



Second Session — Thirty-Second Legislature  
of the  
**Legislative Assembly of Manitoba**

**STANDING COMMITTEE**

on

**INDUSTRIAL RELATIONS**

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31-32 Elizabeth II

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*Chairman*  
*Mr. C. Santos*  
*Constituency of Burrows*



MG-8048

**VOL. XXXI No. 7 - 3:30 p.m., TUESDAY, 16 AUGUST, 1983.**

**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Second Legislature**

**Members, Constituencies and Political Affiliation**

Name	Constituency	Party
<b>ADAM, Hon. A.R. (Pete)</b>	Ste. Rose	NDP
<b>ANSTETT, Andy</b>	Springfield	NDP
<b>ASHTON, Steve</b>	Thompson	NDP
<b>BANMAN, Robert (Bob)</b>	La Verendrye	PC
<b>BLAKE, David R. (Dave)</b>	Minnedosa	PC
<b>BROWN, Arnold</b>	Rhineland	PC
<b>BUCKLASCHUK, Hon. John M.</b>	Gimli	NDP
<b>CARROLL, Q.C., Henry N.</b>	Brandon West	IND
<b>CORRIN, Brian</b>	Ellice	NDP
<b>COWAN, Hon. Jay</b>	Churchill	NDP
<b>DESJARDINS, Hon. Laurent</b>	St. Boniface	NDP
<b>DODICK, Doreen</b>	Riel	NDP
<b>DOERN, Russell</b>	Elmwood	NDP
<b>DOLIN, Hon. Mary Beth</b>	Kildonan	NDP
<b>DOWNEY, James E.</b>	Arthur	PC
<b>DRIEDGER, Albert</b>	Emerson	PC
<b>ENNS, Harry</b>	Lakeside	PC
<b>EVANS, Hon. Leonard S.</b>	Brandon East	NDP
<b>EYLER, Phil</b>	River East	NDP
<b>FILMON, Gary</b>	Tuxedo	PC
<b>FOX, Peter</b>	Concordia	NDP
<b>GOURLAY, D.M. (Doug)</b>	Swan River	PC
<b>GRAHAM, Harry</b>	Virden	PC
<b>HAMMOND, Gerrie</b>	Kirkfield Park	PC
<b>HARAPIAK, Harry M.</b>	The Pas	NDP
<b>HARPER, Elijah</b>	Rupertsland	NDP
<b>HEMPHILL, Hon. Maureen</b>	Logan	NDP
<b>HYDE, Lloyd</b>	Portage la Prairie	PC
<b>JOHNSTON, J. Frank</b>	Sturgeon Creek	PC
<b>KOSTYRA, Hon. Eugene</b>	Seven Oaks	NDP
<b>KOVNATS, Abe</b>	Niakwa	PC
<b>LECUYER, Gérard</b>	Radisson	NDP
<b>LYON, Q.C., Hon. Sterling</b>	Charleswood	PC
<b>MACKLING, Q.C., Hon. Al</b>	St. James	NDP
<b>MALINOWSKI, Donald M.</b>	St. Johns	NDP
<b>MANNES, Clayton</b>	Morris	PC
<b>McKENZIE, J. Wally</b>	Roblin-Russell	PC
<b>MERCIER, Q.C., G.W.J. (Gerry)</b>	St. Norbert	PC
<b>NORDMAN, Rurik (Ric)</b>	Assiniboia	PC
<b>OLESON, Charlotte</b>	Gladstone	PC
<b>ORCHARD, Donald</b>	Pembina	PC
<b>PAWLEY, Q.C., Hon. Howard R.</b>	Selkirk	NDP
<b>PARASIUK, Hon. Wilson</b>	Transcona	NDP
<b>PENNER, Q.C., Hon. Roland</b>	Fort Rouge	NDP
<b>PHILLIPS, Myrna A.</b>	Wolseley	NDP
<b>PLOHMAN, Hon. John</b>	Dauphin	NDP
<b>RANSOM, A. Brian</b>	Turtle Mountain	PC
<b>SANTOS, Conrad</b>	Burrows	NDP
<b>SCHROEDER, Hon. Vic</b>	Rossmere	NDP
<b>SCOTT, Don</b>	Inkster	NDP
<b>SHERMAN, L.R. (Bud)</b>	Fort Garry	PC
<b>SMITH, Hon. Muriel</b>	Osborne	NDP
<b>STEEN, Warren</b>	River Heights	PC
<b>STORIE, Hon. Jerry T.</b>	Flin Flon	NDP
<b>URUSKI, Hon. Bill</b>	Interlake	NDP
<b>USKIW, Hon. Samuel</b>	Lac du Bonnet	NDP
<b>WALDING, Hon. D. James</b>	St. Vital	NDP

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS**

**Tuesday, 16 August, 1983**

**TIME — 3:30 p.m.**

**LOCATION — Winnipeg, Manitoba**

**CHAIRMAN — Mr. C. Santos**

**ATTENDANCE — QUORUM - 6**

*Members of the Committee present:*

Hon. Ms. Hemphill, Hon. Mr. Storie

Messrs. Filmon, Nordman, Mrs. Oleson, Ms. Phillips, Messrs. Santos, Scott and Harper.

**MATTERS UNDER DISCUSSION:**

Bill No. 77, An Act to amend The Public Schools Act; Loi modifiant la loi sur les écoles publiques.

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**MR. ASSISTANT CLERK, G. Mackintosh:** The committee will come to order. Since the Chairman is no longer a member of the committee, are there any nominations for the Chair? Mr. Santos has been nominated. Is it the pleasure of the committee to have Mr. Santos as Chair? (Agreed)

Mr. Santos.

**MR. CHAIRMAN, C. Santos:** The committee will please come to order.

What is the pleasure of the committee, shall we take it clause-by-clause or page-by-page? Page-by-page. Page 1—pass; Page 2—pass; Page 3 - Mr. Filmon.

**MR. G. FILMON:** Well, Mr. Chairman, the subject of virtually all of the 13 briefs last evening was the matter contained in Sections 5 and 6 on Pages 3 and 4. I wonder why the Minister isn't bringing forth a proposed amendment on those sections?

**MR. CHAIRMAN:** Madam Minister.

**HON. M. HEMPHILL:** I am, you wouldn't recognize it if I told you. That is the amendment. I want you to read it and tell me what it says, Gary.

**MR. G. FILMON:** Oh. Okay. So this Act except Sections 6, 7, 8, 10, 11 and 12 comes into force. So you are waiting to proclaim Section 6 as well as . . .

**HON. M. HEMPHILL:** The one on portability, yes.

**MR. G. FILMON:** That's the portability one?

**HON. M. HEMPHILL:** Yes, and I'd like to say a few words about it. I think I just want to say a few things about this section. I think that during the last week we

have received quite a bit of information from a wide variety of both concerned community and educational organizations, who have been indicating a growing concern about the portability section of Bill 77. While we did have 13 groups presenting last night, one of the major issues of concern is related to the portability section. I've given them serious consideration and I feel that the implication to teachers and to the mobility of teaching staff is an issue which needs further consideration. I think we're all very concerned about the quality of teachers in our schools, and we all feel that they're the key to providing the quality of education that I've been stressing over the last several months.

In their presentations school trustees, superintendents, home and school organizations, school trustees' and superintendents' organizations said they would not hire new teachers from another school division and that they would rather take a chance and hire out-of-province, because of the portability clause. I have to say that I found this attitude towards our young people, who are trained in our educational institutions, disappointing and a matter of great concern to me.

However, I think it's really important that our laws are workable, that they're not out of step with public thinking, and most importantly, that they do not have an undesirable effect, that we did not on the education system.

In light of the serious concern raised, I do not believe we should proceed with the portability section of the bill at this time and I'm recommending that clause 92(6) Accumulated Teaching Service, be held until date of proclamation and I intend to call a meeting of affected parties to give us all an opportunity to review this issue and its implications immediately.

**MR. G. FILMON:** Mr. Chairman, I appreciate the very very small step that the Minister of Education is taking, which is simply to delay what she is apparently unwilling to change. That, to me, is simply to leave a ticking time bomb in place that can be allowed to explode after the hue and cry of the public outcry and the public representations and protests that were made during these past couple of weeks, leading up to the committee hearings on this and certainly culminated in some very very strong presentations last evening. For the Minister to just simply say well, my compromise is to take the portability section of it and not proclaim it at the present - or at least not have it come into force at the present time but will come into force on proclamation at a later date - is very small comfort and certainly no reassurance to those who took the time to make their views known, eloquently, thoroughly . . .

**A MEMBER:** Dramatically.

**MR. G. FILMON:** . . . dramatically - yes, one certainly qualifies on that count, to the Minister and I say that she is doing a disservice to the educational process

in the province. I say that as long as the Minister is prepared to leave Sections 5 and 6, either in this bill for Royal Assent or in abeyance for proclamation, that the comment I have made with respect to the Minister at gatherings and in discussion with people on this matter holds, and that comment is - and I think it's probably the strongest criticism that I would bring to bear on this Minister, because I think at other times I have been complimentary to her on other issues - but I say that she is clearly selling out what she has expressed at many public gatherings in the past, as a commitment to the quality of education for our children in this province; she is selling out that commitment in favour of a commitment simply to a self-interest group, the Teacher's Union, in this province for their own self-interest rights. That is it purely and simply.

There's no such thing as a compromise on this when the effects of these proposed changes are well evident, can well be pointed to by school trustees, and superintendents, and administrators throughout the province can tell here point blank what effects this will have.

Frankly, the argument about right to due process, or just cause, all of those union mentality terms that are being used for this to justify this kind of process are washed aside by the presentation that was made, I believe by Mr. Buchholz when he pointed out, without question, that the teachers already are a special group in society, in terms of the protection that they have over and above the rights of all others in society, they are placed in a special category. They have the rights under the Constitution that everybody else has for just cause; they currently have the rights under legislation to get reasons why they are terminated, even if they don't have the right to due process they're entitled to the reasons. The only thing they don't have, within the 20-month period at the present time, is the right to then take that to arbitration.

So they have all of those rights that they say they're looking for, and that she says; all they have to do is be given reasons and then due process. But the problem with due process is that it then, as it exists today, takes it into the hands of separate people, aside from the educational administrators of the school divisions, aside from the elected representatives, it takes it into the hands of what are labour negotiators, essentially, and then lawyers and labour experts who are not educational people, who do not make the decision on an arbitration award, or do not rest their case based on educational principles; they simply will call into evidence anything that supports the position that they hold, either on behalf of the division, or on behalf of the teacher, and that matter will then be a straight matter of who's a better negotiator in front of the quasi judicial hearing process, and who makes the better case to do with the protection of the individual rights of the person, and not to do with whether or not the individual whose competency, in terms of education has been thrown into question, is indeed a competent teacher and one who should be in the classroom looking after our children's best interest.

That kind of process, Mr. Chairman, is not one that we should support and is not one that we should fall into a trap regardless of how powerful a lobby the Teachers' Society has brought forward to this Minister. I know how influential they have been in the past in

New Democratic Party campaigns and so on but surely the commitment of a government, a government that wishes to stand before the people and say that its commitment is to the greatest good for the greatest number in this province and in a democracy.

I would assume that that's the goal of all governments, but unfortunately and very sadly it's becoming obvious, that with this government the goal is not the greatest good for the greatest number; it's the greatest good for those people who happen to have supported this party when it ran for election in 1981, and that's a very narrow perspective to take. It's very very wrong and it is going to cost our children and the people of this province a good deal in terms of their quality of education in the future.

I say this Minister ought to reconsider this, ought to remove these two sections completely - let aside - put them in abeyance for now because as I say, when the hue and cry ends and maybe if the Minister and her party and her people do the right amount of lobbying for the school board elections this fall, they can get rid of most of the dissent in the school board elections and push it through then with a little less public focus on what they're doing, but it's wrong. It's wrong in principle and it's going to be a damaging thing for the education of our children in the future.

**MR. CHAIRMAN:** The Member for Wolseley.

**MS. M. PHILLIPS:** Thank you, Mr. Chairperson. Firstly, I must take some exception to the remarks of the Member for Tuxedo.

These two sections are, in essence, dealing with a labour relation situation and how a school board resolves a situation of dismissal for cause and who a school board does decide to hire as an employee; so to say that this is not a bargaining issue, that it's not an issue dealing with labour relations, I think is begging the point.

I think all parties, the two parties at this table, political parties and the parties that presented briefs to us last evening, do basically share the genuine concern for the quality of education. I don't believe that the school trustees are masking or not being up front with that concern. I believe they have as genuine a concern for the education of our children as the members around this table and as the Teachers' Society does. I think that's a very common concern.

I think the issue here is how, in labour relations between the two parties and government legislating the parameters for resolving those labour relation disputes, are to be resolved and under what rules the game will be played, in terms of hiring teachers and dismissing teachers.

When the Member for Tuxedo suggests that the terms that are used, such as due process or just cause, are demonstrating a union mentality to this issue, rather than a concern for the children, I really do take exception.

I think it's not a union mentality that those terms come into play. I think those are bargaining terms, and to be dealing with collective bargaining there are two parties to any bargaining agreement. It's not a union term, it's terms that are in widespread use between both parties to a bargaining situation. So I would just

like to clarify that, I think that this is an issue that is of major concern in terms of labour relations between the two parties and between us, as legislators, setting the parameters for that bargaining to take place.

In terms of the actual issue of portability, I listened very very carefully to the briefs that were presented last night on both sides, and I concur with the Minister's suggestion that we continue to examine this issue and see whether we are, in fact, imposing something that would be detrimental, not just to the teachers but to education. So I am prepared to follow her suggestion that we hold off on this one section.

However, in terms of the principle of the section, and I would just like to relate a personal experience, not my own personal experience, but one that involves someone quite close to me who was a teacher for many years, who taught in three different divisions, in a one-room school to begin with. When she left that community there was a large party in the community hall; many many tears shed that she was leaving after having done such a splendid job in that community; moved on to a medium-sized town in southwestern Manitoba; again was a very successful teacher; spent several years in that community before moving into a smaller school in the City of Winnipeg; again had a very successful teaching record.

Changes in her personal life, in that she got married and moved with her husband to another small city in this province, and a marriage that did not turn out to be very healthy, in fact, caused her great personal distress in the days before wife abuse was out of the closet - and this is only a matter of about seven or eight years ago - ended up having an absolutely dreadful year in her first year in that division that was accentuated by her personal experience, but also because it was the first year that a new open area school was opened. There was no support, no instruction, no adjustment period or assistance given teachers who had never taught in that kind of a milieu, and ended up not having her contract renewed that year.

That woman has not taught since. In the meantime, she has gone through the Special Education Program at the University and obtained her degree, being a single parent of two children, but she is so intimidated by that experience, so terrified at interviews, in fact, whenever she has gone for an interview it has been a very damaging and nerve-wracking experience because of that one year.

There has been a lot of public money invested in that individual; she had 8, 9 or 10 years of extremely good teaching experience that was not considered because of the lack of portability of her experience in different school divisions. So I think we also have to consider, the moral of my little story is that we also have to consider what happens to teachers when that portability is not taken into consideration, when they have to start all over again at another school division.

So, to me, we just can't sort of wipe out the issue of portability that easy. Perhaps the two-year probation period should happen in a new division. I'm not sure what the solution is at this point, I think some problems have genuinely been pointed out to us. But also, on the teacher's side, I think there's some genuine concerns that, as responsible legislators, we do have to take into consideration for a very large group of

workers in this province, that through this legislation we have an act that controls those kinds of issues affecting their lives, as well as the issue of quality education.

So just to say, well there's a lot of problems with this from the school trustee side and back off I don't think is the responsible solution. I think that taking another look at it, seeing if there are ways to work it out so that it meets the needs of both parties is our responsibility in dealing in the way we have to under this act with a collective bargaining issue.

I strongly recommend that the members of the opposition give that serious consideration, allow the Minister to examine it further to decide if, at some point, there should be further amendments, or whether we should not proclaim this section if, in fact, the trustees case stands further examination and does seem to present the only alternative.

**MR. CHAIRMAN:** The Member for Gladstone.

**MRS. C. OLESON:** Thank you, Mr. Chairman. I think probably that we, in the opposition, could concur with the Member for Wolseley who says that the Minister should examine this, and we would be delighted if she would examine it from the point of view of removing Sections 5 and 6 from this bill. If this compromise so-called is done, 92(6) not being proclaimed, leaves everybody in limbo. It means the school boards and the teachers both are in this grey area where they know that this legislation is written, it's in a statute and the big question will be, when and if, and they won't know where they are with this whole thing.

If it was taken out completely at this time, considered as the Member for Wolseley and the Minister have both indicated, and when there is some concurrence, if ever, with this then it could be re-introduced. It doesn't have to be left in this bill so far as I can see.

The people who presented briefs last night made it very very clear what their wishes were in this matter, and to say that this is a compromise is not a fair dealing with the people who came and presented briefs last night. It's interesting that the Member for Wolseley should use this example of her friend and her problems just teaching in the school for one year because, if Section 5 is left in, there's the problem, she wouldn't have more than the year to prove herself.

I know you're referring to portability, but there's that one little school year thing still in there which would prevent that school board from taking another look at that particular person and perhaps giving her another chance. This will be taken away when this subsection (5) is enacted, if it is enacted at this time.

**MR. CHAIRMAN:** The Member for Tuxedo.

**MR. G. FILMON:** Thank you, Mr. Chairman. Well the Member for Wolseley just made my arguments on several occasions because she acknowledged that the essence of what we were discussing was not education but labour relations and the terms of collective bargaining that prevail and should prevail with teachers.

My point is that this is a bill, under The Public Schools Act amendments, being brought forward by the Minister of Education, and her concern ought not to be ensuring

that somebody else gets a stronger hand in labour relations; her concern ought to be for the children. If it's not the Minister of Education who's concerned, who is ultimately in this province if it isn't the government that's concerned with the welfare of the parents, the families and the children who are being educated?

We've got plenty enough strength in the unions to look after their own self-interest in terms of collective bargaining. They bargain every year for contracts, but that's not our responsibility here. Our responsibility is to ensure that what prevails with respect to collective bargaining for all those groups in society is reasonable, and I say this meets the test of reasonableness as it stands today, because it approximately is equal to what exists across the country, there are trade offs and we know that. In some provinces they have the right to strike, in other provinces they have a mandatory probationary time. Here we — (Interjection)—

**MS. M. PHILLIPS:** In B.C. the school boards don't have anything.

**MR. G. FILMON:** Well then the teachers here are far better off than they are. So you can't argue that teachers here are operating from a weak position, in fact, what they have is approximately as good as most of the provinces in the country, and that's not a bad position to be in in this respect. But the final point about the portability, and the anecdote that Ms. Phillips has made about her friend, you have to compare that then to what was being said by the employers last evening, the employers being the superintendents and the school boards, and that is, that that friend may never have been given the opportunity to even get a job at the new division because of this kind of legislation because they would have had no opportunity for evaluation and, because they were going into a new situation with open area schools and all that, they may not have wanted to take a chance on her. Then she would have been worse off having nobody willing to even take a look at her because she carries with her automatic portability, automatic tenure without the right of evaluation, and that is not in her interest, nor is it in the interest of the school board, nor is it in the interest of the children.

**MS. M. PHILLIPS:** Perhaps, following on the comments from the Member for Tuxedo, we should be looking in the future at the recommendations from the Teacher's Society about moving sections out of this bill into The Labour Relations Act if you feel strongly that the Minister of Education should not be dabbling in labour relations issues. Perhaps that is something that should also be given serious consideration and the Minister should be contenting herself to just deal with educational matters. That's just a perhaps.

The situation I brought to the committee's attention was one situation, although speaking to representatives last night from MTS, they assured me that was not an uncommon situation. This portability section would - in that particular case - that person would have had the right to a hearing in that final job placement. After all those years of teaching, the one-year probation would have been the one year in that original country school and she would have carried throughout that eight or nine tenure career.

**MR. G. FILMON:** She may not have been hired again by another division.

**MS. M. PHILLIPS:** Well, I really have a bit more faith in the trustees in this province to look at qualifications of people from Manitoba, recognizing very few of the teachers that are in the system are of the mediocre borderline incompetent category. I have great difficulty believing that there is massive numbers of the people out there who have experience and training that fall into that category, and would not be considered by a school division simply because they might have a chance of sort of 1 in 700 having to go to a hearing, where the school board would have to document and give reasons for the dismissal and couldn't work it out in the intermediary process. I think the terror of an occasional arbitration hearing for a school division in several years of operation, is a little bit overexaggerated.

As a parent, I have to have that kind of trust and faith in the teachers in the public school system. My children have been through it, they're in it. I think there certainly is some concern in some places, but I don't think it's as overwhelming, and massive, and terrifying, and traumatic and the overriding concern for a school division date in their day-to-day operations, I have much more faith in the teachers in this province than that. I think in saying that they would only hire new teachers or go out of the province, is maybe what they might do out of fear in the first year or so; but I think that things would settle back down to normal, they would find that bringing teachers in from out-of-province and having them for a year deciding whether they would keep them on then or not, or two years as it is now, would not be much different a situation than what they have at the present time.

**MR. G. FILMON:** Mr. Chairman, just very briefly. The fact of the matter is, if it's not going to be very much different then we shouldn't be changing it. The Member for Wolseley has indicated that she would favour them being brought under The Labour Relations Act . . .

**A MEMBER:** I'm saying it should be looked at.

**MR. G. FILMON:** . . . I say fine, go ahead. I'll warrant you that the teachers won't want any part of it because then they would lose a lot of the special status and the protection that they get, which is currently far more than the average worker in Manitoba, than most groups in society get. You asked the question last evening and the President said there's no way they would want to be under The Labour Relations Act. But if you want to do that, fine, put them under The Labour Relations Act, and then not have the Minister here attempting to defend what is indefensible, which is essentially bringing in amendments that are essentially labour relation amendments and labour negotiations amendments.

I think it's significant that the Minister is not saying very much about it and the Member for Wolseley, who is a self-appointed labour expert on that side, is carrying the ball on this because that's where it's at; we're not talking education. This Minister above all, in her party, should be the one who's talking educational quality and educational rights for children in society in

Manitoba, but she's not. She's content to let somebody else carry the ball and just push through things that are designed to protect the self-interest of one union group in society and that happens to be the teachers.

**HON. M. HEMPHILL:** Mr. Chairman, I must say that I wasn't intending to be quiet for the entire afternoon, that I was just waiting my turn and giving you the courtesy of listening to you, which I am sure you will now do for me.

I think I want to make a couple of points. One is that it is absolutely impossible to disassociate the job that teachers do and how important it is and what effect it has on the quality of education and on our kids' learning, with employee relationships, or their well-being, or how they feel, or how they're able to function because anybody that thinks that a person who is working, regardless of what kind of a job they do whether it's professional or a working job, the quality of the job is not affected by a lot of things that have an impact on them, is very very naive indeed.

We have got some very good studies and information that show us something that may shock people, but I believe is true, and that is that a lot of stress, teachers who are under stress and a lot of uncertainty regardless of the reason - and I am prepared to say there are many reasons - and one of them is certainly the pressures of society on the education system and the uncertainty about what the job is and the lack of clear expectations given to teachers about who they are and what their job is, that causes them a lot of stress and pressure. So there are a lot of stresses and pressure.

One of them would be a security of position. I mean that clearly has an effect on people. But what we know is when they are under stress and when they are under a lot of pressure, that how they feel and behave has an effect on the children's ability to learn. In fact the study shows that teachers who are not sort of stressed or pressured, that their kids do better because what seems to happen, is that teachers who are under stress and pressure withdraw from the students.

In other words, one of the ways they deal with it - and how do we all deal with pressures and stress of job? You know we all have our own ways of dealing with it - (Interjection) - but unfortunately, yes, some people drink. In the classroom, what the teachers do is that they withdraw from the level and degree of human contact and communication with the children when they are under stress. So not wanting to belabour that point at great length except to say, that how teachers are, there is a very very strong correlation to stress and pressures and uncertainty that teachers are under, to their ability to teach and the effect of the kids in their class to learn, and we cannot ignore that.

I do not think that the change that is being brought in, is either minor, nor do I believe it is going to be seen to be minor; nor do I believe that the groups and organizations are going to be terribly hung up on the fact that I have said that we're going to leave it sit and we'll immediately look at it. I will say publicly and I stand by whatever I say, is that this may be withdrawn. I mean, we are not doing this as a delaying tactic to have things quiet and then to push it through.

We are actually saying that there is enough question right now about the effect of portability on mobility of

teachers and the education system, that we will not push it through; we will not ram it through because it needs more time; that we will sit down with all the affected parties and there will be positive discussions, I think, not just negative - I think we'll deal with a number of issues - but positive discussions about whether this is good or bad and whether it does have negative effects that we do not want it to have on the system and whether they outweigh what is believed to be the positive effect; so we really do intend to look at that.

I don't think they're going to find that a bad process as long as they believe that it's real and I think they will believe that it's real, that we really are going to examine it. We're making that change because we did listen last night and in the last couple of weeks; and it's clear enough to me that there's enough concern and enough uncertainty about the consequences that we do have to sit and talk about it some more and look at it.

I think maybe that's the main points that I'd like to make right now. I wanted to comment on the third party point though, that things are being taken out of the hands of, sort of, the educators. Very few cases are not resolved by the local division and then even fewer are not resolved between the trustees and the Teachers' Society.

There's only an infinitesimal proportion of the 12,500 teachers that are being evaluated yearly that there is an issue with and where there is an issue, my feeling is that the matters are of such serious concern that they need to be dealt with by an objective outside party. But to the point that they put this into the sort of legal milieu where they're looking at technical legal points instead of educational points, I must say that the people involved, including the trustees, have some responsibility for that because it does not have to be a legal process until it goes to the courts.

They choose to choose lawyers, and I mean, my goodness, if you choose lawyers, you are predetermining that they are going to look at it from a narrower, legal, technical point of view than perhaps non-lawyers would examine the question. There is nothing to stop school trustees or people who have the authority to appoint the kinds of animals that they want, to name community representatives, nothing at all to stop them from saying that in an arbitration hearing, we'd like community attitudes and values to be brought to bear. So I don't think they should be laying that number, sort of, on others when they choose to put it into that quasi legal milieu themselves. I think that we're taking a very responsible position towards a matter that I agree is one that needs more consideration. I think the people that indicated their concern are going to both accept and respect the movement that has been made and are going to . . . A little private conversation going on? I'm just coming to the final culmination of my . . . Now I forgot what I was saying.

What I was saying just to sum up, and finish my eloquent summation here, is that I do believe the movement is going to be accepted and respected by the people that indicated their concern and I believe they will go into the discussions and the meetings with an open mind, willing to really explore and discuss the issue and come to a common resolution now. I believe

that, and until we prove that that does not happen by way of seeing their response and how it works, I suggest to the members of the opposition that they not predetermine the outcome of this process and put a negative . . .

**MR. G. FILMON:** Mr. Chairman, we can predetermine the outcome of some aspects of the process because the Minister has only chosen to temporarily delay enactment of one of the two sections that were of concern to virtually everybody who presented last evening; so we can predetermine that her mind is made up on the other and she's unwilling to bend and move on that one.

With respect to the other one, as I say, it's a ticking time bomb and we'll know exactly whether or not the Minister is prepared to be open, to seek accommodation, and change, and remove that section in due course. I'm just suggesting to her that I'd rather not take that risk, that I'd rather have her make the decision now because she's been told by so many of the constituent groups to do with the teaching process, the education process in this province, that it isn't a good provision so, therefore, as far as I'm concerned the decision can be made now.

The Minister has made a big point of saying that, in the arbitration process, both sides have a choice as to who they choose. Well, as I understand it, it certainly isn't only the school divisions who select lawyers to serve as arbitrators. Which came first, the chicken or the egg? Did the teachers start using lawyers first or did the school boards start using lawyers first? I don't know and it doesn't matter to me. But is the solution that one side has to say, well we won't use lawyers if you won't use lawyers. Is that how you solve it? No. The fact of the matter is that it's evident that the decisions are being made by non-educators with respect to these arbitration awards and that means it's not necessarily in the best interests of the educational process.

It's a statement of fact; it's not a statement of responsibility that they were making, as I certainly interpreted it and I would certainly endorse it. So it's absurd to suggest that these clauses are a major source of pressure or irritation on teachers that is causing them to be under tension and, therefore, to do a bad job. To suggest that this is going to help all of that and make it so much better is to suggest then that we may as well attempt to withdraw all sources of tension that have to do with the workplace and their employer/employee relationship.

Let's tell them they can never be removed from a position. Let's tell them that we're going to make it as comfortable and as pleasant as possible and anything goes and the teacher should never be under any tension whatsoever because we're not going to be able to fire them, we're not going to be able to move them. Will that make a better teacher? Will that make it better for the pupil, the student in the classroom? I suggest it won't. So let's not carry this to a ridiculous extreme and say that this little move is going to remove the tension and make them better teachers in the classroom, nonsense, because the fact of the matter is that many other sources of stresses and anxieties will continue to exist from outside, the kinds of stresses

and anxieties that the Member for Wolseley told about with respect to her friend who had all sorts of pressures due to marital breakdown and inter-personal relationships. All those things that had nothing to do with her job, and they are going to bring those to the job just as anybody else does; we all do, and we live with it.

But the difference is these amendments will make it more difficult then for a division, an employer, to take that person out of the classroom if they are suffering all those stresses; if they become alcoholic; if they have any other major handicaps and detriments to their being a good teacher. This now makes sure that we have less of a time to evaluate it; less of a time after a move from one division to another where they maybe stay one step ahead of being removed in that division by going to another division because their problems are becoming apparent in the first division; that new division knows nothing about it and is now prey to having accepted a teacher without the benefit of evaluation, who may have been a good teacher at some time in future and, therefore, has good credentials behind him; that's still not good enough as far as we are concerned, because it's the children who will suffer.

**MR. CHAIRMAN:** Page 3—pass.

**MR. G. FILMON:** No, Mr. Chairman, may we have a recorded vote on Clause 5 of Page 3?

**MR. CHAIRMAN:** Okay, Sections 5 and 6? Only Section 5?

**MR. G. FILMON:** Well, and then on Section 6 on the next page.

**MR. CHAIRMAN:** Okay, Section 5.

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

Yeas, 5; Nays, 3

**MR. CHAIRMAN:** The ayes have it.

Do you want a recorded vote also on Section 6?

**MR. G. FILMON:** Yes.

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

Yeas, 5; Nays, 3

**MR. CHAIRMAN:** The ayes have it.

Page 4 - the Member for Wolseley.

**MS. M. PHILLIPS:** I move

THAT the proposed Section 129 of The Public Schools Act, as set out in Section 8 of Bill 77, be struck out and the following section substituted therefor:

Time for making award.

129 The Board of Arbitration shall make its award within 60 days after the delivery to it of the statement required by Section 126, or within such further period as may be agreed upon by the parties or as may be allowed from time to time by the Minister.



**MR. CHAIRMAN:** You have heard the motion. The Minister wants to speak on the motion.

**HON. M. HEMPHILL:** I just wanted to give a bit of explanation about the change. I think that this is one of the areas that was discussed by the Member for Tuxedo when he responded on second reading. I must say that, once again, having listened very thoroughly and given some thought to it, that I agree that what was in there originally, which was that if they didn't reach their agreement in 60 days, the chairman would then make a decision within 5 days. I agree that that goes a bit arbitrary and probably, more importantly, it takes it out of the hands of the two parties that come together to do the job, and it puts it into the hands, sort of, of an individual that removes it from the process that has principles in the process that I think are then eliminated.

I think that its purpose was to do something that concerns everybody, and that everybody made representation to me on, and the concern was that we not allow some of these arbitration hearings to go on ad nauseam because some of them have gone on for months and months and months at great cost, not even the most importantly, financial, but the delay in making a decision and the effect it has on all parties. So they wanted some controls there. I think the 60 days is put in to do that, but it seems to me that they either deal with it in 60 days, or if there is reason that is acceptable, like an illness or some other reason why they couldn't come to a conclusion in 60 days, that by mutual agreement of both parties, it can be extended, otherwise, they have to meet the 60-day deadline.

I think that's a better way of handling it. It still allows the option of going beyond the 60 days if there is good reason; leaves the 60-day limit in there so that people can't fool around with the process or delay unnecessarily, and yet doesn't bring into play a very heavy hand that takes away the principles of the arbitration process. So I think it's . . .

**MR. CHAIRMAN:** The proposed motion—pass. Page 5 - I think there is an amendment.

The Member for Inkster.

**MR. D. SCOTT:** Mr. Chairman, I move

THAT the French language version of the proposed subsection 260.1(1) of The Public Schools Act as set out in Section 11 of Bill 77 be amended by striking out Clause (b) thereof and substituting therefor the following clauses:

- (b) une déclaration écrite faite par le père ou la mère ou le tuteur de l'élève, lorsque celui-ci est un mineur, indiquant que le déclarant croit que l'immunisation visant à prévenir la maladie est préjudiciable à la santé ou contraire à ses croyances religieuses; ou
- (c) une déclaration écrite faite par l'élève, lorsque celui-ci est majeur, indiquant qu'il croit que l'immunisation visant à prévenir la maladie est préjudiciable à la santé ou contraire à ses croyances religieuses.

It's only the French language version, and that's the reason it was in French above, and this print is only in the French.

**MR. R. TALLIN:** The problem with this was that in the French language version they had misinterpreted, mistranslated the clause (b) and hadn't translated the clause (c) at all, so we had to put clause (c) in and put a correct version of the clause (b) in, in the French version only.

**A MEMBER:** They've repeated that in the French.

**MR. R. TALLIN:** Because every motion should be in both English and French, but in the English version . . .

**A MEMBER:** In the English version, it's a preamble.

**MR. R. TALLIN:** . . . because we're putting in a French clause in the French version only.

**MR. D. SCOTT:** Read the motion of the French language version of the proposed subsection, Gary.

**MR. CHAIRMAN:** On the proposed motion as put forward—pass; Page 5 as amended—pass; Page 6—pass; Page 7 - there is an amendment to be made.

The Member for Wolseley.

**MS. M. PHILLIPS:** I move

THAT Section 13 of Bill 77 be amended by adding thereto immediately before the figure 7 where it appears in the 1st line and again in the 2nd line, in each case, the figure 6.

**MR. CHAIRMAN:** On the proposed motion to amend—pass; Preamble—pass; Title—pass; Bill be reported.

**A MEMBER:** On division.

**MR. CHAIRMAN:** On division.

**MR. R. TALLIN:** Would it be satisfactory to make the French version amendments . . .

**HON. M. HEMPHILL:** Just a minute, he's asking a question.

**MR. CHAIRMAN:** Is it agreeable to the committee . . .

**MR. R. TALLIN:** . . . to make the French version amendments as shown on the sheets?

**MR. CHAIRMAN:** Agreed? (Agreed) Would somebody . . .

**MS. M. PHILLIPS:** Committee rise.

**MR. CHAIRMAN:** Committee rise.