

# LEGISLATIVE ASSEMBLY OF MANITOBA

Tuesday, 26 May, 1981

Time — 10:00 a.m.

## OPENING PRAYER by Mr. Speaker.

**MR. SPEAKER, Hon. Harry E. Graham (Birtle-Russell):** Presenting Petitions . . . Reading and Receiving Petitions . . . Presenting Reports by Standing and Special Committees . . .

## MINISTERIAL STATEMENTS AND TABLING OF REPORTS

**MR. SPEAKER:** The Honourable Minister of Fitness and Amateur Sports.

**HON. ROBERT "Bob" BANMAN (La Verendrye):** Mr. Speaker I have a statement to make.

Mr. Speaker, I am announcing today the first Student Athletic Scholarship Program for the three universities in Manitoba; the University of Manitoba, the University of Winnipeg, and the University of Brandon.

The \$100,000 program will be funded from lottery revenues. A condition of the program is that next year the universities will match funds, dollar for dollar, by soliciting aid from the alumni and from private donors which will raise the total amount up to \$200,000.00.

The program is similar too, but separate from ManPlan, in that it will assist athletes engaged in intensive training and competitive program of those varsity sports which are approved by the Canadian Inter Collegiate Athletic Union Championships. The criteria include that a student must be a resident of Manitoba and a graduate of Manitoba high school or has taken up family residence here.

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

**MR. LAURENT L. DESJARDINS (St. Boniface):** Well, Mr. Speaker we certainly welcome this announcement and I must congratulate the Minister for getting involved in these kind of programs. I think this is something that should have been, that could have been here probably a long time ago but there was always a lack of funds. Now the lottery revenues make this possible and I think it is money well spent. I'm pleased also that we're trying to keep this for the Manitoba residents, not necessarily to try to compete like some of the American universities would do and try to get people from other universities. We're trying not necessarily to turn people into professional athletes, but give them a chance to perform for the university and themselves while getting an education. So I certainly would, in the name of our party, welcome this program.

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

## ORAL QUESTIONS

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

**MR. HOWARD PAWLEY (Selkirk):** Mr. Speaker, to the Minister responsible for the Environment. Further to the questions that have been posed, does the Minister responsible for the Environment have any further report regarding the Clean Environment Commission hearing pertaining to the sludge beds in West St. Paul?

**MR. SPEAKER:** The Honourable Minister of Consumer and Corporate Affairs.

**HON. GARY FILMON (River Heights):** No, Mr. Speaker.

**MR. PAWLEY:** By way of supplementary, can the Minister, since this is the final day of the sitting, give any indication as to when West St. Paul — they're very concerned, the residents and the council there — when indeed they might expect receipt of a decision by the Clean Environment Commission as the City of Winnipeg appeared to be proceeding regardless with further expansion and construction.

**MR. FILMON:** Mr. Speaker, I would hope the decision would be later this week, if possible, but the Commission does have a fairly heavy work load, have had a number of public hearings on a variety of different issues and have to report on a number of items, principally the Red River Water Quality hearings and so on. I would hope it would be shortly, perhaps later this week or at the very latest next week. I understand there are some perhaps hopeful signs that the City of Winnipeg itself is taking another look at it. I understand that at a committee meeting yesterday a decision was made to investigate alternatives to the sludge beds so perhaps this will hold out some possibilities for the rural municipality.

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

**MR. SIDNEY GREEN:** Mr. Speaker, I'd like to direct a question to the Honourable Minister of Labour. I would ask the Minister of Labour whether he has received any concerns with regard to a recent regulation passed under The Heavy Construction Wages Act relative to the fact that it may be taking in-plant work previously covered by The Employment Standards Act and putting it under The Heavy Construction Act.

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

**HON. KEN MacMASTER (Thompson):** To the best of my knowledge, Mr. Speaker, I haven't received any complaints precisely as the member outlines. I'll certainly check with my office and the office staff to see if that precise type of problem has been raised. There was certainly some controversy over the regulation. It's been in the works, being reviewed by labour and management for I'm guessing three years now and we felt it was long overdue. I think, by and large, the majority of unions and companies felt so too.

**MR. GREEN:** Mr. Speaker, I hope that the Minister will not try to limit his answer to the words precisely. Has there been concern expressed to the effect that what was previously governed by The Employment Standards Act which is, of course, much more restrictive, will now be governed by a regulation under The Heavy Construction Act?

**MR. MacMASTER:** Again, Mr. Speaker, speaking rather candidly, I don't think that has been a concern. Now I'll follow up on that and see if it has and try and get a more precise answer for the member. I realize that my answers have been pretty loose at this time but I'll follow up the concept that he's promoting and advocating here that I do in fact have a look at it and I assure him I will.

**MR. SPEAKER:** The Honourable Member for Fort Rouge.

**MS. JUNE WESTBURY:** Yes, Mr. Speaker. My question is for the Honourable Minister for Fitness and Amateur Sport. In congratulating the Minister on the announcement today I do have a couple of questions that I'd like to ask if I may.

Mr. Speaker, the announcement states that the program will assist those athletes engaged in the intensive training and competitive program of those varsity sports which are approved for Canadian Intercollegiate Championships. Does it exclude other sports? For instance, if I may just explain why I'm asking that question. In the recent past, I'm not sure about this year, that there hasn't been a university in Manitoba with a women's track club program, for instance. Even though that may be included in the CIAUC would that kind of sport, which is not particularly emphasized at a Manitoba university for a particular group of people, be included?

**MR. SPEAKER:** The Honourable Minister of Fitness and Amateur Sport.

**MR. BANMAN:** By way of explanation, Mr. Speaker, the University of Manitoba I believe has a fairly aggressive track and field program. I think that the program the way it is outlined in that particular instance there will be some funds available for those athletes. However, I should point out that the students that are attending university and are involved in other sports that are not recognized by the Championship Committee will be eligible for ManPlan which is another government program which has been in existence for the last number of years. I'll be making a further announcement on expansion of that particular program later on this morning.

**MS. WESTBURY:** Mr. Speaker, the Minister may or may not know that one of my children is on an athletic scholarship in the United States, so I do know a little bit about this subject.

Mr. Speaker, in view of the fact that in the United States when women's track scholarships were developed a new set of regulations was also developed trying to learn from the mistakes of the old men's programs which seem to be unchangeable, will the Minister's department be looking at those regulations and perhaps drawing up a strong set of regulations here in particular to prevent the sort of

thing the Minister for St. Boniface was talking about, raiding from other universities?

**MR. BANMAN:** Well as mentioned, Mr. Speaker, in my opening statement part of the criteria will include that the student has to be a resident of Manitoba and a graduate of a Manitoba University or established a certain family residency here, I mean a high school graduate. One of the areas that I don't want to get involved in, the Member from St. Boniface mentioned, is that we start going into other areas and to other provinces or into the states to try and build up our particular teams by offering scholarships to those people.

I don't believe that this particular program will go along that line because we've got a maximum of \$1,000 per athlete which really is not a large sum of money for the athlete but is at least something which indicates to the athlete the concern that we have because of the time that he or she has to spend in training where otherwise they could probably be holding down a part-time job or something. So it is not a very — if I could use the expression — rich program but I think it will in a small way recognize the Manitoba athlete attending the different universities in the province.

**MR. SPEAKER:** The Honourable Member for Fort Rouge with a final supplement.

**MS. WESTBURY:** Yes, Mr. Speaker, I just would like to ask the Minister if this will be effective in the coming year, the year beginning in September?

**MR. BANMAN:** Yes, Mr. Speaker, the program becomes effective immediately which means that the universities will be moving to start the selection process as well as getting everything set for the year starting in September.

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

**MR. DESJARDINS:** Mr. Speaker, I'd like to ask a question of the same Minister. The Minister in his statement listed or mentioned the three universities. Will the university or college affiliated to the university, will they qualify also?

**MR. BANMAN:** Well, Mr. Speaker, I believe the three universities are basically the ones in Manitoba that compete in varsity sports dealing with the Canadian Intercollegiate Athletic Union — most of them play with G-Pac over here — and this particular program is geared for those athletes involved in those particular varsity sports. As I pointed out before, ManPlan is available to athletes who are competing in other sports and not competing in this particular conference.

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

**MR. DESJARDINS:** Mr. Speaker, I understand and I'm not criticizing one of the conditions that is in sports where the different universities are competing but if that is met, I repeat my question, are those that are affiliated universities, would they qualify providing the other criteria, the other qualifications,

are there also? If they don't compete then they don't need the help for this program.

**MR. BANMAN:** Mr. Speaker, I should say that would be definitely given consideration. Under the circumstances right now in identifying what is happening at the present time in consultation with the three different universities, this was the direction that we decided to undertake at the present time. If there are additions that are required to the program, that will have to be reviewed at that time.

**MR. SPEAKER:** The Honourable Member for St. Boniface with a final supplementary.

**MR. DESJARDINS:** It's obvious that this hasn't been covered. I would hope that this is not considered just as an addition; it is a qualification. If they need qualification and if they're university students; if they don't, well then there's no problem. I would suggest that we should have the same qualification for all Manitobans and I think this is one thing that maybe the Minister should have a look at.

**MR. SPEAKER:** The Honourable Member for Brandon East.

**MR. LEONARD S. EVANS:** Thank you, Mr. Speaker. I'd like to address a question to the Minister of Economic Development. Last Wednesday, May 20, I asked the Minister whether he could give us the information on the cost of printing and distributing the Tourist brochure which came out some weeks ago. That question that I asked last Wednesday was really a reminder of a similar question that I put a week before, so now that it's about two weeks past, I wonder if the information is now available.

**MR. SPEAKER:** The Honourable Minister of Economic Development.

**HON. J. FRANK JOHNSTON (Sturgeon Creek):** Mr. Speaker, I do not have the information as yet for the honourable member. I have made a request to the department to get it to me as soon as possible but there are some small complications in that it was in several papers and we haven't got everything there as an actual cost at the present time. I can tell the member that the estimate was about 14 cents a copy; it was what was estimated to print that brochure.

**MR. EVANS:** A supplementary question, Mr. Speaker. Can the Minister advise whether a portion of that particular pamphlet was paid for under a DREE agreement or sub-agreement. The Minister had mentioned some cost-sharing on some advertising and I wondered whether specifically there was cost-sharing with the Federal Government on this Tourist pamphlet.

**MR. JOHNSTON:** No, Mr. Speaker, the cost of that pamphlet comes out of the Tourism marketing budget which is in the Estimates — not detailed as a specific pamphlet — but it's in the Tourism Marketing and Promotion budget.

**MR. SPEAKER:** The Honourable Member for Brandon East with a final supplementary.

**MR. EVANS:** With regard to the cost of advertising on television, the Stay in Manitoba theme, it is our understanding that the Minister from previous questions will not make this information available. Will the Minister make available to the House the cost of the second round of TV advertising on the theme, Stay in Manitoba, or however he may wish to describe it, or is he intending not to make that information available?

**MR. JOHNSTON:** Mr. Speaker, I haven't said I intended not to make it available. I said I would make it available as soon as I had the actuals on it.

**MR. SPEAKER:** The Member for Churchill.

**MR. JAY COWAN:** Mr. Speaker, my question is to the Minister of Labour. During the Minister's Estimates I had asked the Minister to investigate a corporation called Equifax Incorporated, which was purporting to be able to provide information to employers respecting worker compensation claims by employees applying for work at any facility — I had since written to the Minister providing him with more detail — I'd ask the Minister if he could indicate to us now the status of his enquiries concerning that corporation and what action will be taken, if any, on the part of the government to protect the privacy of workers who fill out application forms for Workers Compensation due to workplace accidents.

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

**MR. MacMASTER:** Mr. Speaker, if the mail service was working quicker maybe the member wouldn't have had to ask the question because I've signed a very detailed letter to him yesterday outlining all aspects of the enquiry into the situation that we had determined. It has been determined that in our viewpoint the alleged information that this particular organization has is just that, it's alleged, there's no way they can get their hands on that type of information.

**MR. COWAN:** I have to admit to the Minister I haven't received the letter yet, perhaps it's in the mail right now, or still in his office waiting to be sent. But I would ask him specifically if they have contacted the company itself in order to investigate the claims they make, that they can provide very detailed information as to any compensation claim made by an individual, the status of that claim at the present time, whether or not that person is on a compensation pension and other information which should only be available to those working in the Workers Compensation department and the individual client.

**MR. MacMASTER:** Mr. Speaker, we've determined that it's virtually impossible for them to have access to that type of information.

**MR. SPEAKER:** The Honourable Member for Churchill with a final supplementary.

**MR. COWAN:** Then I believe my final supplementary, Mr. Speaker, on the same subject should go to the Minister of Consumer and Corporate Affairs. I would ask him what action he is

taking in respect to a firm which claims that it can provide information which the Minister of Labour has assured us that it can't provide and is thereby from that information, appearing to offer false advertising to employers in this province and in the country? I'd ask him specifically in respect to this particular province, what action he will be taking in regard to that service which the Minister assures us that they can't fully provide?

**MR. SPEAKER:** The Honourable Minister of Consumer and Corporate Affairs.

**MR. FILMON:** Mr. Speaker, since I've been heretofore unaware of that particular matter, the first action I'll be taking will be to ask the Minister of Labour to provide me with all the information that he has.

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

**MR. SAUL CHERNIACK:** Thank you, Mr. Speaker. Since I would like to address a question to the Honourable Minister without Portfolio, I would ask the House Leader and maybe the Whip through him, whether we can expect the Minister without Portfolio to be present during the day, or say at the afternoon question period, or possibly whether he's away.

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

**HON. GERALD W.J. MERCIER (Osborne):** Yes, Mr. Speaker. I don't know whether he was in the House earlier but I know he was in the building prior to 10:00 o'clock.

**MR. CHERNIACK:** That's fine, Mr. Speaker, I'll delay my question in that regard. I'd like to ask the Minister of Agriculture who is now into his third year in connection with the Order for Return which he accepted on May 16, 1979, whether he is prepared to tell us exactly what his difficulty is in regard to honouring his commitment of over two years ago in regard to planning a return?

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

**HON. JAMES E. DOWNEY (Arthur):** No, Mr. Speaker.

**MR. CHERNIACK:** Mr. Speaker, in view of the fact that the Minister is not prepared to tell us what his difficulty is, is he prepared to explain just why it is that he has avoided — and I use that word deliberately — the filing of a return which he himself undertook to give over two years ago?

**MR. DOWNEY:** It'll be filed, Mr. Speaker, when it's ready.

**MR. CHERNIACK:** A final question, Mr. Speaker. Is it that the Department of Agriculture is so ineffective and inefficient that after two years and into the third year it cannot prepare a simple Order for Return?

**MR. SPEAKER:** Orders of the Day.

The Honourable Minister of Health.

**HON. L.R. (Bud) SHERMAN (Fort Garry):** Mr. Speaker, yesterday the Honourable Member for St. Vital asked me whether the department or the commission or any agency of the department had purchased any x-ray monitoring devices during the past six months or during the past year. My officials advise me, Mr. Speaker, that the answer to that question is no, and I assume that the honourable member was referring to the pilot project that we had going with Indus Electronics. Indus Electronics is temporarily in a state of operational suspension as the Member for St. Vital may know so the pilot project is temporarily on the shelf.

The difficulty in that whole project was that we needed a fairly large mass of installations in order to prove the effectiveness of the equipment. In order to produce that mass of installations there was considerable funding required both from government and from Indus Electronics itself. The funding I gathered from Indus Electronics or its backers or shareholders, was not available to the extent needed so the whole project is temporarily on the shelf.

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

**MR. GREEN:** Yes, Mr. Speaker. I'd like to direct a question to the Minister in charge of the numbers game — excuse me, Mr. Speaker, the lotteries — could the Minister advise me whether he is aware of a new lottery which is apparently scheduled to start in June of this year which is sponsored by the Western Lotteries, which will be referred to as an instant lottery?

**MR. BANMAN:** Yes, Mr. Speaker, it's my understanding that there will be a trial instant game starting some time in the middle of June.

**MR. GREEN:** May I ask whether the institution of this new lottery required or received approval, or tacit approval of the Minister? Is it something that requires ministerial approval?

**MR. BANMAN:** Mr. Speaker, under the terms as set out I believe six or seven years ago, any lotteries that are started with regard to the larger lotteries over — I believe it's \$50,000 lotteries — have to receive approval of all the partners in the Western Lotteries Foundation which is Manitoba, Saskatchewan, Alberta and British Columbia. In this particular case all governments had to agree to it.

**MR. GREEN:** Mr. Speaker, do I understand the philosophy of this lottery correctly, in that a person no longer has to wait for a draw, that he buys a ticket and if it is the proper sequence after he opens it then he wins the lottery, and accordingly a person can buy ticket after ticket after ticket just as one would put money into a slot machine until the right numbers come up? Is that the basis upon which this lottery operates?

**MR. BANMAN:** Mr. Speaker, it is the same type of lottery that has been handled by Ontario and Quebec — it is a break-open, an instant win. But I would just point out to the member that it is nothing new to the

Province of Manitoba, we've had the break-opens — I think they call them Nevadas — and something like \$12 million worth of Nevadas were sold in the Province of Manitoba by different sports groups and other people last year. But it isn't what they refer to as an instant win.

**MR. SPEAKER:** The Honourable Member for Inkster with a further supplementary or new question.

**MR. GREEN:** No, it's a further supplementary, Mr. Speaker. Mr. Speaker, despite the question of whether this is new or not, does the Minister whose approval was apparently necessary, consider it wise to further induce people to have a still easier method of disposing of their money in the hope of instant riches by means of being able to buy ticket after ticket after ticket, just as if they were standing in front of a slot machine hoping that eventually the right number will come out? Is that something that the Minister approves of and encourages in this province?

**MR. BANMAN:** Mr. Speaker, this is precisely the reason the particular game is being run. It's being run on a trial basis. It's one printing that's being done and we will monitor precisely that. We will see what effect it has on the other lotteries, whether there's an effect on the existing games or what exactly happens with regard to this game as far as public acceptance and public reaction to it.

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

**MR. BILLIE URUSKI:** Thank you, Mr. Speaker. I direct this question to the Minister of Finance and ask him, since he is one of those that is involved in the relationship for the Order for Return of the Minister of Agriculture and ask him whether he has encouraged his colleague, the Minister of Agriculture, to prepare that or to return it and to remove any cloud that may be created by that non-filing of the Order for Return?

**MR. SPEAKER:** The Honourable Minister for Finance.

**HON. BRIAN RANSOM (Souris-Killarney):** Indeed, Mr. Speaker.

**MR. URUSKI:** Mr. Speaker, I ask the Minister of Finance, can he indicate whether or not there is some fear that there may be a conflict of interest that he's involved in?

**MR. RANSOM:** Absolutely not, Mr. Speaker.

**MR. SPEAKER:** The Honourable Member for Lac du Bonnet.

**MR. SAMUEL USKIW:** Well, Mr. Speaker, given the fact that we have now entered, as the Member for St. Johns suggested, the third year of this Order for Return, the acceptance of the Order for Return and non-delivery of the Order for Return, after umpteen opportunities, many questions from this side as to why it has not been tabled, it would seem to me that it would be in the interest of the Minister of Finance

to encourage the Minister of Agriculture to clear the air because it is indeed an Order for Return that does contain information relative to land purchases by the Ransom family. We don't want to impute or suggest, Mr. Speaker, that there is something wrong but if the Minister refuses to comply with an order that he accepted, almost well into the third year now, Mr. Speaker, then you know we have to draw the conclusion there is something that the Minister is wanting to hide.

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

**MR. RANSOM:** Mr. Speaker, there is nothing I want to hide.

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

**MR. J. WALLY MCKENZIE:** Mr. Speaker, regarding the Order for Return that's under discussion, I wonder if the Minister of Agriculture will again search for mine, which the members opposite and the Minister of Agriculture of the day promised that my Order for Return would be filled; it was accepted. I wonder, will the Minister of Agriculture search that office again and see if he can find the Order for Return that I'm waiting for to this day for five to seven years.

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

**MR. DOWNEY:** Yes I will, Mr. Speaker.

**MR. CHERNIACK:** Well, Mr. Speaker, I wonder if I could persuade the Minister of Agriculture, after he deals with the Order for Return which he himself accepted and which is outstanding according to the Rules of the House, in comparison with the Order for Return that the Member for Roblin wanted to ask which is not required to be filed in accordance with the rules of the House and therefore is extra work, whether in doing so he could do anything to have the Member for Roblin honour his obligation and his undertaking which he made so many years ago that he hopes we will all have forgotten.

**MR. SPEAKER:** Order please, order please. Order please. May I point out that while the honourable member was working through a third party it is not permissible to ask questions of members of the back bench.

**MR. CHERNIACK:** On the point of order you've made, I did not ask the Member for Roblin anything. I've given up asking him for years now. It's the Minister of Agriculture I've been asking for now.

**MR. DOWNEY:** Mr. Speaker, I know very well the Member for Roblin is a very honourable person and what he says, Mr. Speaker, would happen, I would think, Mr. Speaker, in the proper sequence, proper sequence of events, that the order that the Member for Roblin refers to probably should be dealt with before the one I have to table, Mr. Speaker, and I will give consideration to that sequence.

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

**MR. PETER FOX:** Yes, Mr. Speaker, to the Attorney-General. In view of the fact that the Minister of Agriculture is having such difficulty making up his mind and, in view of the fact that the Honourable Attorney-General offered the assistance of people from his department who had expertise in making administrative decision, can the Attorney-General inform us whether he ever did do that and whether any of his people were able to help the Minister of Agriculture make a decision?

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

**MR. MERCIER:** Mr. Speaker, the Minister of Agriculture needs no help from my department to fulfil his responsibilities. The agricultural community in Manitoba I don't think is ever better being served by a Minister of Agriculture.

**MR. FOX:** I appreciate the Honourable Attorney-General's encouragement of his colleague but he did offer and that's the only reason I asked the question to determine whether he did carry out his promise that he would assist the Honourable Minister of Agriculture to make a decision.

My other question, Mr. Speaker, is that the Honourable Attorney-General also took and received a letter from me in respect to investigations and during his Estimates he was unable to give us final information on that investigation as to procedures by the RCMP. I would like to know whether he has any information at the present time and when we can expect a final report?

**MR. MERCIER:** Mr. Speaker, I can assure the member and other members opposite who asked questions with regard to that matter that it is being considered a matter of high priority within the department and if I am unable to have the information — and I think it would be preferable that I supply the information to the members opposite by way of letter, Mr. Speaker, because it may be a lengthy reply — I can assure them that they will receive a response at the outset within two weeks, Mr. Speaker.

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

**MR. COWAN:** Yes, Mr. Speaker, my question is to the Minister of Highways and Transportation. I know that the Minister was approached by a constituent with a request which was followed up by myself in respect to providing drivers licence examinations during the evening in northern communities where miners worked shift work and could be able to make those evening tests without having to suffer loss of pay. I'd ask the Minister if he could indicate what action he's taken in respect to that request?

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

**HON. DON ORCHARD (Pembina):** Mr. Speaker, I believe that we are accommodating that by introducing legislation to allow licences on 15-and-a-half year old peoples who are presently minor.

**MR. COWAN:** I hope that the Minister misunderstood my question, but in case he did not

I'll spell it for him — miner — in respect to miners. I'd ask the Minister, quite seriously now, what action he is taking in respect to providing this service — which is a serious request I might add and one that is not befitting of the humorous way in which the government has approached it obviously — I would ask him, or as the Member for St. Vital says the facetious way in which they have approached it, I'd ask him in all seriousness if he can indicate what action he has taken in respect to this serious request by the community of Lynn Lake; I'm certain that if the procedures would change it would benefit other communities in Northern Manitoba and rural Manitoba as well?

**MR. ORCHARD:** Well, Mr. Speaker, we have over the past two years now been making a number of driver training and driver licensing staff-hour changes to accommodate a lot of concerns that have come from the community of Lynn Lake and Leaf Rapids and I can't indicate today whether the request the Member for Churchill has made has been one of those ones that we've addressed favourably. I can undertake to check that and provide him with the information.

**MR. SPEAKER:** The Honourable Member for Churchill with a final supplementary.

**MR. COWAN:** I'm certain the Minister understands the urgency in respect to the time limits which are imposed upon him answering in the House and I would hope he would be able to answer during this session in the House. I would only assure him that it was a request from a constituent representing a group within the community which was followed by myself and I would ask him if he expects to be able to provide that information to us or if he will undertake a special effort to provide that information to us during the question period this afternoon?

**MR. ORCHARD:** I will make that special effort.

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

**MR. BEN HANUSCHAK:** Mr. Speaker, I wish to direct my question to the Honourable Minister of Education. Would the Honourable Minister urge his colleague, the Minister of Municipal Affairs, who appears not to know on what basis he is going to assess the properties of the two mega-projects, would he urge him to assess them on the same basis as other commercial properties in the Province of Manitoba, particularly for education tax purposes?

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

**HON. KEITH A. COSENS (Gimli):** Mr. Speaker, I can assure the honourable member that the Minister of Municipal Affairs will do what is right and proper under the circumstances.

**MR. HANUSCHAK:** A supplementary to the Honourable Minister. The Minister has faith and confidence in his colleague that what's right and proper will be done. Will he do what is right and proper and impose the same education tax levy, the

Education Support Levy, and allow the school divisions to impose the same mill rate of a special levy on the mega-project real properties?

**MR. COSENS:** Mr. Speaker, we'll be dealing with that in due course.

**MR. SPEAKER:** The Honourable Member for Burrows with a final supplementary.

**MR. HANUSCHAK:** In view of the fact that neither Minister has dealt with this vital issue that should be of concern to both Alcan and IMC, is the Minister considering a change in legislation or regulations to avoid any windfall benefits that may accrue to a couple of relatively small school divisions at the expense of others?

**MR. COSENS:** Mr. Speaker, I think the honourable member is well aware that the windfall will accrue to all Manitobans.

### ORDERS OF THE DAY

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

**MR. MERCIER:** Mr. Speaker, I move, seconded by the Honourable Minister of Finance, that Mr. Speaker do now leave the Chair and the House resolve itself into a Committee of the Whole to consider and report of the following bills for Third Reading: Bills No. 48, 59 and 63.

**MOTION presented and carried** and the House resolved itself into a Committee of the Whole with the Honourable Member for Radisson in the Chair.

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

### COMMITTEE OF THE WHOLE

#### BILL NO. 48 — CAPITAL SUPPLY

**MR. CHAIRMAN, Abe Kovnats (Radisson):** Committee will come to order. Bill No. 48, An Act to Authorize the Expenditure of Money for Capital Purposes and Authorize the Borrowing of the same.

Section 8. The Honourable Minister.

**MR. RANSOM:** Mr. Chairman, yesterday there was a question raised by the Member for St. Johns about this section and the \$2,500,000 and I've been advised that indeed it is necessary to have a message from His Honour. We have the necessary message and it will be filed with the Clerk's Office.

**MR. CHAIRMAN:** The Honourable Member for St. Johns.

**MR. CHERNIACK:** Mr. Chairman, I'm glad of that. I suppose it ought to be read out but I don't care, as long as it's on the record and properly handled.

The second question was whether it needed to be set out in the schedule or in some additional way to show as a contingent liability because, in my opinion, this \$2,500,000 will not show up in the books of the province. It seems to me that when there is that

guarantee it ought to be somewhere in the books of the province as a contingent liability. So I would like to know how does it become entered into the books of the province and when does that happen?

**MR. RANSOM:** Mr. Chairman, I'm advised that it is not necessary to be shown in any other manner than it has been shown here; that it is considered by the department to be a contingent liability but that it is not required to be shown, Schedule A, for instance.

**MR. CHERNIACK:** Mr. Chairman, I assume it is a non-lapsing authority — I think that's a correct statement — my question specifically was how does it get entered on the books of the province and when? For example, at some stage or other there will be a guarantee signed by the province. I assume at that time it becomes at the very least a footnote on the financial statement which is submitted to Securities Exchange or the Annual Report or whatever. I assume at some stage and this I am sure will not happen but theoretically it could be that the province will be required to honour its guarantee. If that's the case and it pays out the money, then how does that become entered on the books of the company; just as an increase in the deficit without a corresponding reduction in liability? Just how does that happen, what are the mechanics?

**MR. BANMAN:** Mr. Chairman, I'm advised that it is shown as a footnote as the member suggested and that if it is necessary to be paid out, then it becomes an expense of the year in which it's paid out, but until it's required to be paid out, it's simply shown as a footnote in the public accounts.

**MR. CHAIRMAN:** Order please. Could I suggest to the honourable members that with the high level of noise within the Chamber it is very, very difficult — it's not that there's arguing but there is quite a high level of noise in the Chamber and it is very very difficult for the recording of the proceedings to take place. I've just been advised there is some difficulty. I would ask the cooperation of all of the members. So if we could just kind of keep the discussion down to maybe just a sort of light roar so we can hear properly.

Before I acknowledge the next — what did I do with the note? I had a note with some people up in the Gallery. I've lost it.

The Member for St. Johns.

**MR. CHERNIACK:** Mr. Chairman, just to clarify when it is paid, and I'm assuming it never will have to be paid, will it be charged as a current expenditure or will it just suddenly appear as a deficit in capital? Just how will it be shown? Since we're not dealing with current supply which lapses, but rather with the capital expenditure, will it then show as a continuing liability from the university to the province? Is that possibly the way it'll balance out?

**MR. RANSOM:** It would be shown as an item, an expenditure of the year in capital and would be shown as recoverable from the university.

**MR. CHAIRMAN:** Section 8 — pass; Preamble — pass; Title — pass; Bill be Reported — pass.

Bill No. 59, The Statute Law Amendment (Taxation) Act (1981), Section 1, Clause (a) — pass; (b) — pass; (c) — pass; Section 1 — pass; Section 2 (a) — pass; (b) — pass; Section 2 — pass; I'm sorry 6(2) — pass; 6(3) — pass; Section 2 — pass; Section 3, 8(2)(a)(1) — pass; (2) — pass; (a) — pass; 8(2)(a) — pass; (a)(1) — pass; (2) — pass; (a) — pass.

The Honourable Member for Rhineland.

**MR. ARNOLD BROWN:** Mr. Chairman, I move that proposed new sub-clause (a)(2)(b)(1) to The Corporation Capital Tax Act as set out in Section 3 of Bill 59 be amended by adding thereto immediately after the word "automobile" in the first line thereof the words "or truck".

**MR. RANSOM:** Just by way of quick explanation, Mr. Chairman, this was an oversight in the drafting. It is no different than the intention outlined in the Budget and just in case we have a message from His Honour which would be filed with the Clerk's Office.

**MOTION presented and carried.**

**MR. CHAIRMAN:** (2) — pass; (b) as amended — pass; 8(2) — pass as amended; 8(3)(a) — the Honourable Member for Rhineland.

**MR. BROWN:** I move that proposed new Clause 8(3)(a) to The Corporation Capital Tax Act as set out in Section 3 of Bill 59 be amended by adding thereto immediately after the word "automobile" in the first line thereof the words "or truck".

**MOTION presented and carried.**

**MR. CHAIRMAN:** (a) as amended — pass; (b) — pass; 8(3) as amended — pass; 8(4)(a) — pass; (b) pass; (c) — pass; (d) — pass; (4) — pass; 8(5)(a) — pass; (b) — pass; (c) — pass; (5) — pass; 8 — pass; Section 3 as amended — pass; Section 4(9)(2) Sub (a) Sub (1) — pass; Sub (2) — pass; (a) — pass; (b) Sub (1) — pass — the Honourable Member for Rhineland.

**MR. BROWN:** Mr. Chairman, I move that proposed new subclause 9(2)(b)(i) to The Corporation Capital Tax Act as set out in Section 4 of Bill 59 be amended by adding thereto immediately after the word "automobile" in the first line thereof the words "or truck".

**MOTION presented and carried.**

**MR. CHAIRMAN:** Sub (i) — pass as amended; Sub (2) — pass; (b) — pass as amended; 9(9)(2) — pass; Section 4 — pass as amended; Section 5(a) — pass; (b) — pass; (c) — pass; 15(2) — pass; 15(3) — pass; Section 5 — pass; Section 6 — pass; Section 7 — pass. Did I hear no? I'm sorry . . . No. That's on Section 7 because I'm going to take a vote. Section 6 — is it the pleasure of the Committee to adopt Section 6? All those in favour, please say Aye; all those contrary, please say, Nay. I declare Section 6 passed; Section 7 — pass; Section 8 — pass; Section 9 — pass; Section 10 — pass; Section 11 — pass; Section 12 — pass; Section 13 — pass; Section 14 — pass; Section 15 — pass; Section 16 — pass; Section 17 — pass; Section 18 — pass;

Section 19 — pass; Section 20 — pass. (Interjection)— No, is it the pleasure of the Committee to accept Section 20? All those in favour, please say Aye; all those against, please say, Nay. I declare Section 20 passed; 21 — pass; 22 — pass; 23 — pass; 24 — pass; 25 — pass; 26 — pass; 27 — pass; 28 — pass; 29 — pass; 30 — pass; 31 — pass; Section 32(7)(2) — pass; 32 — pass; Section 33 — pass; Section 34(a) — pass; (b) — pass; (c) — pass; (d) — pass. I believe that would be (e) rather than (c). (Interjection)— So that would be just Section (c), new clause (c) added; Section 34 — pass; Section 35(3)(9.2) Sub (a) — pass; (b) — pass; 9.2 — pass; Section 9(3) — pass; 3 — pass; Section 35 — pass; Section 36 — pass; Section 37 — pass; Section 38 — pass; Section 39 — pass; Section 40 — pass; Section 41 — pass; Section 42 — pass — the Honourable Member for Lac du Bonnet.

**MR. USKIW:** The Minister attempted to explain the reason for the amendment on Section 42(419), exemption for used machinery in manufacturing plants, and my colleague the Member for St. Johns did not grasp the explanation. For whatever reason he would like it explained again and if the Minister would care to even in his absence I would be prepared to take down the information.

**MR. CHAIRMAN:** The Honourable Minister.

**MR. RANSOM:** The amendment provides for an exemption for used machinery and equipment that are affixed in a manufacturing plant where the entire plant changes hands and the new owner continues to operate the plant on the same premises. To qualify as used machinery and equipment the exemptions will apply only to items that either where (1) previously taxed in full or (2) bought prior to May 1st, 1972 and exempted as production machinery or (3) acquired before the sales tax came into force on June 1st, 1967. The exemption will not apply to free standing items such as fork lift trucks, . . . etc. nor to machinery and equipment which although fixed in the plant at the time of sale are bought with the intention to be removed for use elsewhere. The amendment is retroactive to May 14th, 1980 as it revises the previous amendment which came into effect on that date concerning the definition of tangible personal property.

Last year's amendment was made to clarify that commercially used machinery and equipment does not become part of the realty but remains as personal property after installation and is therefore subject to the sales tax on service charges including installation, repair and maintenance.

A number of inconsistencies have developed in the interpretation of personal property versus real property subsequent to the 1977 court decision in the sales tax case against Hooker Chemicals Canada Limited. In that case involving the manufacturing plant taken over by a new operator the court decided that the machinery affixed in the plant had lost its identity as personal property and was therefore not subject to tax in the hands of the new operator.

The amendment made last year had an effect beyond what we had fully appreciated and in effect was contrary to the position established by the court on a takeover of the whole manufacturing plant.



With this present amendment it's our intention to reinstate the principle established by the court so that there would be an exemption for the used, affixed equipment when an entire manufacturing plant is sold.

**MR. CHERNIACK:** Mr. Chairman, I listened as carefully as I could and I'm still not sure that I grasped just what is planned. Was the last year's amendment intended to comply with the decision of the courts?

**MR. RANSOM:** No, Mr. Chairman. I think that the intention of last year's amendment was really to overcome the decision of the court. This year's amendment is intended to comply with the decision of the court.

**MR. CHERNIACK:** Mr. Chairman, I suddenly have a new problem — oh, maybe not. I'm still studying this. It is to overcome the adverse decision of the court then, to make the goods taxable which were not taxable because of the court? Is that the nature of this?

**MR. RANSOM:** This amendment makes the interpretation of the Act consistent with the interpretation of the court.

**MR. CHERNIACK:** Does that mean that revenue which the government had expected to collect prior to the court interpretation is no longer taxable?

**MR. RANSOM:** It would have no effect prior to May 14th, 1980.

**MR. CHERNIACK:** Mr. Chairman, I should be able to understand this and I am having difficulty with it. I wonder if we can explore it a different way. Before 1980, a plant was sold and there was a fork-lift truck included in the plant. It is a movable article. I assume there is a tax on it, can that be? Yes, the Minister is nodding. After 1980 and before this Section passes, did that fork-lift truck become non-taxable? — (Interjection)— No, obviously it's still taxable. After this passes, will that fork-lift truck be taxable? Mr. Chairman, now that I've asked a series of three questions that it's taxable in each of the three examples, why did the Minister deal with the question of fork-lift trucks as being a problem?

**MR. RANSOM:** Mr. Chairman, I don't think I dealt with fork-lifts as being a problem, I think I used that as an example of something that would continue to be taxed. It's property that is affixed within the plant. Not being a lawyer I can't grasp the proper terminology. I'm sure the Member for St. Johns would appreciate the difference between something such as a fork-lift and a piece of equipment that is attached to the floor of a plant. This amendment says that equipment which is attached to the floor of the plant — if I can use that term — will be considered as part of the plant and will not be subject to sales tax. That is an amendment which makes the Act consistent with the ruling of the court.

**MR. CHERNIACK:** Yes, Mr. Chairman, that is clear to me and the expression is that one is personal property, and the other is real property. I never

thought we were charging a tax on real property and therefore the retail sales tax, I thought, did not apply to fixtures affixed to the land, such as a piece of machinery. The doubt I had was if the machinery is easily movable, then it's not affixed to the land and it should carry a tax, like a fork-lift truck. But even a stationary piece of equipment — let us say a printing press — it might be bolted to the ground to keep it from shaking or moving. I think it's still personal property.

I recall now that certain washing machines or dryers in homes, if not bolted to the ground might start moving around and dancing along the floor. My impression is even if it were bolted in order to keep it secure, it might still be personal property and taxable.

This Section reads "notwithstanding Section 3". Then it spells out what I always thought was the law and that is that "machinery, apparatus forming part of the plant that is affixed to the land" that is indeed real property and not taxable.

I want to ask the Minister, where in Section 3 did it make it taxable? Or how did it become taxable to make necessary now an amendment that exempts it from taxation?

**MR. RANSOM:** It was last year's amendment that purported to make it taxable. This is re-establishing what the courts have interpreted and I gather is re-establishing what the Member for St. Johns always understood it to be.

**MR. CHERNIACK:** Mr. Chairman, I suppose I could go and search what was last year's amendment, but there's nothing being repealed by this part, so we're not changing last year's amendment, we are varying its impact. So what was there in last year's amendment that created the problem which we are now trying to overcome? Since there is no repeal, then I don't quite know what we did last year that created the problem that we're now trying to correct. I suppose I could get the 1980 Statutes and maybe we'll find it there but I assume the Minister might have it.

**MR. CHAIRMAN:** Subsection 4(19) — the Honourable Member for St. Johns.

**MR. CHERNIACK:** I'm sorry, I'm waiting for an answer, Mr. Chairman. I don't think it's being refused me.

**MR. CHAIRMAN:** I just asked if I could carry because I wasn't aware; I have to proceed unless I'm told otherwise. The Honourable Minister.

**MR. RANSOM:** Mr. Chairman, we'll attempt to find the wording from last year and provide the answer. Perhaps you'd want to leave that Section and go on to some of the other Sections and then return, if that's possible.

**MR. CHAIRMAN:** With the permission of the Committee, I will leave Section 42 and go on to Section 43. 43, Clause (a) — pass; (b) — pass; (c) — pass; 43 — pass; 44(1) — pass; (2) — pass; (3) — pass; (4) — pass; 44 — pass. We are now back at Section 42.

The Honourable Member for St. Johns.

**MR. CHERNIACK:** Mr. Chairman, the legal counsel is attempting to explain to me what is implied in this. I just want to say that from what he tells me, this Section is a restatement of the law as I thought I knew it.

Mr. Chairman, now just for the record, I see that last year's amendments deal with Section 2 and not Section 3, so I really don't know what the reference means when it says, notwithstanding Section 3, but Section 3 would be the imposition of taxation on personal property. The change that was made last year was a new definition of tangible personal property which does include machinery equipment apparatus that is installed in or attached to buildings or land.

My question then is, if the definition says that it is, that it's installed in or attached to buildings or land that is included in tangible personal property because they are used in manufacturing, producing, processing, storing, handling, packaging, displaying, transporting, transmission, or distribution of tangible personal property, why it is that we are now saying that if it is affixed to the land and was previously used in connection with the plant it is not payable. I'm wondering why the definition hasn't been changed and I'm now beginning to understand what the problem is.

I am not sure that this section is needed at all because as I say I think it spells out the law and if the Minister says that it is designed to conform with the legal decision that was made, then it reinforces my statement that it re-states the law and I really don't think it's necessary; but having said that, if it gives comfort to anyone to re-state the law then that should not be objectionable and therefore I will accept the explanation, although I don't see the necessity for it, I don't see the harm in it either. So, giving comfort to anybody who is dealing with it, it's good enough for me.

Thank you, Mr. Chairman. I appreciate the efforts made by the Minister to explain it and it is a difficult, complicated explanation. I appreciate his efforts.

**MR. CHAIRMAN:** 42 Subsection 4(19) Clause (a) — pass; (b) — pass; (19) — pass; Section 42 — pass; preamble — pass; title — pass; Bill be Reported — pass. As amended.

Bill No. 63, An Act to amend The Income Tax Act (Manitoba). Section 1, Clause (a) — pass; (b) — pass; 1 — pass; Page 1 — pass. —(Interjection)— Page by page. Page 1 — pass; Page 2 — pass; preamble — pass; title — pass; Bill be Reported — pass. That's all I've got. Committee rise. Call in the Speaker.

The Chairman reported upon the Committee's deliberations to Mr. Speaker and requested leave to sit again.

### IN SESSION

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

**MR. KOVNATS:** Mr. Speaker, I beg to move, seconded by the Honourable Member for Dauphin, report of Committee be received.

**MOTION presented and carried.**

### THIRD READING

#### BILL NO. 48 — CAPITAL SUPPLY

**MR. MERCIER** presented Bill No. 48, An Act to Authorize the Expenditure of Money for Capital Purposes and Authorize the Borrowing of the same, for third reading.

**MOTION presented.**

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

**MR. RANSOM:** Mr. Speaker, just in response to a question that was raised yesterday, whether or not the loan from the Alberta Heritage Fund was part of the \$250 million, it was not. That was part of the borrowing for 1980-81.

**QUESTION put, MOTION carried**

**BILLS NOS. 59, 63 and 61** were read a third time and passed.

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

**MR. MERCIER:** Mr. Speaker, would you call Bill No. 55?

### ADJOURNED DEBATE SECOND READING

#### BILL NO. 55 - MAIN SUPPLY

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

**MR. GREEN:** Mr. Speaker, I think that I would prefer now to let this bill go to committee and deal with the matters either at committee stage or on third reading.

**QUESTION put, MOTION carried**

#### BILL NO. 17 — THE MEDICAL ACT REPORT STAGE

**MR. SPEAKER:** Shall the Bill be concurred in?  
The Honourable Member for Inkster.

**MR. GREEN:** Mr. Speaker, I move, seconded by the Honourable Member for Burrows that Subsection 12(1) and (2) of Bill 17 be struck out and the following section be substituted therefor:

Effective misconduct, 12, any person who is found by a court of competent jurisdiction to have engaged in conduct for which a member may be disciplined under Subsection 57(1) may be refused registration under the Act or may be registered upon such terms and conditions as the council may consider just and appropriate.

**MOTION presented.**

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

**MR. GREEN:** Mr. Speaker, I would urge honourable members in considering this amendment not to

resort to stubbornness simply because it is a change in the existing legislation.

It is my respectful submission, Mr. Speaker, that the change accomplishes everything that is in the existing legislation but does not have some of the problems associated with the existing legislation.

The Section 12 which I'm asking the repeal of, indicates that a member may have his name removed from the register because he has been convicted of an indictable offence and, Mr. Speaker, that gives the council the power to revoke a doctor's licence simply because he has been convicted of an indictable offence and that indictable offence may have nothing whatsoever to do with the practice of medicine.

Now, under Section 57(1) the College is entitled to revoke a doctor's licence where he has been guilty of professional misconduct, conduct unbecoming a member or to have demonstrated incapacity or unfitness to practise medicine and I would suggest that an indictable offence which would amount to professional misconduct or conduct unbecoming a member is already there, but a member would be entitled to a hearing. Under 12, they could strike his name from the register simply because he has been convicted of an offence and it seems to me, Mr. Speaker, that that is unfair to a member of the medical profession and completely unnecessary and as a matter of fact when the Minister was dealing it he said that they would never do it. Well if they would never do it, Mr. Speaker, then there is no necessity to give them the power to do it.

Now, there is the other possibility that was mentioned, that a person would have to be erased immediately. That power is also contained within the Act.

Under Section 55(1):

Notwithstanding any other provision of this Act where an inquiry into the conduct of a member is directed by council or any committee thereof, the council or executive committee may suspend the licence of that member pending the disposition of the inquiry.

So, if the conduct is unbecoming, if there is an inquiry scheduled they can immediately suspend him from the register and if there was going to be any danger to the public I'm sure that would happen.

Now, that being the case, Mr. Speaker, 12(1) is merely an archaic section which uses the indictable offence as the reason for the erasure.

Now, there is one other possibility, Mr. Speaker, and the amendment looks after that. The other possibility is that a person may be applying for a licence who has been guilty of an indictable offence and they can refuse to register. The amendment takes care of that: Any person who is found by a court of competent jurisdiction to have engaged in conduct for which a person may be disciplined.

In other words, if a court has found that a member has been engaged in conduct which the council considers professional misconduct, conduct unbecoming a member or demonstrated incapacity or unfitness to practise medicine then they can refuse to register or they can register under such terms and conditions as may be just and appropriate. Now, Mr. Speaker, this amendment gives the College all of the powers that they need, removes some that they do not need, and in my

respectful submission is a considerable improvement over the existing Section 12(1) and 12(2).

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

The Honourable Minister of Health.

**MR. SHERMAN:** Mr. Speaker, the amendment proposed by the Honourable Member for Inkster, relative to Subsections 12(1) and (2) of Bill 17 has some merit and I concede that it has some merit. It has sufficient merit, Mr. Speaker, to persuade me to give it in terms of part of its intent very conscientious consideration in the ensuing months with a view to possible improvement of this part of the legislation in the near future.

It does not have sufficient merit to recommend itself to the Legislature for passage at this point in time. The proposal of the Honourable Member for Inkster does the protect the capability of the College to prevent the licensing and registration of an undesirable applicant for registration. In other words, it does protect that capability for instant action which I think is very important in the interests of the protection of the public.

What it does not do though, Mr. Speaker, is what 12(1) in its currently constituted form does do with respect to the ability of the College to deal with somebody who has been convicted of an indictable offence and who has demonstrated himself or herself in the view of the College to be unfit to practise medicine and deal with them without having to go through the whole process and business of an inquiry. What 12(1) says at the present time is that a person who has been convicted of an indictable offence may be refused registration when he or she comes before the College and the registrar and seeks that initial licensing and registration and also that someone who is already on the register at the College may have his or her name erased from the register for the reason specified in that section; the fact that they've been convicted of an indictable offence.

The proposed amendment that has been offered by the Honourable Member for Inkster does not deal with that second consideration. Now the Member for Inkster says, well, that's covered under 57(1). Mr. Speaker, the fact of the matter is it is not covered under 57(1). 57(1) deals with action available to the College, to the council, as a result of an inquiry. In other words, if somebody has had somewhere in his background, distant or recent, a record of activity that is unacceptable to the College for a medical practitioner that represents conduct unbecoming a member or unprofessional conduct, whether it involves the commission of an indictable offence or not, 57(1) permits the College after going through the due process specified in the Act to take disciplinary action which could be the erasure of that person's name from the register, the withdrawal of that person's licence, or a number of forms of action but the process of going through the inquiry has to be held.

What 12(1) says is that if a court of competent jurisdiction has already made the judgment that a particular applicant or member has committed conduct which in the view of the College is unprofessional and conduct unbecoming a member, that no inquiry is then necessary; that the procedure of inquiry and the expenses of inquiry and the

expense that would incur to the individual practitioner himself were he found guilty by the inquiry is not necessary; that it's already been done by the courts and at that point in time the College can decide to erase or suspend or impose what other conditions are required.

So the proposal from the Honourable Member for Inkster only goes half way. I think it opens up avenues of consideration that I'm prepared to pursue in the future. We've had some discussion of this at committee stage and elsewhere and I'm certainly prepared to pursue them in the future, but it does not protect that ability of the College to act in the case of an existing member without having to put the member and the College and everybody else through another inquiry. All it does is protect the instant capability to act, whereas 12(1) protects both. So on those grounds, Mr. Speaker, I have to recommend to the House that the proposed amendment be rejected.

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

**MR. CHERNIACK:** Mr. Speaker, I'm distressed by the attitude of the Minister in this regard. I will repeat what I said about professional legislation and that is that its main purpose is to protect the public, but a secondary purpose is to protect the individual against the group and I think it's vital that when you give powers to an organization to control, to regulate their own members, you must as legislators protect the individual. I won't make a speech about Bills of Rights, Mr. Speaker, but I suggest that members of the Legislature have to be very jealous of the rights of individuals especially when they transfer to a society like the College of Physicians powers which affect the livelihood and the work of a member of society. Now to protect the public we must be sure that a person has to lend his best efforts — in this case as a doctor — to his patients. To protect the individual we have to make sure that person is not denied the opportunity to give his services to the public.

Mr. Speaker, what the Minister overlooked completely is the fact that under Section 51 which is a new section it reads: "Notwithstanding any other provision of this Act, the investigation chairman may, at any time, direct the registrar to suspend the licence of a member pending or following the completion of the preliminary investigation for a period of not more than one week, unless prior to the expiration of that period, the suspension has been confirmed by council pursuant to subsection 55(1)." Section 55(1) says: "Notwithstanding any other provision of this Act, where an inquiry into the conduct of a member is directed by council or any committee thereof, the council or executive committee thereof may suspend the licence of that member pending the disposition of the inquiry; and thereupon the member is suspended from practise until the suspension is lifted, superseded, or annulled by the council or the executive committee."

What does that mean, Mr. Speaker? Well, the Minister accepted that this proposed amendment by the Member for Inkster will bar a person applying for registration who is not yet a member and who has been convicted. So there, he's got that protection. He likes that, but then he said what about a member

who has been convicted? Where is the protection? He says then the council and the individual have to go through a process of a new inquiry.

Mr. Speaker, in the first place I think the council should be forced to go through the process because the council has to show that it is indeed investigating whether the nature of the offence was such as would have anything to do with affecting the fitness of the individual to practise medicine with pride and dignity and with skill. So they should have to do it. They should not arbitrarily be allowed to suspend a person who may be guilty of an offence has nothing whatsoever to do with his ability to practise medicine.

Now if the Honourable Minister is concerned about the impact on the individual of going through an inquiry, there is nothing to compel that individual to demand that there should be an inquiry. The individual who may be suspended under 51 can accept the suspension and that's the end of that, Mr. Speaker. The individual has an even greater dignity offered to him, he can voluntarily ask that his licence be suspended or that he be removed from the rolls and that way with dignity, recognizing his offence and recognizing that he does not wish to insist on his right to practise, may do so as I say with dignity, with ease and without embarrassment or additional investigation.

So the Minister's concern on his behalf is not warranted. On behalf of the public, if the offence is such that challenges the integrity or the capacity of that individual in his practise of medicine, then immediately it becomes drawn to the attention of the investigation chairman even before he completes his investigation. Under Section 51, he can direct the registrar to suspend the member. So it's instantaneous, as soon as there's a conviction, the investigation chairman under Section 51, which is a new section, may suspend this person immediately but only for a week because the next step would be that the council would have the right under 55(1) to continue that suspension until the hearings are completed. What can be more fair, Mr. Speaker, what can be less arbitrary, what can serve the public best and the individual best than to ensure that a person who is a member is not pushed around because of a criminal conviction which may have nothing whatsoever to do with fitness to practise but which council in its wisdom feels is some embarrassment to them?

I used an example which is valid. There are cases when a person believes that an article that he owns is in the possession of another person and that may even be on the case of a separation of husband and wife where the husband who may be a doctor believes that his personal possession, whatever it is, whether it's a television set or a razor or whatever, may feel that it's in his wife's home and he's just left the home and maybe there's an order that he must not enter the home but maybe he does actually break and enter the home and maybe he's convicted for breaking and entering. It had nothing to do with his ability to practise. Why should the council arbitrarily before any hearing or any investigation say he's committed an indictable offence, therefore he's finished until we later deal with it? I say that the investigation chairman would do that if he believes it's necessary but there still must be an investigation.

The Minister denies that individual the opportunity to have a trial on his actions. He denies him that and he denies the public the services of that doctor. He may have an extensive practice. He may be due in the next few days to be seeing patients who are suddenly told, sorry, this man can't practise medicine because of an arbitrary decision without the right of review.

Mr. Speaker, I do believe that's unfair. We did discuss it in committee. I had the impression that when the Member for Inkster said that he would bring in an amendment, that was designed to give an opportunity to both the Council of Physicians and Surgeons and the Minister to review the concept and to agree that there was fairness involved.

I am disappointed, as I say, to learn that the Minister says it has great merit, it's worth considering, but he's not prepared to consider it now, nor has been since we reviewed this legislation which was probably about last Friday. Now he says, well, in future years and time to come he will look at it. Mr. Speaker, that's not good enough. The lives — I don't mean the life or death but the continuing life and activity of a person can well be affected while the Minister cogitates and reviews what he admits is an eminently reasonable suggestion. It's just not good enough to persuade him now and I'm sorry to hear that because I'm convinced, Mr. Speaker, that there is no one on his side of this Chamber who is bothering very much to consider the justification of this but will accept his opinion and I won't question their doing so. I believe in delegation and I believe it delegated to him the conduct of this legislation and will accept his statement but I wish, Mr. Speaker, that in his comments he would have acknowledged the presence of Section 51 and 55(1) and dealt with that aspect which I don't believe he considered. Well, whether he considered it not, I don't think that he dealt with that as being a means whereby the College could accomplish its real purpose and that is to be fair to its own membership and to his patients. I'm sorry that he didn't deal with that and because of that it may well be that he even overlooked that, Mr. Speaker, and if he did then it's a pity that people's occupation and their occupation may be affected unfairly to them and unfairly to their patients.

I'd urge that there be some reconsideration of the position of the Minister so that we can in this Session, which I think means today and not later than tomorrow, take care of what I think is an abuse of power in the Act which is unnecessary in view of the newly enacted Section 51, which does give that kind of protection which otherwise appeared to be missing. In other words, the Minister thought that this amendment left a loophole, I suggest to him under Section 51 and 55(1) there is no loophole. Therefore it would be perfectly safe in the interests of the public, which is the main interest, to accept this amendment.

**MR. SPEAKER:** Are you ready for the question? Order please. I have read the rules and according to the rules a member can only speak once on amendments at Report Stage. But if the past practice is such that it has allowed it in the past I would consider the honourable member to be closing debate.

The Honourable Member for Inkster.

**MR. GREEN:** I believe the rule with respect to speaking once meant that it's the same as a

substantive motion that you speak once, but I do believe a person has a right to close debate. In any event there's no point in arguing it if we've proceeded that way.

Mr. Speaker, the Honourable Minister says that I have left something out. My complaint is that he has left something in. I now see what is happening here. Unbeknownst to me there is another amendment coming. Perhaps the Member for St. Johns is not aware of it, I was not aware of it but it's been pointed out to me by the Member for Fort Rouge.

The amendment is now being moved; after this amendment ostensibly is going to be voted down, the scenario is that there will be another amendment. The other amendment is almost identical in wording except it adds after the words "subsection (1) may be refused registration" it adds "have his name erased". It adds: "have his name erased".

My position, Mr. Speaker, was that the only thing that was needed under Section 12 was a right to refuse registration, because the erasure is all provided for in other features of the Act. The Minister has put in "have his name erased" to make it specific that the commission of an offence or the finding by a court of a competent jurisdiction that a person has been engaged in conduct for which he may be disciplined means that his name can be erased immediately by the College. I say that you can refuse registration on that basis.

The Minister and the Member for Rhineland are now saying that in addition to that, you can have his name erased, which now, Mr. Speaker, goes further than 12 went. Because 12 said that he can only have his name erased if he is guilty of an indictable offence. The Minister is not here yet. I wish the Minister would listen to this. They've extended it rather than . . . I have been worried that the College is going to do something which would hurt a member; I believe I'm protecting the members. Mr. Speaker, let me not be altruistic. I am protecting myself. Every time I have spoken on any case involving civil rights, whether it had to do with trade unions, whether it had to do with sitting in the Legislature, whether it had to do with giving blood or having blood taken from you — I have never defended other people — let's be completely selfish, I have defended myself because I say it could happen to me. I am a member of a profession and the profession is entitled to strike my name from the register. Therefore I am very concerned to give anybody the power to do me in and that's why I'm speaking on this bill.

Now, Mr. Speaker, under Section 12 as it formerly was, if you were convicted of an indictable offence they could strike your name from the register. Now if you're guilty, if you've been found by a court of competent jurisdiction to have engaged in conduct for which you may be disciplined — in other words we're going beyond the indictable offences; we're now going into a civil trial where a judge may find that you have seduced somebody and there could be a seduction case. The College could say that seduction case involves conduct unbecoming. We could erase the man's name from the register because the finding of the court of competent jurisdiction in the seduction case. We don't have to hold a hearing — we don't have to hold a hearing under 57(1).

Now, Mr. Speaker, that is reprehensible. I urge, now I'm fighting a rear guard action, if you must get rid of 12(1), if you must get rid of this amendment, please don't introduce the other amendment. The other amendment is worse than the Act. The Act is an archaic section, Mr. Speaker. We used to have it in municipal acts, we used to have it in all kinds of things that if a person was guilty of an offence, in addition to the punishment for the indictable offence, you would prevent him from running for office, you would do one thing, you would do another thing. It was always, Mr. Speaker, even in my younger years when I remember going up — the fact that somebody committed an offence means that he had to be ostracized. It was really to sort of smooth the feelings of the people who were in the profession that we can't associate with such people. We're going to get rid of them. He committed an indictable offence, he was found guilty of drunken driving. (Interjection)— Something of that nature, it could be anything. So we're going to get rid of him and this Section 12 is a relic of that thinking. I've said you don't need it.

In order to get rid of somebody you have all of the powers under 57(1) and the power to suspend immediately, which I indicated earlier and which the Member for St. Johns has added an additional section, No. 51, No. 55 and a suspension. What I'm saying is that let's forget the indictable offence. Strike out the words "indictable offence". What you are concerned with is conduct unbecoming. If a person has been guilty of professional misconduct — conduct unbecoming of a member or to have demonstrated a capacity, incapacity or unfitness to practise medicine you can erase his name from the register and you can suspend him immediately. Is that not a fact? That's right in the Act. There isn't a lawyer that has spoken to the Committee or anybody else who does not agree that if that indictable offence amounts to one of those three things his name can be erased.

So you don't need 12 to erase somebody's name because he has been guilty of an indictable offence, but I was left with a problem. When I first spoke to this section I wanted 12(1) and 12(2) out completely. But it was impressed upon me that, wait a minute, a person applying for a licence should also not have to be taken and I put this in, Mr. Speaker, which I think went further than 12(1). I said that's true, you people have got a flaw in your Act. You could have a member who has been guilty of professional misconduct — conduct unbecoming a member — and he could apply for a licence and you might not have the power to refuse him. So I said put that power in No. 12.

I think, Mr. Speaker, that I have improved this section to the extent that I say any person who has been found by a court of competent jurisdiction to have engaged in conduct for which a member may be disciplined under Subsections 57 may be refused registration, may be refused registration. But if a member is practising, shouldn't you have to prove conduct unbecoming or professional misconduct before you erase him, regardless of whether he has been found guilty by a court of competent jurisdiction to have been convicted of an indictable offence, or to have engaged in fraud.

Let us assume that there is a fraud case and a person recovers on that basis. I say that the man has

a right to go to the medical profession and say regardless of what that court found, I am performing medical skills in a good way for my patients, the fraud case or the indictable offence case I am being punished for, I spent six months in jail for it or what have you and I want to come out and live in society and practise the skill that I can practise. Mr. Speaker, that takes care of it. But if you vote this section down and go to the amendment as being pursued by the Member for Rhineland, you're going to be able to erase a name from the register not for the commission of indictable offence but because the College says that a court has found a person already to have engaged conduct which is unbecoming under Section 57(1).

So the section that is apparently going to be moved after this one, I would urge the government and the Minister to leave it the way it is, if you defeat this amendment and I don't see why you should defeat it, but if you defeat it don't come out with this new amendment; that just makes things worse.

**QUESTION put on the amendment, MOTION defeated.**

**MR. GREEN:** Yeas and Nays, Mr. Speaker.

**MR. SPEAKER:** Call in the members.

**A COUNTED VOTE** was taken, the results being as follows:

### YEAS

Adam, Bostrom, Boyce, Cherniack, Cowan, Desjardins, Doern, Evans, Fox, Green, Hanuschak, Jenkins, Malinowski, Parasiuk, Pawley, Uruski, Uskiw, Walding, Westbury.

### NAYS

Anderson, Banman, Blake, Brown, Cosens, Craik, Downey, Driedger, Ferguson, Filmon, Galbraith, Hyde, Johnston, Jorgenson, Kovnats, MacMaster, McGill, McGregor, McKenzie, Mercier, Minaker, Orchard, Price, Ransom, Sherman, Steen.

**MR. CLERK, Jack Reeves:** Yeas 19; Nays 26.

**MR. SPEAKER:** I declare the amendment lost. The Honourable Member for Inkster.

**MR. GREEN:** Mr. Speaker, I move, seconded by the Honourable Member for Burrows that Subsection 57(2) of Bill 17 be struck out and the remaining Subsections of Section 57 be renumbered accordingly.

**MOTION presented.**

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

**MR. GREEN:** Mr. Speaker, first of all let me tell you that my understanding of the matter — and this is hearsay and therefore I cannot ask you to accept it with the same degree of assurance that I sometimes ask the House to accept other things — is that this Section never used to be there. This Section permits

the College after it has found a person guilty of conduct unbecoming and only if they find a person has been guilty of conduct unbecoming and discipline him, it permits them to assess the cost of the inquiry as against that person, without limits, Mr. Speaker. I want you to know that without limits means more and more every day. We are now talking about an investigating committee and a reference and an inquiry and a hearing and lawyers.

The last time that it was done that we are aware of, in addition to the doctor being suspended there were assessed against him costs of the inquiry totaling \$15,000.00. The real problem, in addition to the fact, Mr. Speaker, that a person is asked to pay such costs when, if he were in court and lost his case, then the bar would be normally around \$600 to go through an entire court case and perhaps spend three days in court and all of the lawyers there and the judges there and the court reporter. If you lose your case, the bar is \$600.00. Now the bar may be lifted, and there are times when it is, but generally speaking, Mr. Speaker, it is not lifted and the costs assessed against the losing litigant are the sum of \$400, \$500 to \$600 plus disbursements, which can bring it up to, let us say, \$1,000 or \$1,100.00.

In this case where a semi-public function is being played — the hearing is not in public but the function is the cancelling of a licence — the costs that can be awarded against a person who is found to be guilty of the misconduct charge can reach limits which are now astronomical. Well, is it astronomical to any of the members if they were asked to pay \$20,000 after being struck off the register of their continued employment, because \$20,000 would not be out of the way; the last costs were \$15,000.00. From what I know about lawyers' fees and other fees and now an additional committee with power to subpoena and power, I assume, to hire investigators to get documents, the costs could reach \$20,000, Mr. Speaker, and I believe I'm being conservative.

Now that's not the worst feature of it. The worst feature of it is that the judge who is going to make the finding represents the body that is relieved of costs by its finding. The College makes a finding of guilty. If they make a finding of guilty, they can assess the costs of the inquiry against the doctor; if they make a finding of not guilty, who pays the costs of the inquiry? Does anybody know? The College. So we put into the hands of this group the power to say whether they will pay or they will not pay; that power is exercised depending on how they find the person. If they find the person guilty, he pays; if they find the person innocent, they pay. Now maybe the College is above all human frailties, all human susceptibility to conflict of interest. If somebody in this House got up and voted on the basis that if he votes aye he gets \$20,000, if he votes nay, he doesn't get \$20,000, the College would say, "Hey, that guy is voting in order to get \$20,000.00." Who wouldn't say it? But the College, they say, "We are oblivious to the fact that our members are going to be assessed this charge. When we vote on the guilt or innocence of that person, that does not enter our minds". Well, Mr. Speaker, it might enter the mind of the person who has been convicted.

I would suggest, Mr. Speaker, that I am doing no injustice by having this Section removed. The College

would then be responsible for the inquiry and the costs of the inquiry and they would govern themselves accordingly in conducting the inquiry, because if they know the doctor is responsible for the costs of the inquiry, then who's to say they won't say, "No holds barred. Do anything". I mean, they can hire two lawyers. So the elimination of this Section will put a lid on the costs.

Now if, Mr. Speaker, the Minister feels that eliminating the Section is not good enough, that there should be some means found of having the person who is convicted pay some of the costs of the inquiry, with a limit, with an understood limit and a limit which is in accordance with what people are fined for doing things, because a \$15,000 fine is a very high fine — or what people are required to pay in costs of civil litigation. That's fine. But the onus should be on the Minister finding a Section to do that, not to permit this Section to be on the books. My information is, Mr. Speaker, it was not on the books. If you will go back to your original Acts, you will find it was not on the books and again this is hearsay, but the history is that people were fighting and extending the inquiry. As a result the College has power to tax the person with the cost of the inquiry if he was found guilty.

Mr. Speaker, it is elemental to all principles of natural justice that the judge should not have an interest in the determination of the dispute. We are writing in an interest for the judge because the judge is the College, a committee of the College. They have a financial interest in the dispute being determined in one way. Whether people believe or disbelieve that interest can play on their minds, we should remove any suggestion that the interest is there. Therefore I would suggest, Mr. Speaker, that we pass this Section.

I can also say to you, Mr. Speaker, that without this Section and without some of the other changes I'm making, I am becoming more and more fearful of this professional legislation. I am coming, Mr. Speaker, to the view that the licensing agency for a profession should be an agency of the government of the Province of Manitoba, not the College of Physicians and Surgeons. (Interjection)— The Bar Association too. That this be a matter of public licensing and the public to grant the licence and the public to refuse the licence and not a committee of one's peers.

But definitely, Mr. Speaker, this Section is not an acceptable way of dealing with it and it's in every bill now. There was one bill — I believe it was the chartered accountants, they were more charitable — here's what they said. The Member for Lac du Bonnet will be interested. They had that you can fine and tax the costs. Then Mr. Thompson came, the lawyer, and was very magnanimous. He said, "We don't want the fine and tax the costs. We shouldn't be able to do both. Take out the costs". So I said, "Well, Mr. Thompson, is there any limit to the fine?" He said, "No". I said, "Who gets the fine?" He said, "The chartered accountants". I said, "Well, if there is no limit to the fine and it goes to the College, you are doing exactly the same thing". And that's what they said. They said, "Take out the costs".

Well, I say take out the costs, Mr. Chairman; put in an acceptable provision, not one which is a blank cheque in terms of what the inquiry will cost and

what can be charged against the doctor, and also leaving an interest in the body that is deciding as to the outcome of their deliberations which are supposed to be entirely judicial.

**MR. SPEAKER:** Order please. I recognize the Honourable Minister of Health, but the hour is 12:30. The House is accordingly adjourned and stands adjourned until 2:00 p.m.