Mr. Gerrard), and that should take care of the matter. I will not be taking it under advisement, because that should take care of the matter.

#### Introduction of Guests

**Mr. Speaker:** Prior to calling debate on third readings, I would like to draw the attention of all honourable members to the public gallery where we have with us today from Faraday School 40 Grade 6 students under the direction of Ms. Claretta Shefrin and Mrs. Evelin Anderson. This school is located in the constituency of the honourable Member for Burrows (Mr. Martindale).

On behalf of all honourable members, I welcome you here today.

### DEBATE ON THIRD READINGS

#### Bill 8—The Limitation of Actions Amendment Act

**Mr. Speaker:** Resumed debate on third reading, Bill 8, The Limitation of Actions Amendment

Act, as amended, standing in the name of the honourable Minister of Labour (Ms. Barrett).

Is there a willingness for the bill to remain standing in the name of the honourable Minister of Labour? Agreed?

**Some Honourable Members:** No.

**Some Honourable Members:** Agreed.

**Mr. Speaker:** Agreed. [*interjection*] No? Okay, let us try it again.

Resumed debate on third reading, Bill 8, The Limitation of Actions Amendment Act, as amended, standing in the name of the honourable Minister of Labour (Ms. Barrett).

Is there agreement for the bill to remain standing in the name of the honourable Minister of Labour? [*interjection*] It will remain standing in the name of the honourable member.

**Hon. Eric Robison (Minister of Aboriginal and Northern Affairs):** Mr. Speaker, I just want to say a few words about the bill. I want to say right off the start that yesterday while listening here—and I am very happy that the Member for River Heights (Mr. Gerrard) got up on his feet this morning to clarify maybe some intentions of the words that he spoke yesterday. I want to say to the Member for River Heights that in some ways I was very disappointed with the tone of his voice and the nature of the words that were emanating from his mouth.

First of all, Mr. Speaker, I am a residential school survivor, and I felt victimized somewhat yesterday when I heard the Member for River Heights speak. I felt chastised, and I am sure other members of this House felt the same way, that we were speaking out or condemning the churches in some way in the job that we are trying to do in trying to pass this bill. But I do not think that is the intention, certainly on my part, or of any other members in this House. It was not the churches that initiated these arrangements, these contracts that they had with the federal government to educate Indian students since the 1880s.

Bill 8, as pointed out by members like the members for St. Norbert and Emerson and also

the Member for Thompson (Mr. Ashton) is to allow victims their day in court, their opportunity to achieve closure perhaps in their own lives for the pain and suffering that they endured while attending these institutions.

So I agree wholeheartedly with both sides of the House when they spoke yesterday that there are indeed bad apples, Mr. Speaker, from all camps, whether it be from various religious denominations or even political parties. I want to say that that is a fact of life. But to insinuate that we are speaking out against churches is something that did not sit well with me yesterday. It is not only wrong but highly irresponsible, I believe, in the role of a legislator.

I want to say, Mr. Speaker, that in spite of my own dismal residential school experience, I still respect the Catholic Church that I was baptized in because I know the church, in itself, did not condone the abuses it inflicted on the majority of residential school survivors, nor did it condone the residential schools to be a haven for pedophiles and perverts.

\* (10:10)

In my own family, there is no doubt that there are people who had a very positive experience as a result of their residential school upbringing. My stepmother had a very positive experience. My biological mother, on the other hand, died at the age of 31 on the streets of Winnipeg trying to hide or mask the pain that she felt as a result of the abuse that she experienced in a residential school. She tried to mask that pain in drugs and alcohol. Unfortunately, she passed away at the very young age of 31. I also know some people, Mr. Speaker, that I went to school with who took their own lives and got involved in the street way of life, and drugs and alcohol overtook them, unfortunately.

I do not think that my honourable friend from River Heights knows what it is like to be uprooted from your family at the age four or five and placed in a foreign environment like a residential school, beaten for speaking your language, put in a root cellar for days on end, beaten until your buttocks or hands are bleeding and forced to do unspeakable things to your so-

called caregivers, as well suffering sexual abuses like being sodomized. I do not think my friend knows anything about those things.

I want to tell my honourable friend that I do. It is only with God's blessings, I think, that I am able to stand here today. Others, unfortunately, were not as lucky as I was. Some did not even have the opportunity of becoming adults as a result of their experience.

I want to say that the residential schools were a form of de-Indianizing. They were a form of assimilation, a very sick form of genocide, Mr. Speaker, and what this bill intends to do is to seek out justice for victims of criminal acts. That is what this bill aims to do.

I thank the good mind of all members in this House for supporting this bill, and I do thank you for the opportunity to say a few words.

**Mr. Ron Schuler (Springfield):** I wish to also put some comments on the record about Bill 8. As with all legislation, it is presented in the House. It is then taken to our respective caucuses, where we talk about the various bills; we debate them. Debate then comes into this Chamber, and it moves along.

When Bill 8 came to caucus, I was a great supporter, as our caucus is, of this bill. I spoke in favour of it, and I wish to list some of those reasons later on in my comments. But I had no intention of really getting up and speaking to it. I think there are others, as the speaker before me, who have real-life experience, who can put things on the record dealing with the kinds of things that they went through.

I happened to be in my office yesterday afternoon doing other work and heard some of the comments that were being put on the record, and I have to tell you it was strange coming from my fellow seatmate and my colleague from River Heights that those kinds of comments would be put on the record. I listened up. I listened to some of the other speakers, and I felt that those kinds of comments probably should not go unchallenged. I am glad that the minister got up and explained some of his experiences.

To try and make a bill anti-something or something or another concerns me. I think one of

the things we pride ourselves with in this Chamber is that we try to stay away from that kind of thing. A bill is not a Christian bill, or it should not be an anti-church bill. We try to leave those kinds of things out of the debate. I think that is healthy, and I think it is right for this Chamber to do that.

The reason why I support the bill is out of Christian love. Mr. Speaker, I was raised in a wonderful home. We had some tragedies in the house, whether there was death or moving and that kind of thing, but nothing, nothing can come close to what these children went through. It is out of our love, whether it is out of Christian love or just love for children, surely our own, whether it is grandchildren—I happen to coach 13 children on a soccer team, 5- and 6-year-olds. They just love it. We did pictures last night. You just hug them. You say: You guys are such stars. They light up, these little children, and they just shine for you. That is what we want to do for children. We want them to grow and get to be the best that they can be and grow to their potential.

What happened to some of these children, what it has done to them, what opportunities are lost, the loss of self-worth, the loss of self-esteem, the guilt, the self-blame, that takes many, many, many years to admit. Because it became the unfortunate debate that it did yesterday, and I guess I should really couch some of the things I say. I see there are children in the gallery. Mr. Speaker, I will choose my words carefully.

For young boys, for young men, for men in particular, and I am not saying it is any easier for women, but I do know about men, to admit these kinds of things is extraordinarily hard. There is a stigma that is attached to it. There are a lot of psychological problems that are attached to this. It takes a long time to deal with those issues, to have those issues dealt with internally in your soul and in your heart. You know what? I do not believe, in this instance, that we should be putting an arbitrary number, and saying, you know, if you have not dealt with it by that time, too bad. I mean, we are not talking about they stole their runners. We are not talking about stealing a leather jacket. What has been taken away from these children is the very opportunity

that I had to be in a loving, caring environment. I did not have to carry baggage with me. I did not have to carry a lot of things with me. That is the environment I want my children in. That is what I want my community's children in.

It is very unfortunate what happened. This is not anti-anything. There were some individuals, and it does not matter where they are, whether it is in a community club or it is in a church or it is anywhere in a community; it does not matter if it is in a business environment, wherever. If there are individuals who have done this to children, they must be taken to account. That members in this House would somehow say that we are less Christian because of it, that we are against the church because of it, frankly appalls me. It appalls me.

I was very saddened yesterday, because one of my colleagues who I have a lot of respect for, who has spoken up and challenged this House on a lot of issues, who challenges the Government on a lot of good issues and has made his mark and has made his points would stoop to that level. I would say that he belittles, in some respect, what we are trying to do here with this bill. I would suggest to members that we watch it with these kinds of things, because it is about the children.

Let us look into the Bible. When the children tried to come to Jesus and the disciples said no, no, no, he is too tired, he said let the children come to me for theirs is the kingdom of God.

Mr. Speaker, they are adults now, but when they were children they deserved protection and they deserve their day in court. They deserve, because you know, you have to cleanse that from your soul. You have got to cleanse that. That has got to be dealt with for you to move ahead, get on with your life and to truly be able to stand up and face your day every morning and to go through the day, you have got to get rid of this. You have to deal with it.

You know, it is unfortunate that some of these individuals went to their grave with this secret, with this hidden stain on their little souls at that time, and they died with that still on them. I think that is very unfortunate.

I would suggest to all members of this House that we choose our words carefully. I have three little children at home, and I see how sensitive they are. In fact, when I went to soccer coach training they said to us: Children have a very short attention span and an unbelievably long memory. Mr. Speaker, I think that is very telling, and I think that is exactly what this bill addresses. Let us move on with it, choose our words carefully, and let us do what is right. This is about doing what is right for those people who were not afforded the same kind of safe environments we were, and let us make sure this does not happen again.

\* (10:20)

**Hon. Gary Doer (Premier):** Mr. Speaker, I want to just put a few comments on the record on this legislation before the Chamber. I want to say that I heard the Member for St. Norbert (Mr. Laurendeau), I heard the Member for Emerson (Mr. Jack Penner), the Member for Springfield (Mr. Schuler), the Minister of Northern and Native Affairs (Mr. Robinson) and the Member for Thompson, the Minister of Transportation (Mr. Ashton) yesterday, and I was very impressed with their speeches because I think this is a bill of principle.

We have a situation where there are court cases and there is pain and there are family stories and there are individual stories. In every province in Canada save one, these stories could be dealt with hopefully in an effective, healing way, a restorative way, but because of an historic law in Manitoba we would have three territories and nine provinces being heard in one way and one province and one jurisdiction, because of a limitation law, being heard in another way.

How anybody could think that bringing legislation to have a pan-Canadian approach was bad law is un-Canadian, in my view. It is also very, very inconsistent with the principles of justice in the Chamber that from time to time have to go beyond partisan, political considerations and go to fundamental justice issues that do not try to look at debits and credits of votes but just try to do the right thing. I think that many members in this Chamber are trying to do what is right and are not making the political

calculations, because this is an issue that goes way beyond our short terms in elected life. It goes really to the root of Canadian history and to the root of decisions that were made in the past that have to be dealt with, but hope and charity must also be the fundamental principles of the future.

I, Mr. Speaker, believe strongly that this bill has to be supported. I come from an experience like many others of listening to elders and listening to families in almost every First Nation community in Manitoba, learning a lot that I did not know about from when I was being brought up. I also come from a history of being schooled by religious orders. I worked on the switchboard at the old St. Paul's High School, and for it to be suggested that we are against religious orders I find, quite frankly, below the level of debate expected in this Legislature and, quite frankly, a partisan statement without any, any fact or principle behind it.

I worked with Father Bernie Pinet in Corrections, a person whom I met with as late as this morning, and a person who I know has spent thousands of hours on behalf of people. I know people now, that when he worked with kids, with juveniles in trouble, they are now on the straight and narrow, as they say, because of his love, his support and his toughness when necessary. I think it was Bishop Robillard, who worked for generations in many of our communities, that I met years ago in many First Nation communities.

So, as the Member for Northern and Aboriginal Affairs (Mr. Robinson) has so correctly stated, to have this debate be reduced to are you for or against one part of justice is to be the most unjust in this Chamber and the less charitable of any of us when charity is needed.

Mr. Speaker, if there are problems with a bill, then amendments can improve a bill. Were there any amendments proposed to a so-called bad bill? I will check the record, but I do not believe there were. So this issue comes to a fundamental federal government decision to delegate their authority. Well, first of all, it comes to a decision to settle treaties and establish reservations. I think hindsight in

Canadian history will tell us that that was a bad policy, a bad set of decisions, a bad set of principles.

Even today my daughter in Grade 6 learns about the experience of the people of Peguis, who had the Elmwood-North Kildonan area right up through to the Interlake as their original homestead and actually saved the Scottish settlers in their second winter here in Manitoba, and then a few years later were moved by the federal government, by our Canadian history, by our ancestors, to an area away adjacent to where they had traditionally lived, to an area that was not with the resources that they had previously enjoyed. This is a year or two after saving people from starvation as our settlers.

So we have a lot of Canadian history to correct for the future. Of course, this residential school system was a delegated authority of the federal government. We should not be apologists for the federal government here in this Chamber. We should not be. At any of the meetings with the religious individuals that I have met with, they know that this was a delegated authority from the federal government to establish residential schools that had as its practical effect separating children from their parents. It was not the religious orders that made that decision. It was the federal Canadian government that made that decision.

I strongly believe that this Chamber should bind itself together with the people in this province, including religious organizations, to ensure that restorative justice is implemented to deal with the people who want and must have that day of justice in terms of the past policy of residential schools and the separation of children at very young ages, four years old, from their families and the policies that were established. This was a delegated authority of the federal government, and it is not, along with reservations and other policies, the finest moments of Canadian history.

We have many proud moments of Canadian history. We have a lot to be proud about, but Aboriginal people, with the treaties, with the reservations, with the lack of legal rights, including right until 1960 when John Diefenbaker granted the right of vote, I mean,

even up until 1960, people did not have the right to vote if they were Aboriginal people. We celebrate the right of women to get the vote here, first province in Canada, but it is not very long ago that First Nations people did not even have the right to vote.

You know, the people in Peguis—and I learn some things from my friends and my colleagues when I travel, and from elders when I listen, but you find out things all the time. People who were put on land in Peguis were not allowed by law, by Canadian law, by federal law, to own farm equipment. They were removed from fishing areas and put on to farming areas, and they were not allowed to own farm equipment. So we have a lot of work to do to restore justice, dignity and hope for First Nations people.

I believe, Mr. Speaker, that this Legislature, in passing this law, should do two things. One is we should continue to celebrate the excellent work that many individuals provided to the social and spiritual fibre of our provinces who were in religious orders and continue to be in religious orders. We should not allow those people to be in a position of being destitute because of litigation, and I want to pledge to them that we will not. But if there are issues of justice, there should not be nine provinces in Canada with one set of standards of justice and Manitoba with a different and lower ability of having justice. That is what this bill does.

\* (10:30)

I also say, on the one hand, we have to make sure that people who have improved the social quality of our communities are not forgotten, that the religious orders are not forgotten for the great contributions they have made to the quality of life. But, secondly, individuals who did not receive justice and fairness and decent treatment at those residential schools must have justice and will have justice, and this bill provides for justice.

I strongly believe, Mr. Speaker, that this bill should pass. I think the practice of the residential schools is one part of this bill. Obviously, the issue of limitations has other aspects to it. But I strongly believe that if this is a bad bill, it should be corrected. If this is a bill that should be

improved, it should have been improved. But to pit one group against the other is not the way of justice being restored in this province. Let us vote for justice. Let us stop playing partisan politics, and that is why I am supporting this bill.

**Mr. Stuart Murray (Leader of the Official Opposition):** Mr. Speaker, clearly, I rise today certainly to support Bill 8. I also rise to put a few comments on the record. I think that it is always important in this Chamber, when there is a sense that we as legislators, we as representatives of constituencies throughout the entire province of Manitoba, when there is a general sense in the Chamber that we are all moving together for the good of a cause to do the right thing, as has been said by speakers before me, and something changes or there is a sense that maybe somebody is not on the same page, I think it is important that we rise to put our thoughts on the record to ensure that we are all looking at what is the right thing for Manitoba.

I will tell you, Mr. Speaker, that this bill has had a very profound effect on me. I listened to the Minister of Northern and Aboriginal Affairs (Mr. Robinson) speak, and I guess the one thing that hit home to me is I have a very interesting perspective on this because I was raised in Punnichy, Saskatchewan. Punnichy, Saskatchewan, is a small community and my boyhood memories are playing hockey against Gordon's Indian Reserve, Muskowekwan Indian Reserve, and Poor Man's Indian Reserve. Those were all residential schools that we would go and play hockey with as youngsters.

The one thing that would never have occurred to me at that time was that those young men had been forced out of their homes into those schools.

I know, Mr. Speaker, that we absolutely were afraid to death of playing Muskowekwan, because they would beat us time after time after time. There is a fellow that I must tell you about. Joe Desjarlais was the coach of that hockey team. He had an incredible effect on me as a young man because I had a chance to actually be a part of that team.

The things that he said to me. I remember one time he came in. We were playing, and it



had nothing to do with me. It was all of the other Aboriginal members on that team that were superb athletes, but we never made mention about who was white or who was non-white. We were on a team. I remember him coming in after we were losing at the end of the first period. He looked at all of us and he said: I am an old man, but if I have to put a mattress around my body and start bodychecking these guys, so be it. I just thought for a minute, you know, here is a guy that is so serious about leadership and so serious about trying to provide what ultimately, I believe, was a father figure.

All of that, Mr. Speaker, was lost on me. It was all lost on me because I was doing things at that time in my life because my parents were making choices for me. I went to a Christian Brothers school in Yorkton, Saskatchewan, because my parents chose to send me there. I think back to all of these other residential schools that I had a chance to be active with, and it never once occurred to me that all of those young boys had been forced to live in those schools, that they did not have the choice that my parents were saying. They were taken away from their parents and put in those schools. I will not say that I remember any sadness in those young men. Maybe there was and I was just too naive to understand it.

But you look back now, and Canada is a young country; by all measures we are a young country. We have made mistakes in the past, clearly. But is that not what being elected and showing leadership is about, recognizing a mistake that was made, bringing it forward, and saying we are sorry, we made a mistake.

Now we can do something about it, and we apologize, and we know that the hurt, it is not about money, it is not about anything, Mr. Speaker, that we can actually go back to say to those people who were at a young age ripped out of their homes, because you can never apologize, you can never bring back those times of childhood to those young people. But being a young country, when a mistake is made and there is an attempt to try to rectify that and try to say that that was an injustice, now what we are trying to do is to provide justice and look forward to the future and try as best as we can to never have that same mistake repeated.

But that, Mr. Speaker, must be what this bill is intended to do. It is intended to say we have erred. All of us must take responsibility. It is not about pointing fingers. Like every other speaker before me, it is not about partisan politics.

I think that the best thing in this Chamber must be the feeling we get when we all stand up together and say this is the right thing to do. We love the debates, and that is part of why we are members of different parties, but there can be no more precious moment than when all of us, as Manitobans, stand in our place and say we all support this because we believe it is the right thing to do for the time and for the future.

I do not think there is any reason to talk about being for or against anything. I think there is every reason for us to stand up and talk about trying to understand a mistake that was made and about trying to bring a bit of dignity and a bit of respect and a bit of hope for the future. That is why I believe that we must unanimously support Bill 8.

\* (10:40)

**Mr. Gerald Hawranik (Lac du Bonnet):** Mr. Speaker, I am pleased to rise today, and I can tell you that I am fully in support of this bill. This bill makes two changes, as I see it, to The Limitation of Actions Act.

First of all, it provides for an action for an assault that can be commenced at any time regardless of when the assault took place as long as the assault, firstly, could be an assault of the sexual nature or, secondly, the victim had an intimate relationship with the person who committed the assault or if the victim was financially, emotionally or physically or otherwise dependent on a person who committed the assault.

Secondly, the bill allows for actions for sexual assault that can be commenced even if a limitation period has expired and even if a court has previously dismissed a claim or an action because a limitation period has expired.

I believe that this bill is proposed as a result of the decision of the Manitoba Court of Appeal, which I understand took place on September 26.

In this decision, the court determined that the current Limitation of Actions Act in Manitoba precluded many claims because they were historical. They were historical sexual or physical abuse cases and including the claims which arose out of child abuse in institutions.

This decision was based on the language that was present in the current Limitation of Actions Act as it exists today and earlier interpretations of that act, which is different from legislation, and in case law that has developed in other parts of the country in other Canadian provinces. Therefore, it became necessary to introduce this legislation today to ensure that historical actions of sexual abuse were actionable.

Now, under current legislation, claims based on assault must be filed within two years after the cause of action arose, and the time period does not start until after the person becomes of legal age or, in fact, becomes able.

Now, for an assault that occurred when a person was a minor, in most cases, an assault claim must be brought within two years of becoming of legal age, 18 years of age. Under current legislation, there is an ultimate time period, an ultimate limitation period for claims that arose while a person was a minor or under a legal disability. That ultimate period of the current legislation is thirty years after the occurrence of the assault.

There are many good arguments, I believe, on both sides of this issue, whether to legislate an unlimited period of time within which to bring an action for a sexual assault or whether to simply rely on the restrictive provisions of today's act. I am in favour, of course, of an unlimited period of time.

It is now recognized, I believe at the Supreme Court of Canada, that often victims of abuse will not be able to psychologically initiate legal actions until they develop an awareness of the harm that they have suffered and the cause of that harm. In many cases, this realization does not occur until many years after that harm, Mr. Speaker, and often after the person receives therapy. It is very likely that this realization would not occur until long after the current

limitation period had expired, and therefore the claims of these persons would be barred before they are capable of instituting the claim.

Strict limitation periods often work in injustice to victims of abuse. In 1992, the Supreme Court of Canada recognized that the policy basis for a strict limitation period does not apply to sexual abuse as it would do to other civil cases where the plaintiff is not subject to psychological effects of the abuse. The court described the reasons as, first, the damages often remain latent until the victim is well into adulthood; secondly, when the damages begin to become apparent, the relationship between the activity and the present psychological injuries are often unknown to the victim; thirdly, they indicated that a limitation period will not be an incentive to prosecute an action for a victim of abuse if they have been psychologically incapable of recognizing that a cause of action exists. Cases currently extend between two years and six years after the cause of action arose in civil cases.

The Manitoba Court of Appeal, I think their comments, in fact, are worthy of mention here. They stated that the purpose of a long-stop provision is to give a sense of absolute finality in certain cases. As with all limitation periods, it represents the legislative attempt to create a proper balance. Injured parties should not be deprived of a claim because of circumstances beyond their control, such as minority, or incapacity, or discoverability. Defendants, on the other hand, should not be compelled to have the offence hanging over their heads forever. The first objective can be met if the period is truly long, which is 30 years in Manitoba. They went on to state that the second objective can be met only if a very long period applies, no matter what, even in the face of ongoing and continuing disability or the absence of knowledge despite reasonable efforts.

I believe that the Supreme Court of Canada and the Manitoba Court of Appeal have therefore expressed the view, both courts have expressed that view, that deficiencies and limitations legislation should be addressed. These deficiencies, I believe, can only be addressed through a legislative amendment, an amendment to existing legislation, and I believe that is being met in Bill 8.

Bill 8 is important to be dealt with quickly because many of the victims of sexual abuse, who are currently statute barred from commencing a civil action, are now senior citizens. Their day in court should be allowed sooner rather than later. Bill 8 only extends the limitation periods for civil actions for damages against perpetrators of sexual abuse to an unlimited limitation period. With respect to criminal actions for sexual abuse, proceeded by way of an indictable offence, there too is no limitation period. So why should there be a limitation period for a civil action when there is no limitation period for a criminal action?

As to arguments about whether to extend the 30-year limits now in place, I can tell you that most limitation periods for civil cases currently extend only two and perhaps even up to six years after the cause of action arose. Time limits for civil suits are in place to uphold a critical principle of justice which balances the rights of the victim with the right of the accused. Removing the time limit, we have to be careful because removing the time limit may tip the scales of justice in favour of the accused.

The principles of justice must balance the rights of the victim against the rights of the accused. Removing the time limit may harm the ability of the accused to answer an allegation. Witnesses and other evidence may not be available or may be destroyed with which the accused might be able to defend himself or herself against an allegation. This legislation is aimed at permitting victims who were subject to sexual abuse to bring actions at any time without any time limit. I understand that the last residential school operating in Manitoba closed in 1969. That is 33 years ago. Many of those teaching or working at those schools may be deceased and therefore unable to reply to claims against them.

Documentary evidence probably no longer exists with which an accused might defend himself or herself. This may tip the scales of justice. Time limits under The Limitation of Actions Act preserve the ability of an accused to defend himself or herself.

There are also many documented cases of people who go for counselling being fed with

facts and information which did not exist. They come out of sessions believing that certain things happened when, in fact, they may not have happened. How reliable is evidence more than 30 years old, never mind evidence that may be substantially more than 30 years old?

*Mr. Conrad Santos, Deputy Speaker, in the Chair*

There is much to consider before this legislation is passed. We need to ask ourselves: Are the scales of justice balanced with this legislation? Can the accused properly defend himself or herself 30 years or even 50 years after the alleged offence? We need to ensure that at the committee level representations are made by all, including psychologists, the Aboriginal community, the judiciary, members of the legal profession, civil liberties groups, and, of course, the general public. We must give careful consideration to all the arguments, but I believe that we must support this bill in the end, and I urge all members to do so.

There must not be two standards of justice in Canada. Nine provinces in Canada, in fact, give an unlimited time period within which allegations and within which justice can occur in instances like this. I believe that we must be no different than any of the other nine provinces, and therefore I am fully in support of this bill.

\* (10:50)

**Mr. Deputy Speaker:** As previously agreed in the House, this matter will remain standing under the name of the honourable Minister of Labour (Ms. Barrett).

### House Business

**Hon. Gord Mackintosh (Government House Leader):** On House business, Mr. Deputy Speaker, instead of calling second readings in the order as they appear on the Order Paper, would you please call Bills 22 and 20 first.

### SECOND READINGS

**Bill 22—The Public Schools Amendment Act (Francophone School Division Governance Structure)**

**Hon. Drew Caldwell (Minister of Education, Training and Youth):** I move, seconded by the

honourable Minister of Consumer and Corporate Affairs (Mr. Smith), that Bill 22, The Public Schools Amendment Act (Francophone School Division Governance Structure); Loi modifiant la Loi sur les écoles publiques (structure de gestion de la division scolaire de langue française), now be read a second time and be referred to a committee of this House.

***Motion presented.***

**Mr. Caldwell:** Merci beaucoup. Mr. Deputy Speaker, I am pleased to have this opportunity to address the House on Bill 22, The Public Schools Amendment Act Division scolaire franco-manitobaine governance. Since its establishment in 1994, the Francophone school division, whose official name is Division scolaire franco-manitobaine, has been operating as per the provisions of The Public Schools Act. It is now an opportune time to make amendments to a number of government provisions and to repeal other time-specific provisions as they no longer apply to the present day operations of the Division scolaire franco-manitobaine, a full eight years after it was established.

Je suis convaincu que l'engagement pris par notre gouvernement envers l'enseignement dans la langue de la minorité n'a pas son égal dans les autres provinces canadiennes, et que c'est grâce à cet engagement que la jeunesse francophone du Manitoba sera mieux préparée à relever les défis à l'avenir. En continuant d'assurer le meilleur soutien possible à la DSFM, notre but est que tous les enfants qui en ont le droit puissent faire des études de qualité dans leur langue maternelle afin de prendre un bon départ dans la vie.

Je crois que les modifications législatives contenues dans ce projet de loi refléteront mieux le fonctionnement de la DSFM à l'heure actuelle, tout en simplifiant sa gestion et en l'aidant à accroître son efficacité.

***Translation***

*I am convinced that the commitment made by our Government to instruction in the language of the minority is unequalled in other Canadian provinces and that it is thanks to this commitment that Manitoba's Francophone youth*

*will be better prepared to take up the challenges of the future. While continuing to ensure the greatest possible support to the DSFM, our goal is that all children who are entitled to it receive quality instruction in their mother tongue, so that they can make a good start in life.*

*I believe that the legislative amendments contained in this bill will better reflect the current functioning of the DSFM, while simplifying its governance and assisting it to increase its effectiveness.*

***English***

I would now like to briefly outline the background to this bill. Following a request from the Division scolaire franco-manitobaine school board to review the governance structure of the division in order to improve it, make it more effective and bring it closer to the parents, a thorough study was conducted on this matter of governance. The specific mandate was to carry out the necessary consultations in the Francophone community of Manitoba, to receive feedback on the governance structure and the electoral process and to report back with recommendations to our Government.

All necessary consultations were carried out in the Francophone community on this matter. This included the 22 school communities, the four regions, all Francophone organizations and the Division scolaire franco-manitobaine school board and its administration.

Mr. Deputy Speaker, this bill will allow for ongoing enhancements to school governance, resulting in increased quality education opportunities afforded to approximately 4430 Francophone children now enrolled in the schools of the urban, eastern, southern and western regions of the Division scolaire franco-manitobaine school jurisdiction.

I would now like to briefly outline the substantive provisions of this bill. This bill enables trustees to be elected directly by the parents to the Francophone school board. There are 11 trustees in total. As members of the House know, direct elections of school trustees are given for all other Manitoba school divisions. The legislation therefore removes the

regional committee structure with its 34 elected representatives.

The bill further enables the Francophone school division to pass a by-law establishing advisory groups for each of the four regions. This is a permissive amendment, allowing the Division scolaire franco-manitobaine to consult the regions on any number of subjects it deems appropriate. The bill also eliminates provisions specific to the initial establishment of the Francophone school division, as those provisions are now out of date. Further, and as will be specified in regulations, trustees will be elected at large from each of the four regions.

Encore une fois, j'aimerais profiter de l'occasion pour féliciter la commission scolaire de la Division scolaire franco-manitobaine, ainsi que les 22 communautés scolaires qui ont participé au processus, d'avoir bien voulu considérer à fond le modèle de gestion actuel, de même que les répercussions qui pourraient résulter des modifications proposées. Au moment où les débats sur le projet de loi se terminent, j'ai bon espoir que ces modifications législatives refléteront très fidèlement l'ensemble des souhaits exprimés par la communauté francophone du Manitoba. Alors que la DSFM entame sa neuvième année d'activité, l'adoption immédiate de ce projet de loi permettra d'appuyer les projets en cours relatifs à la gestion des écoles francophones dans la province.

Excusez mon mauvais français, et merci.

#### **Translation**

*Once again, I would like to take this opportunity to congratulate the school board of the Division scolaire franco-manitobaine and the 22 school communities that participated in the process for having thoroughly examined the current governance structure, as well as the potential repercussions of the proposed amendments. At the time when debate on the bill is coming to a close, I am hopeful that these legislative amendments will very faithfully reflect all of the wishes expressed by the Francophone community of Manitoba. As the DSFM enters its ninth year of operation, immediate adoption of this bill will enable the projects currently underway relative to francophone schools governance to be supported in the province.*

*With apologies for my poor French, thank you.*

**Mr. Denis Rocan (Carman):** I move, seconded by the honourable Member for Turtle Mountain (Mr. Tweed), that debate be adjourned.

**Motion agreed to.**

\* (11:00)

#### **Bill 20—The Adult Learning Centres Act**

**Hon. Drew Caldwell (Minister of Education, Training and Youth):** I move, seconded by the honourable Minister of Consumer and Corporate Affairs (Mr. Smith), that Bill 20, The Adult Learning Centres Act; Loi sur les centres d'apprentissage pour adultes, now be read a second time and be referred to a committee of this House.

**Motion presented.**

**Mr. Caldwell:** Mr. Deputy Speaker, I am very, very pleased to have this opportunity to address the House on Bill 20, The Adult Learning Centres Act. In this age of lifelong learning, it is vital for society to find ways to provide ongoing learning opportunities for our citizens, adults as well as young people. Manitoba, according to the most recent census data available, has more than 100 000 adults of working age who have not completed high school. Our province has a strong system of public schools and post-secondary institutions. Our Government has moved to strengthen these systems significantly through the changes we have made in policy and in funding during the past two and a half years. However, Manitoba has not, in the past, paid enough attention to the specific learning needs of adults who never had the chance to finish high school and now wish to do so.

One only has to hear the stories of adult learners in Manitoba to know how important it is to have a second chance. I want to briefly share a few stories I have heard from students in adult learning centres. There is a young man in Brandon who dropped out of school in Grade 8 several years ago and is now finishing Grade 12 to go into police training next fall. A father in Winnipeg, who dropped out 25 years ago, graduated recently because his son said that he

would finish high school before the father. A mother pushed herself to go back to school so she could help her children with their homework. Encouraging them to stay in school was her motivation. Another mother, who has waited until her fifth and youngest child was in school before returning to complete her own education, will graduate at the same time as her eldest child, having completed the prerequisites to enter a college nursing program.

Across the province, thousands of adults regularly rearrange their lives and make huge sacrifices of time and effort in the pursuit of a high school education. Across this province, in communities as diverse as The Pas, Swan River, Altona, Brandon and Winnipeg, dedicated adult educators are making their centres high-quality places of learning. The development of adult learning programs in recent years is a testament to the very real needs of adult learners to be able to access the educational keys that will open doors to higher education and greater employment opportunities in their futures.

The Doer government believes that the educational goals of all Manitobans are important and that adult learners seeking high school credentials or entry to post-secondary education have unique needs that cannot always be addressed in a regular high school setting. Further, this Government believes that adult learners should expect the educational opportunities made available to them to be of the highest quality and highest integrity.

In recent years, the actions of a few have threatened to undermine the excellent work being done by the many in the adult learning system of the province of Manitoba. The undermining that has occurred has led us to bring this legislation forth. We have refused to allow the continued undermining to persist. Rather, we are building on the many successes and good practices we have identified in the adult learning system. Our message has been clear and consistent: That we put the learner first; that we expect the highest educational integrity in adult programming; that we demand fiscal accountability; that we are committed to building pathways and providing opportunities for citizens to improve their personal and workplace situations.

*Mr. Speaker in the Chair*

In the spirit of this clear and consistent commitment to excellence in adult learning, we are pleased to present The Adult Learning Centres Act. This act has been designed to address two fundamental objectives. The first objective of The Adult Learning Centres Act is to establish adult learning centres as distinct educational organizations. This means that adult learning centres will develop as truly adult-focused educational programs. The opportunity to operate adult learning centres will be extended beyond the school system into a variety of other educational institutions whose mandate and practice are already adult focused.

Under the act, all adult learning centres wishing to grant high school credits and credentials to adults will be directly accountable to a registrar for adult learning centres and will be required to demonstrate annually that they meet strict registration requirements.

While the act makes adult learning centres distinct, it also reinforces that they are and will continue to be closely linked to other parts of the Manitoba education system. Indeed, the act forms a key component of our efforts to better integrate and articulate education in the province amongst high schools, post-secondary institutions and community training organizations.

This objective is also being pursued through our work in other policy areas such as prior learning assessment, program articulation and distance education. The second objective of The Adult Learning Centres Act is to complete a process begun by this Government immediately after assuming office in the fall of 1999 to address concerns about the operation of adult learning centres in Manitoba.

From the first days after my appointment as Minister of Education and Training, my department has been taking steps to bring order, quality and accountability to the adult learning system. All along, our concern has been to do so in a way that respected the wonderful work being done in many adult learning centres supporting those who have success stories like those I had mentioned earlier.

At the same time, we had to ensure that adult learning centres were not being operated in a manner leading to the kinds of problems that the Provincial Auditor identified in the Morris-

Macdonald School Division. In his report, the Provincial Auditor recommended that "the department consider moving quickly to put in place appropriate legislation to address adult learning centres in Manitoba and that this legislation should ensure clarification of the role and goals of ALCs in Manitoba, the issues of ownership and of assets, funding surpluses and responsibility for deficit, the responsibility vis-à-vis ALCs, partnering school divisions and the department and performance measures and accountability reporting."

The registration requirements established in The Adult Learning Centres Act addresses all of these issues as well as other specific concerns raised by the Auditor with regard to program quality and financial accountability. I want to emphasize, Mr. Speaker, that we are acting on every recommendation that the Provincial Auditor made to us about needed improvements in adult education.

Under the terms of The Adult Learning Centres Act, all ALCs will be required to demonstrate that they are able to (a) provide an educational program that meets the stated purpose of the legislation (b) demonstrate that the program is responding to real needs (c) employ an appropriately qualified education director (d) employ qualified teachers (e) have an acceptable enrollment policy and (f) provide appropriate facilities and materials for adult learners.

The act also addresses issues of financial accountability for adult learning centres. ALCs will continue to be funded on the basis of annual program grants, and only registered centres will be eligible to receive ALC funding. The act prohibits ALCs from carrying a deficit and requires any funding surplus to be included in the centre's operating budget for the following year or to be repaid to government. A funded centre will need to obtain written authorization of the registrar to dispose of material assets.

Finally, the act outlines stringent requirements regarding financial reporting and accountability. Regulations pursuant to this act will address in greater detail matters of quality and accountability. ALCs will be provided with clear guidelines regarding information and

records management, including expectations around transparency and confidentiality and information that must be provided to the registrar on a regular basis or upon request.

Regulations will provide for the establishment and approval of courses to be taught in ALCs to enable the development of course curriculum that will target the learning needs of adults. This will include the further development of dual credit opportunities with post-secondary institutions as well as a stronger articulation with adult literacy.

Regulations will detail the qualifications of teachers and education directors to ensure that the educational leaders of ALCs bring with them an appropriate combination of subject area expertise and training experience in the theory and practice of adult education. Enrolment policies and standards for ALCs are being established, including expectations with regard to initial assessment of perspective learners. Finally, standards are being developed for registered centres respecting physical space, equipment, instructional materials and learning environment.

\* (11:10)

The importance of The Adult Learning Centres Act goes far beyond the specific accountability process it sets out for ALCs. The act paves the way for a larger vision of adult education in Manitoba that sees a network of community-based adult learning centres that are responsive both to the development needs of the community and to the learning goals of the individual learner.

Our Government has consistently maintained that education is central to our economic development strategy and adult learning is a vital part of this. Manitoba cannot afford to have large numbers of adults whose education does not qualify them to obtain challenging employment and participate fully as citizens. A strong adult learning system provides a platform for the development of community-based prior learning assessment and recognition services; for access to adult appropriate instruction will lead to academic achievement employment readiness; for increased articulation

with the adult literacy workplace training and post-secondary education and for the development of adult focussed trades and apprenticeship options. We are building a strong and vibrant culture of lifelong learning in this province, and in doing so we are placing Manitoba firmly on the leading edge of adult education in Canada.

In closing, Mr. Speaker, I am pleased to recommend Bill 20, The Adult Learning Centres Act to this House for its consideration. Thank you.

**Mr. Harold Gilleshammer (Minnedosa):** Mr. Speaker, I move, seconded by the Member for Morris (Mr. Pitura), that debate be adjourned.

*Motion agreed to.*

#### **Bill 16—The Class Proceedings Act**

**Hon. Gord Mackintosh (Government House Leader):** Mr. Speaker, I move, seconded by the Minister of Education (Mr. Caldwell), that Bill 16, The Class Proceedings Act, be now read a second time and be referred to a committee of this House.

*Motion presented.*

**Mr. Mackintosh:** Mr. Speaker, I am pleased to move second reading today of this bill. The legislation aims at improving access to justice and is part of a package of legislation we brought in this session to deal with the need to ensure greater access by Manitobans to justice. In addition to this legislation, the House is considering, indeed today, the access to justice by survivors of childhood abuse, and, as well, amendments to The Fatal Accidents Act before the Legislature enable greater access to justice by enhancing the compensation for that head of damages known as loss of care, guidance and companionship.

Individuals who have a common claim, and those who have shared a similar kind of loss from the same source, are able to pursue court claims under the current rules, but it is an archaic rule and one that has been interpreted in a very restrictive way. Class proceedings, generally, help to ensure that those who have

done damage to others are held accountable for their actions in cases where individual victims might not have the ability to press forward alone.

The value of class actions in society, Mr. Speaker, was set forward very succinctly by the Supreme Court of Canada in reasons delivered on July 13, 2001, in the case known as *Western Canadian Shopping Centres Inc. v. Dutton*, and there at paragraph 26 the court states, and I quote: The class action plays an important role in today's world. The rise of mass production, the diversification of corporate ownership, the advent of the megacorporation and the recognition of environmental wrongs have all contributed to its growth. A faulty product may be sold to numerous consumers. Corporate mismanagement may bring loss to a large number of shareholders. Discriminatory policies may affect entire categories of employees. Environmental pollution may have consequences for citizens all over the country. Conflicts like these pit a large group of complainants against the alleged wrongdoer. Sometimes the complainants are identically situated vis-à-vis the defendants. In other cases, an important aspect of their claim is common to all complainants. The class action offers a means of efficiently resolving such disputes in a manner that is fair to all parties.

In August of 1996, the Manitoba Civil Justice Review Task Force delivered a report examining procedures in the civil court system in this province to ensure that the system was understandable, accessible and affordable. The task force found that the average citizen's access to justice was unacceptably limited by the cost and delay of litigation. Then, in January of 1999, the Manitoba Law Reform Commission issued a report which recommended the introduction of class proceedings legislation in part to improve access to justice in claims involving large numbers of plaintiffs.

I want to acknowledge the excellent work of the Manitoba Law Reform Commission, not only with respect to this report but other reports and, indeed, this is one more piece of legislation before the House this session which follows on recommendations and the work of the Manitoba Law Reform Commission. I also want to note and commend the work and the insights of the



main author of the report, Karen Busby of the Manitoba Law School. I can attest to the fact first-hand that Ms. Busby has a tremendous, wonderful grasp of this area of the law, of this area of the justice system. That was made very clear when we presented this legislation to the public earlier this week. Indeed, I think the report in greater detail attests to the tremendous work of Ms. Busby and the commission as a whole.

This legislation would bring Manitoba into step with a number of other jurisdictions which have enacted comprehensive class action legislation. Class proceedings legislation was first enacted in this country in the province of Québec back in 1979. It was then enacted in Ontario in 1993, in British Columbia in 1995 and, most recently, in the province of Saskatchewan. So Manitoba will be the fifth jurisdiction in Canada to bring in this kind of legislation. We should also note, however, that the current United States federal court rule permitting modern class action proceedings was adopted way back in 1966.

The Uniform Law Conference has also created uniform class proceedings legislation. In the development of the bill before the House, guidance has been taken from the uniform legislation as well as the existing legislation in Canada and the comments of the Supreme Court of Canada regarding the desirability of comprehensive legislation. Those Canadian provinces without class proceedings legislation, including Manitoba, operate under archaic court rules, as I referred to earlier, which permit class proceedings in very limited circumstances. These rules have been characterized by the Supreme Court of Canada as inadequate to accommodate the complex issues arising in class proceedings. As a result, very few suits proceed as class actions in Manitoba.

The Manitoba Law Reform Commission concluded that the required procedural and substantive changes necessitate a special statutory scheme. I want to quote from the Manitoba Law Reform Commission report at page 35, where I think the commission most adequately sums up the reasons behind this bill. At page 35, the commission states the following, and I quote: Not the least important rationale

~~is~~ the introduction of class proceedings ~~is~~ the need to provide a means of ~~access~~ to people whose injuries are insufficient, ~~except~~ in the aggregate, to make pursuing ~~compensation~~ in the judicial system economically feasible. As well, the judicial system is ~~being~~ called on to do more and more with fewer ~~and~~ fewer sources, and class proceedings can ~~help~~ ensure that those resources are used as efficiently as possible. Class proceedings ~~legislation~~ will also hold wrongdoers ~~accountable~~ for wrongs that might not be pursued ~~by~~ individual victims, thereby enhancing the ~~fairness~~ of society as a whole.

\*(11:20)

A recent decision of the Supreme Court of Canada that I spoke about earlier again highlights the desirability of comprehensive legislation. Typically, Mr. Speaker, a class ~~proceeding~~ will be advanced where it is considered cost prohibitive for a single plaintiff to bring a suit considering the amount of the ~~damage~~ claim. Indeed, Ms. Busby had advised ~~me~~ earlier this week that the average damage award for an individual claimant in a class action ~~suit~~ in the United States is \$750. So one can clearly see that one would not be able to, on a cost-benefit basis, proceed to court for a claim worth \$750. Yet that claim of an average of \$750 being suffered by perhaps thousands and thousands of people should be addressed so that ~~there~~ is accountability by the wrongdoer. When ~~you~~ consider the aggregate amount of damages, it certainly makes it worthwhile proceeding to the court.

Access to justice for litigants in claims involving mass accidents or consumer product liability are certainly improved. When looking through the use of class action proceedings, both in Manitoba and elsewhere, historically, we have seen, in particular, access to justice being pursued by travellers and spectators. We have seen condo owners and homebuyers involved in class actions, and we have certainly seen vehicle owners involved in class actions. We have seen the purchasers of medical products, for example, the purchasers of breast implants; contaminated blood is another area. We have seen class action litigation around the issue of pacemakers. We have seen class action proceedings being used by

workers, for example, claiming wages or actions for wrongful dismissals, bonuses being claimed, overtime and vacation pay being claimed. As well, there have been actions by shareholders and accident victims. Mr. Speaker, the main class of litigant, though, appears to have been consumers.

Now the Ontario, B.C. and the United States legislation has been interpreted to apply to potential plaintiffs across the country, including Manitoba. In some American class proceedings, non-American residents have been found entitled to a smaller percentage of settlements. Establishing class proceedings legislation in Manitoba will allow citizens to commence class proceedings and potentially avoid less favourable division of awards received in foreign jurisdictions or other provinces.

Broadly speaking, the legislation deals with the circumstances in which a class proceeding may be brought, who may bring the claim on behalf of the group, how a class proceeding is to be conducted, the role that individual members of a class may play in a class proceeding, and how awards are to be distributed. This legislation governs court procedures and does not affect or create new legal rights or liabilities for litigants. Rather, the legislation allows a single representative plaintiff to proceed with litigation on behalf of other unnamed plaintiffs who may not even be aware that such litigation is proceeding. The representative plaintiff must first apply to the court to certify the action as a class proceeding and must properly establish the class of affected parties they purport to represent.

This is very significant, Mr. Speaker. It is important that we get that issue dealt with up front. It is not in anyone's interest that this kind of litigation be like groping in the dark. It is important that there not be a lot of legal proceedings, only to discover later on that a class action cannot be sustained.

The defendant, of course, is entitled to oppose certification of the class proceedings. The court will allow a class action where there are at least two plaintiffs or the plaintiffs share common issues, where a class action is preferable to another type of procedure for the

fair resolution of the matter. Class members are entitled to opt out of a class proceeding and may decide to sue individually.

Mr. Speaker, while this legislation sets out a comprehensive procedural regime for class actions, the legislation also leaves considerable flexibility to the judge hearing a particular class action to control the conduct of the proceeding. This is very important, given the size, complexity and variety of class actions which may be brought. Judges will be free to tailor procedures and the conduct of proceedings to meet the needs of individual cases and ensure the just and expeditious resolution of litigation.

This is important legislation, Mr. Speaker, in our view, for Manitobans. I think it helps to level the playing field between the little guy and the big guy, whoever the big guy is, and it might even be government, it might even be the provincial government. I think it helps to better level the playing field between the masses and the mass producers.

So I look forward, Mr. Speaker, to seeing this matter proceed, and I do hope for the support for this legislation by all members of the House. Thank you.

**Mr. Gerald Hawranik (Lac du Bonnet):** Mr. Speaker, I move, seconded by the member from Morris (Mr. Pitura), that debate on Bill 16 be adjourned.

*Motion agreed to.*

**Bill 21—The Partnership Amendment and Business Names Registration Amendment Act**

**Hon. Scott Smith (Minister of Consumer and Corporate Affairs):** It is my pleasure to move, seconded by the Minister of Justice (Mr. Mackintosh), that Bill 21, The Partnership Amendment and Business Names Registration Amendment Act, be now read a second time and referred to a committee of this House.

*Motion presented.*

**Mr. Smith:** Mr. Speaker, this bill will allow for the creation and registration of limited liability partnerships or LLPs in the province of

Manitoba. LLPs protect the personal assets of an innocent partner from professional liability claims arising from the negligence or misconduct of another partner or employee in whose work the innocent partner was not involved.

Mr. Speaker, this bill recognizes that the professional partnerships do not necessarily carry on their activities in localized areas anymore. We know that they are expanding not only throughout the Canadian provinces but certainly down into the American provinces as well.

Their activities can span international boundaries now, Mr. Speaker. The common law rule embodied currently in our Partnership Act that any one partner can be personally liable for actions of another partner is not appropriate when partners in the same firm have little or no contact with each other and may not be involved with each other's work at all. Therefore, we are proposing an amendment to The Partnership Act to allow for the creation of limited liability partnerships in Manitoba.

Initially, this status will make available to lawyers and accountants. Other professions can be included by regulation or amendment to the governing act. Existing firms will have the capacity and capability to convert themselves into LLPs, and new such firms will be able to adopt an LLP form of partnership if they so desire.

A partner in an LLP will, of course, be fully liable for his or her own negligence or misdeeds. However, a partner will only be liable for actions of others if he or she supervised them or had knowledge of their misdeeds or failed to take steps to prevent them. In this fashion, partners in LLPs will only be personally liable for matters in which they had some part.

In order to better safeguard those who may have claims against LLPs, in order to practise a profession in a limited liability partnership, liability insurance will be mandatory. Only after a liability insurance and partnership property have been exhausted does the availability of personal assets of a partner become relevant to such claims.

LLPs are not a new concept in North America. Mr. Speaker, four provinces, as well as

almost all of the United States, have passed LLP legislation. In proposing this bill, we are helping Manitoba to continue to be an active province for professionals to practise in. The bill proposes companion amendments to The Business Names Registration Act, dealing with the details of registration of limited liability partnerships. Minor amendments are also being proposed to the governing statutes of lawyers, chartered accountants and certified general accountants in order to facilitate their adoption of LLP status.

Mr. Speaker, with these few comments, I am pleased to recommend this bill for consideration by the House. Thank you very much.

**Mr. Denis Rocan (Carman):** Mr. Speaker, I move, seconded by the honourable Member for Morris (Mr. Pitura) that debate be adjourned.

*Motion agreed to.*

\* (11:30)

#### House Business

**Hon. Gord Mackintosh (Government House Leader):** Mr. Speaker, would you please call Bills 14 and 2.

#### DEBATE ON SECOND READINGS

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

**Mr. Speaker:** Resumed debate on Bill 14, The Public Schools Modernization Act (Public Schools Act Amended), standing in the name of the honourable Member for Minnedosa (Mr. Gilleshammer). Is it the will of the House for the bill to remain standing in the name of the honourable Member for Minnedosa? [*Agreed*]

**Ms. Marianne Cerilli (Radisson):** Mr. Speaker, I am really wanting to speak on Bill 14 regarding the modernization of education in our province. I know that it is a very important issue in my constituency, so I thought it was important that I put some comments on the record about the work that I have done related to the bill and to be accountable, on the record, regarding this bill. I know that currently I have three school divisions in the constituency of Radisson, Transcona-

Springfield, St. Boniface, as well as River East School Division. This bill will have quite a large impact on my constituency, so I thought it was very important that I pay close attention to the bill.

To that effect, I think I have met with 13 different parent councils in my constituency. I have met with the three school boards as well as the teachers' associations, and as well, I have talked to administrators and principals not only in these divisions but also meetings with MAST and have attended meetings with Manitoba Teachers' Society. I am pleased to see that there is a lot of debate and discussion about this legislation that is occurring throughout the province.

The bill itself has a couple of different parts, of course. Its main part is to amalgamate the school divisions in Manitoba, reducing from 54 school divisions to 38. Also, there are provisions in the bill to provide more accountability at the school board level and transparency. I think both of these things are important to the number of partners in education.

I want to go back a little bit and talk about where we have come from in education. I was just going through the detailed notes I have from the meetings that I have had in the community related to education matters. I have a note here from one of the school boards saying that over the last five or six years previously, there had been 75 new curriculums introduced in education. The school divisions and schools are expected to then implement those. We know under the former government there were a lot of changes and we have heard, when I was in opposition, over and over again, about the changes that were being introduced in education and we have tried to be cognizant of that. We know the former government had a number of years of cuts in education. We know they made changes in school bus formula, in flexibility in the funding formula. They changed the credit system. They changed the arbitration system with teachers.

I think in education in Manitoba, while we are often trying to do things to improve the quality of education in Manitoba, we have to realize that it does take some time for things to translate from policy at the level provincially to

the local level in schools and with kids. The reason I am saying that is I want to emphasize that we are conscious of that and that a lot of the decisions that will be flowing from Bill 14 will take a number of years to implement and a lot of those decisions will be done at the local level in consultation with the partners in education.

In keeping with that, part of Bill 14 is part of a larger agenda in policy direction for our Government in education. We have also announced this year changes in the funding formula. We heard in the community over and over again that you cannot just introduce changes in the school division boundaries without coupling that with changes that are going to address the way that schools are funded to realize that there is this partnership between school divisions and the provincial government and that we want to not rely more on property taxes at the local level. With that in mind, we have also, this year, with our Budget, committed to reducing the education support levy by 10 percent. We have introduced a scheme of increasing the property tax credits so that people now are getting approximately \$400 in property tax credits towards covering the cost for education. We have increased the operating and capital funds from the provincial government to school divisions each year, something that did not happen with the previous government. It is a total of \$63 million more towards the operating of educational institutions at the kindergarten to Grade 12 level in our province. We have also had major increases in the capital expenditures to deal with the infrastructure of schools and education in our province.

I know we are also still introducing changes to address the special needs review that our Government accepted as part of the previous government's endeavours in education.

I think generally, Mr. Speaker, there is agreement in the province that we need to reduce the number of school divisions. It is recognized, particularly in rural Manitoba, that there were school divisions that just were not able to operate, that they did not have the tax base and the population. There were some school divisions that had fewer than 300 students in the entire division, but they were still supporting the infrastructure of a board and a board office and administrators. It just does not make sense to

have that kind of expenditure at the top board administrative level in education rather than having it at the classroom level.

So, as a number of people have noted, that is one of the main things that this bill is about, to try and get funds from the boardrooms into the classroom, but it is also about trying to balance the economies of scale and the benefits that accrue to a larger school division with a larger tax base, with more facilities and teachers, therefore more programs to offer to students.

At the same time, to balance that, we have recognized at the local level school divisions that have the collegiality and the sense of community of a smaller local school division.

So we have not gone the way, for example, of the city of Winnipeg of only having one large school division or of having four larger school divisions, because in my meetings I did hear people say that they want to have a school division of the size so that administrators and other people at the board level know the administrators in the schools, know the parents and the teachers and the children in the schools, because that is what education is about. It is going to be based on those relationships and that sense of community that gets built in schools.

\* (11:40)

So I am pleased that Bill 14 has provisions that are going to recognize that we can balance those economies of scale of having larger school divisions with the benefits of having a small school division. I know that the maximum size or optimum size to meet the educational needs and sort of the administrative needs in a school division is said to be about 15 000 students. The city of Winnipeg's divisions will be more uniformly close to that with Bill 14.

As I said, I have met with approximately 13 different schools in my constituency related to this bill and a number of the other issues that I have just mentioned. There were some things that I want to put on the record that were mentioned at those meetings and to ensure that people recognize that a lot of the changes that would flow from Bill 14 are actually going to be

made by the new elected board that will be elected this coming October.

A lot of the changes that people are concerned about, those decisions are not going to be made between now and October and certainly not even then between October and the next year. Those decisions and those plans will be developed in consultation with the community. Whether it is negotiating settlements with bargaining units, whether they are teachers or support staff, whether it is related to the programming in schools, the catchment areas of schools, transportation policy, the new boards will be responsible for making all of those decisions with the various partners in education.

There are provisions in this bill that I am very pleased to see that require that there be a budget meeting annually in a school division with the community of that school division so that the public will see a plan and will see that there is going to be a chance for them to have input into all these decisions as they are being made.

So I know that in the school divisions in my constituency there have been concerns raised about the French and other bilingual language programs, about the level of physical education in the different school divisions, similar vocational programs or arts and music, the level of counselling that is provided, particularly at elementary schools, the support for curriculum and professional development, the special needs programming and the support given there by different school divisions and the school catchment areas.

These are all the types of decisions that will be made at the local level. It is understandable, at this points when school division community members know that the division that they are partnering with may have different policies related to some of those issues I just mentioned, that there is going to be a lot of discussion that needs to take place, because part of the reason we are doing this at a provincial level is to try and ensure that the programs and the opportunities and the quality of education is elevated and is increased for students across the province.

Part of the reason for this legislation is to provide more equity in education across the province because, when you have school divisions with the kind of disparity in the size of the assessment base and the size of the division, and we have seen over the last 10 years where there is more of the expenses in education paid at the local level, that there is a formula for not having equity and equality in education across the province. So this Bill 14 and the amalgamation of school divisions coupled with those changes I mentioned earlier in the funding formula in the property tax credits, in the Education Support Levy, in the increases in funding, all of that is designed as a package to try and create increase in equality and equity in schools' programming and education across our province.

In the meetings I have had in the Radisson constituency with the education partners, one of the things that people want is clarity and transparency about this process for amalgamating school divisions. I am very pleased that the Department of Education, in working with the school trustees, created a manual that would guide school divisions and will give information both to administrators and to parent councils to show the time lines, to show the step-by-step process that school divisions will go to.

I am pleased that I was able to send that document to all the parent councils and the schools in my constituency so that they can have some security and confidence in knowing that there is a clear process, and knowing what the time lines are and who is responsible for the various steps and decisions so that these changes will take place in a, I am looking for the right word, Mr. Speaker, co-operative way and in a very transparent way and in a way that makes sure that people that should have input do have input into those decisions that are being made.

It is incumbent on all of us to try and organize our education system and our school divisions so that more resources are going to kids and to programs and services to meet the objectives of education. So all of the kinds of things that school divisions have to do, whether it is human resource departments or purchasing and payroll, technology, if we can have those things being done on a larger scale, it is only

going to free up resources so that those dollars and staff time can better be spent on the 80 percent of costs in education which are for human resources, teachers. That is what this bill is about.

There have been attempts to get shared agreements between school divisions so that they can cost share purchasing and human resources and payroll and those kinds of things, but I think that the provisions in Bill 14 are going to ensure that takes place, and we can ensure that as many resources as possible are expended on kids and on learning. That is one of the main objectives of this bill.

I think the provision by the previous government for open boundaries was also an attempt to do this. There was also an attempt made at this sort of sharing of administrative costs and co-operation on administrative costs between school divisions, but I think that amalgamation of school divisions will actually go one step further and ensure that it happens.

I want to talk a little bit about the provisions that are specified in the policy related to school board amalgamation and related to school closures and ensure that people know that there is a three-year moratorium on schools closures as required by the amalgamation process and that, similar to that, we do not want to see a loss of programs for certain areas with this bill. The objective of this bill is to ensure that children have access and opportunities for more programs in their division. It goes one step further in that vein, Mr. Speaker, even than the school of choice and open boundaries.

The parents councils in the constituency that I represent want to ensure that they are going to be able to organize themselves and develop quality relationships with their new, larger boards, and how important that has become in education in our province. I think that there has been a long history of PTAs, but I think now we have a generation of parents who are much more involved in their children's education. Twenty years ago there was not the same emphasis on early years development and parents were not, I think, as involved. Even 20 years, not even talking about 50 or 60 years ago, parents were not as involved in the education readiness and in

the actual education of their children. So now we have parents who, I think, are very conscious of choosing education programs in schools to meet the needs of their kids and to fulfil the ideals that they have for their kids. I think that they, in keeping with that, also want to make sure that the tax dollars they pay are going to the kind of education that they want for their kids.

So our philosophy of education must be soundly based on ensuring that education remains a profession and a system that is about educating for the future in our province.

Over the years of being an MLA, one of the things that has become very clear to me is that the vision we have for our future is only going to be created by the values, the skills and abilities that children right now learn when they are very young. The kinds of changes that we make now in laws and in programs are not nearly going to have the impact on our future as the children that we educate and raise today. So any provision that we deal with in this House related to children, I think, really needs a lot of attention and needs our best effort because it is so important, not only for right now but for the long-term prospects of our province. Because of that, I think it is really crucial that what we do related to the administration of education always has that philosophy in mind.

\* (11:50)

With that said, I just want to comment that through this process related to Bill 14 and the meetings I have had, I recognize more of the job that school trustees are faced with in trying to balance the role that they have of administrators at the local level for our schools and school divisions and trying to have that balance between their role as an administrator and keeping in mind their goals as an educator or with educational goals in mind.

How the Province and the school division develop a relationship so that they can fulfil their common goal related to educating young people I think is very important. I think the public debate around this is also extremely important. We recognize that the Province has a constitutional responsibility for education, but we also have locally elected school trustees who

have a responsibility. Some people are saying that those responsibilities should be more clearly defined and that there should be clear-cut things that the provincial government funds related to education and then things that the school boards raise tax dollars for, the local levy that they fund.

I think there are advantages to that, but there are also disadvantages to that type of system. I think it is only positive that this debate, this public debate take place about something as important as education in our province.

So, in keeping with this idea, it is very important that there be a public debate on these education matters, with that that the public becomes informed and understands the funding and the administration of education in our province and in our country and the relationship between the different levels of government.

I think that a number of the initiatives this Government is taking are ensuring that the community is part of this debate and the discussion so that we are conscious about what we are doing in education and that not only are we doing it with the best interests of children in mind, but we are doing it as efficiently and as effectively as possible.

One of the things that we often hear when we are talking about education matters and property taxes, with an aging population there is a lot of pressure for seniors who say they no longer have children in the system, that why are they having to pay property taxes. I think it is incumbent on all of us to give the reasons why. Everyone in our society has a responsibility toward the education of young people, and that only benefits all of us. The current generation right now that is working, the sort of baby-boomer generation, probably has the largest collective wealth behind them of any group for generations of a long time.

We will also, when we are older, have a very large responsibility thrust onto the younger generation for being the economic and earning generation to support us when we are older. I think that we have to give that whole demographic trend a lot of careful consideration, that the young people that we are educating and training now, they are going to be the ones

responsible for our institutions and our society when this large group of people are going to be seniors and aging. *[interjection]* The Member for St. Norbert (Mr. Laurendeau) says that is going to be us.

Mr. Speaker, I just want to conclude by commenting on all the great things that are going on out there in schools across the province.

As I meet with the parent councils, the administrators, teachers, trustees and support staff in education, I am always very excited about what I hear, the kinds of programs, for example, in Transcona-Springfield School Division the International Program or the six vocational programs at Murdoch MacKay, including a new microtechnology course to train young people how to fix computers and recognizing that the provincial government also provides funds for those kinds of programs.

The Government funds programs like the FAST Program. We fund programs at the local level on behaviour management. There are wonderful things that are happening. I visited a school in St. Boniface recently where Grades 8 and 7 students are working with pre-school kids on reading. The provincial government funds that program through the parent-child centres.

So the point that I am making is that we do have to see education as a partnership and recognize that there are all sorts of creative ways that we can fulfil the education needs of young people in our province by working together.

I think that Bill 14 is forcing us to do that in much more close ways. I think, in the long run, it is going to be exceedingly good for our province and that the kids that are in school, even in five years from now, are going to have everything in place.

All the school divisions will be through this transition process, and the education system in Manitoba is going to be much more equitable. It is going to be much more of a high-quality education system and it is going to be much more efficient, Mr. Speaker. Thank you very much.

**Mr. Speaker:** As previously agreed, the bill will remain standing in the name of the honourable Member for Minnedosa (Mr. Gilleshammer).

Is it the will of the House to call it 12 o'clock. *[Agreed]*

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



# LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, May 23, 2002

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