



Fourth Session - Thirty-Fifth Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE

on

LAW AMENDMENTS

42 Elizabeth II

*Chairperson
Mr. Bob Rose
Constituency of Turtle Mountain*



VOL. XLII No. 5 - 9 a.m., TUESDAY, JULY 6, 1993

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

Members, Constituencies and Political Affiliation

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	Liberal
ASHTON, Steve	Thompson	NDP
BARRETT, Becky	Wellington	NDP
CARSTAIRS, Sharon	River Heights	Liberal
CERILLI, Marianne	Radisson	NDP
CHOMIAK, Dave	Kildonan	NDP
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	NDP
DOER, Gary	Concordia	NDP
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
EDWARDS, Paul	St. James	Liberal
ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Cliff	Interlake	NDP
EVANS, Leonard S.	Brandon East	NDP
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen, Hon.	Springfield	PC
FRIESEN, Jean	Wolseley	NDP
GAUDRY, Neil	St. Boniface	Liberal
GILLESHAMMER, Harold, Hon.	Minnedosa	PC
GRAY, Avis	Crescentwood	Liberal
HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	NDP
LAMOUREUX, Kevin	Inkster	Liberal
LATHLIN, Oscar	The Pas	NDP
LAURENDEAU, Marcel	St. Norbert	PC
MALOWAY, Jim	Elmwood	NDP
MANNES, Clayton, Hon.	Morris	PC
MARTINDALE, Doug	Burrows	NDP
McALPINE, Gerry	Sturgeon Creek	PC
McCRAE, James, Hon.	Brandon West	PC
McINTOSH, Linda, Hon.	Assiniboia	PC
MITCHELSON, Bonnie, Hon.	River East	PC
ORCHARD, Donald, Hon.	Pembina	PC
PALLISTER, Brian	Portage la Prairie	PC
PENNER, Jack	Emerson	PC
PLOHMAN, John	Dauphin	NDP
PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	NDP
REIMER, Jack	Niakwa	PC
RENDER, Shirley	St. Vital	PC
ROCAN, Denis, Hon.	Gladstone	PC
ROSE, Bob	Turtle Mountain	PC
SANTOS, Conrad	Broadway	NDP
STEFANSON, Eric, Hon.	Kirkfield Park	PC
STORIE, Jerry	Flin Flon	NDP
SVEINSON, Ben	La Verendrye	PC
VODREY, Rosemary, Hon.	Fort Garry	PC
WASYLYCIA-LEIS, Judy	St. Johns	NDP
WOWCHUK, Rosann	Swan River	NDP
<i>Vacant</i>	Rossmere	
<i>Vacant</i>	Rupertsland	
<i>Vacant</i>	The Maples	

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS

Tuesday, July 6, 1993

TIME — 9 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRPERSON — Mr. Bob Rose (Turtle Mountain)

ATTENDANCE - 9 — QUORUM - 6

Members of the Committee present:

Hon. Mr. Ducharme, Hon. Mrs. McIntosh, Hon. Mr. Praznik, Hon. Mrs. Vodrey

Messrs. Plohman, Reid, Rose, Mrs. Render, Mr. Sveinson

MATTER UNDER DISCUSSION:

Bill 16—The Public Schools Amendment Act

* * *

Mr. Chairperson: Order, please. Will the Standing Committee on Law Amendments please come to order. When the committee last met we had concluded public presentations on Bill 16. We are hearing opening statements before considering the bill clause by clause.

Mr. John Plohman (Dauphin): Mr. Chairperson, I had made some remarks yesterday, and rather than going on and going over many of those points again today, I am going to leave the opportunity—I guess we do not have a Liberal critic here. I should not remark on presence of—oh, there, he is passing through.

So I do not know if the minister has some statements, but we do have, as we had asked for yesterday, some time to respond to the input from the public that we heard yesterday. As all members of the committee know, the public yesterday indicated that, No. 1, they were not consulted on this legislation; No. 2, its impact had already been felt for this particular year. They felt that there should be a consultation process by the minister without this bill hanging over the heads for the coming year.

So on that basis we will be moving an amendment to that effect, Mr. Chairperson, and ask the government members to consider how they could be responding to the public in this way. If

they would consider this particular issue, it would have, I think, a way of undoing some of the damage that has been done with regard to the relationships with other partners in education as a result of this bill.

Obviously, school boards yesterday felt that more than their toes had been stepped on by this bill, that it is unprecedented, that never before has there been in Manitoba history this kind of intrusion into local decision making. The one thing that bothered me yesterday, and I did not comment on this yesterday in my remarks, Mr. Chairperson, was the fact that the line of questioning by members opposite seemed to be more along the lines of arbitration. It almost seems like this is an attempt to undermine the arbitration process, and yet I find that rather preposterous. If the government wanted to do that, they could put in straightforward requirements that arbitrators must consider ability to pay, if that was a concern. Yet that was raised by—the only questions raised, essentially, except for the member for St. James-Assiniboia who had indicated that there were some other questions about the amount of spending that went on in the early '80s, but basically they were dealing with this arbitration issue, and it does affirm—[interjection]

Well, it does affirm my concern that really what the government was doing here was trying to aim at directly with this bill and with Bill 22 targeting teachers in Manitoba, Mr. Chairperson. I think that is why they concentrated on these arbitration questions as if this was some way to—this bill is a way to undermine the arbitration process.

Mr. Chairperson: Order, please.

Point of Order

Hon. Linda McIntosh (Minister of Consumer and Corporate Affairs): Mr. Chairperson, as a point of clarification I think it is important to note that we were responding to points raised by the presenters, asking them questions about what they meant by their references to arbitration since that had not been raised before as an issue.

Mr. Chairperson: Thank you. The member did not have a point of order.

* * *

Mr. Plohman: Mr. Chairperson, so what we had then was this preoccupation with arbitration, and clearly that really had no place in the discussion of this bill because the issues revolve around the interference in local decision making and autonomy. Arbitration is quite a separate matter, and how collective bargaining process works in this province, and how decisions are made with regard to wage settlements. So I find that preoccupation somewhat telling in terms of the motives of this government and the agenda of this government with regard to the bill. It bears out what we said earlier. [interjection] They seem to be overly sensitive about this, unfortunately. I think that indicates to me that I am on the right track here.

Clearly, what has taken place here is the government has an agenda that is quite separate and apart from what we see on paper. It is a hidden agenda, and we have pointed that out. The public will take heed of that, I am sure, along with the fact that this is an unprecedented interference in local decision making and it has really nothing to do with the government's desire to keep the property taxes down, otherwise they would not have come forward with a \$75 tax increase for everyone in the province of Manitoba.

As some said, Mr. Chairperson, it seems to have given some latitude for the government to move into the property tax increase area without concern that the school boards would also assess in this area. So there would not be a double whammy there. They made it easier. It softened the blow of the government's effort to increase property taxes, and I think that is all that this accomplished on the agenda for the government.

On the other side, it has done perhaps irreparable harm to trustee relations with the government. The government could salvage something here by omitting references to '94 and simply ensuring that the bill would apply only to the existing year which is now for all intents and purposes passed.

So I raise those concerns and we will move the amendment at the appropriate time, Mr. Chairperson. I have concluded my remarks on that.

Mr. Chairperson: Thank you. Do any other committee members have an opening statement or comments.

Hon. Rosemary Vodrey (Minister of Education and Training): Mr. Chair, I do have a few comments which I would like to make. Some of my comments I will make sure that I address again during any discussion of the amendment, but I would like to just begin by saying that it has been an ongoing objective of this government to ensure that Manitoba's tax system remains competitive with other provinces. For this reason a 2 percent limit has been set on how much more school divisions can raise through property taxation in a fiscal year for the next two years.

This measure and the decision to not increase the provincial property tax rate—and I will remind the members that was held, it was reduced a year ago and that same reduction remained this year. The property tax rate for education in 1993 is part of this government's continuing effort to restrain tax increases in an attempt to attract the investment required to create jobs and to generate tax revenues. I know that the members on the other side would be supportive of job creation in Manitoba and would believe that it would be important to attract the kind of investment in Manitoba that will lead to job creation.

The 2 percent cap applies to the '93-94, '94-95, special requirements of each school division, and the special requirement is, as members know, the amount that a school division must raise through property taxation to balance its fiscal year budget, July to June, after accounting for all provincial grants and other revenues. This legislation permits the school divisions to exceed the 2 percent cap to, one, account for the use of surplus to reduce the 1992 special levy, or to make up for a reduction in phase-in funding which was the special funding provided in '92-93 and '93-94 to school divisions to ease the transition as they moved into the new funding formula.

They were also allowed to exceed the cap to accommodate any increase in enrollment. So with this legislation, we have made an effort to protect taxation in Manitoba, but we also have looked carefully at the special requirement, the amount of money required for a school year, and also looked at any variations, again, such as enrollment which might require school divisions to exceed the 2 percent cap.

I will remind the members also that there was a mistake clause included within the legislation in which school divisions may apply, where they believe that there had been some kind of an error or mistake in which they needed to exceed the 2 percent cap based on that reasoning.

We discussed during the time of Estimates a little bit about that area of the mistake clause. So this is our government's continuing commitment to the taxpayers of Manitoba and also our continuing commitment though to work with the people of Manitoba. The issue of consultation certainly was covered yesterday. I think every presenter without exception spoke about the kinds of consultation that has gone on around the many issues in education throughout the past year.

With that, Mr. Chair, I would just like to say that I expect to continue working with all the partners in education as we carry on looking at the many issues that are facing us in education in the coming year.

* (0910)

Mr. Chairperson: Thank you. Are there any other committee members—any comments before we move into clause-by-clause consideration? Hearing none, the bill will now be considered clause by clause.

During the consideration of the bill, the Title and Preamble are postponed until all clauses have been considered in their proper order by the committee.

Clause 1—pass.

Mr. Plohman: Mr. Chairperson, I was just distracted for a moment. Are you going by paragraph on each of these definitions or 186.1—is that what you are dealing with right now?

Mr. Chairperson: 186.1 is in Clause 2. Clause 1 has been called, and has been accordingly passed.

Shall Clause 2 pass?

Mr. Plohman: So we are dealing with 186 in its entirety. That would include 186.1(2) then on the second page. Is that correct?

Mr. Chairperson: Just for clarification. There are only three clauses to consider, I believe. The bulk of the bill is in Clause 2.

Mr. Plohman: I want to move, Mr. Chairperson, THAT the proposed subsection 186.1(2), as set out in section 2 of the Bill, be amended

(a) in the section heading preceding it, by striking out "and 1994"; and

(b) by striking out "and in 1994".

[French version]

Il est proposé que le paragraphe 186.1(2), figurant à l'article 2 du projet de loi, soit amendé:

a) dans le titre, par suppression de "et de 1994";

b) par suppression de "et en 1994".

Motion presented.

Mr. Chairperson: The amendment is in order.

Mr. Plohman: Mr. Chairperson, we would, as I said earlier, hope that the government would consider this, because as a presenter said yesterday, the impact of the bill has had its effect insofar as all school boards in this province, without exception, having complied with the provisions in terms of the cap that the government has included in this particular bill, it could have been achieved by an announcement of policy. If the government wants to affirm its decision by passing a bill retroactively that has an impact on this year, as I said earlier, the damage is done. But insofar as next year is concerned, we heard yesterday that the impacts of the bill will be more devastating for education, the quality of education, in this province.

I do not know that the government wants to see a further deterioration of the public education system. I mean, I could attribute those motives and assume that is what they want. I would hope they do not, because they are in a position of responsibility and as such, in government, protecting the public education system in this province. If they want to deal with the problems with arbitration they can do that, Mr. Chair, through other means. But if they want to continue to respect the autonomy and the authority of locally elected bodies, they can simply say this misadventure with this particular bill for this year was a mistake in terms of intrusion, they do not want this to be established as a precedent, and they could send a signal to the school boards across this province and the public that they perhaps acted in a heavy-handed fashion.

There is an opportunity here now to set the record straight to undo some of the damage in terms of relationships with school boards and trustees and the public across this province and their understanding of this government's respect for and support for the public education system in this

province. Keeping in mind what has happened with the private schools in the last couple of years, that has been undermined in terms of the commitment that the public believes that this government holds for the public education system.

This is a golden opportunity. It is absolutely a shrewd move by government to in fact make this change at this time. It would be extremely smart on their behalf, perhaps too smart, and maybe that is why they will not support it, because they will have achieved their objective for this year, and they would be able to say to the school boards of Manitoba, to MAST, to MTS, to CUPE, to all of those partners in education, that they respect their views, and that consultation means something, unlike what the minister seemed to indicate yesterday.

Whenever a presenter came forward, there were no questions to ask for their wisdom, it was only to set the record straight, to lecture them. I think that is an unfortunate way of consulting with the so-called—in her mind so-called, in my mind obviously—partners in education. It demeans the process. It undermines their feeling of worth, that their opinion is valued, if the minister does not give any more credence to what they are saying as to ply and question the things that they are saying and asking for suggestions and so on.

So here is an opportunity for the government to support this amendment and then to vote down other clauses that make reference to special requirements for the '94-95 year, those being 186.1(4), 186.1(9), 186.1(10), and I do not think 186.1(14) would have to be touched. It deals with errors that could be corrected in '94-95. So by voting against those other sections, and approving this amendment here, we would have a bill that would have impact only on the present year.

Having said that, Mr. Chairperson, we find this whole bill and the spirit of it distasteful, and we will oppose the bill in principle right through. This effort on our part is simply one to alleviate any impact for future years. We oppose the principle of this bill, and we believe that the government should have by this time come to their senses and be against what they are doing as well, what they initiated in an overreaction, if we could put it best, last spring. As I said earlier, some misadventure and now an opportunity to go some way to correct that. Here is the opportunity.

So I would urge everyone to support this amendment and oppose those other sections dealing with the second year so that we can get on with the historic relationship between government and other elected officials that has existed in this province and restore some degree of co-operation once again in that relationship.

Mrs. Vodrey: Mr. Chair, I would like to say that this amendment is to be rejected, that it cannot be supported. It cannot be supported for several reasons. The member for Dauphin fails still to understand the special requirement, and the cap on the special requirement affects the special levy for two years. The way that the special requirement is collected is through the special levy for the calendar year '93 and a special levy for the calendar year '94. Special levy for '93 provides 40 percent of the special requirement, and the special levy for '94 provides 60 percent of the special requirement in the school year '93-94. Therefore, simply by the operations and the way that the special levy and the special requirement are separate and operate in different years, the amendment simply is not possible and does not make sense.

In addition, however, I would like to say that this government is extremely interested in the reform of the education system and the continuing improvement of the education system, as I know are all Manitobans—those Manitobans who work within the education system, those Manitobans who are parents and also students in Manitoba. We will be working with them very closely in a continuing relationship to reach that reform and to continue, because reform is an evolving issue, and so we will be working on a regular basis.

* (0920)

Accountability is one of the issues of reform also, and we have been recognizing that accountability has been requested in terms of the area of study and also by taxpayers. Through this bill we are providing a way for taxpayers of Manitoba to be protected, and we are also asking school divisions to look very carefully at their spending, as all Manitobans have to do.

The member raises the presentations yesterday, and I note that he did spend some time questioning the presenters. That may be one of his only opportunities. I have been very open in my relationship with the presenters and have had

many opportunities to discuss the issues with them and expect to have many more, and so my comments yesterday to the presenters were to simply make sure that they were fully aware and had recognized that all of their presentations had been well followed and that the points had been recognized. That was the point of my comments to them.

I would then say to the member who has spoken about his entire opposition, his opposition to the entire bill, that in fact it is not that surprising. The member has continually stood up, all members on his side, and asked government to continually spend more and more and more in every single department and also to continue to tax in every single area. So I would say it does not surprise me at all that the member is not on the side of the Manitoba taxpayer, and we will be opposing and rejecting his amendments.

With that, Mr. Chairperson, that concludes my remarks.

Mr. Chalrperson: Thank you. Is there any further debate on the amendment?

Mr. Plohman: Yes, in closing debate, Mr. Chairperson, on this particular amendment, I do not want the record to show that this has anything to do on the part of government with concern for the taxpayer and with spending of this particular government. What this government is doing is capping and intruding on local school boards' ability to raise money. It has nothing to do with their spending. They already cut their spending to the public education system. So there is no advocacy on the part of this opposition that there should be more dollars spent insofar as this particular bill. It is simply a matter of intruding on local decision making where they can make the decisions whether they have to raise funds as they traditionally have been in this province. That is what we are dealing with.

If the government had any concern about property taxation, they would not have increased the tax by \$75 for every homeowner in this province, by \$175 for many senior citizens, this particular year. Let them not give us this nonsense about concern about property taxation, nor if we consider the offloading over the last number of years onto local school boards who have had to raise the monies locally. If there was concern, why would the minister have engaged, and her

colleagues before her, in that offloading onto local school boards, just as has been done this year with the clinicians?

So I say to the minister, that is a fairy tale, and she should not try to put forward those kinds of arguments, because they have no credence and no credibility for anyone who is involved in education who is going to review these kinds of remarks. It serves no purpose. As a matter of fact, it undermines the minister's credibility further.

So I ask the ministers and the members around the table to reject those arguments and consider the amendment.

Mr. Chalrperson: Shall the amendment pass?

Some Honourable Members: No.

Mr. Chalrperson: Hearing a dissenting voice, I shall call for a voice vote. All those in favour of the amendment please say yea.

Some Honourable Members: Yea.

Mr. Chalrperson: Those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chalrperson: In my opinion, the Nays have it. The amendment is lost.

Mr. Plohman: Could we have a recorded vote on that, Mr. Chair?

Mr. Chalrperson: A recorded vote has been called for. All those in favour of the amendment, please raise their hand. Excuse me, on a point of procedure here, you are not registered as a member of the committee, Mr. Alcock. Your vote will not be recorded.

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

Yeas 2, Nays 6.

Mr. Chalrperson: The amendment is lost.

Shall Clause 2 pass?

Mr. Plohman: Mr. Chairperson, all of these clauses will be on division. Record the vote the same as the last one, I would imagine. Or do you want to go through that process every time? We can call it.

Mr. Chairperson, maybe you could give us some guidance on it.

Mr. Chalrperson: The finest I can break this down, Mr. Plohman, is clause by clause. The question before the committee right now is shall Clause 2 pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Mr. Chairperson: I have heard a dissenting voice. So I shall call for a voice vote. All those in favour of Clause 2 to pass, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

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

Mr. Plozman: A recorded vote please.

Mr. Chairperson: A recorded vote has been requested.

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

Yeas 6, Nays 2.

Mr. Chairperson: Clause 2 is accordingly passed.

Shall Clause 3 pass?

An Honourable Member: No.

Mr. Chairperson: I heard a dissenting vote. All those in favour of Clause 3 passing, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

An Honourable Member: Nay.

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

An Honourable Member: Recorded vote.

Mr. Chairperson: A recorded vote has been requested.

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

Yeas 6, Nays 2.

Mr. Chairperson: Clause 3 is accordingly passed.

Shall the Preamble pass?

An Honourable Member: No.

Mr. Chairperson: We have got a dissenting vote.

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

Yeas 6, Nays 2.

Mr. Chairperson: The Preamble is accordingly passed.

Shall the Title pass?

An Honourable Member: No.

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

Yeas 6, Nays 2.

Mr. Chairperson: The Title is accordingly passed.

Is it the will of the committee that the bill be reported?

An Honourable Member: No.

Mr. Chairperson: We have a dissenting voice, so I will call for a recorded vote.

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

Yeas 6, Nays 2.

Mr. Chairperson: The bill shall be reported.

Is it the will of the committee that I report the bill?

An Honourable Member: No.

Mr. Chairperson: No? We will call for a recorded vote.

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

Yeas 6, Nays 2.

Mr. Chairperson: The Chairperson shall report the bill. That completes consideration of Bill 16.

The hour is 9:30. Committee rise.

COMMITTEE ROSE AT: 9:30 a.m.