

## Legislative Assembly of Alberta

Title: **Tuesday, March 12, 2002**

**8:00 p.m.**

Date: 2002/03/12

[The Speaker in the chair]

THE SPEAKER: Please be seated.

Hon. members, before calling on the hon. Leader of the Official Opposition to continue his remarks in second reading, I'd like to recognize the hon. Member for Calgary-Currie to clarify a matter.

MR. LORD: Thank you, Mr. Speaker. I rise to respond to an objection which was received earlier this evening in regards to a question that I asked. I just wanted to assure the Assembly and you that the intent behind my question was not to impugn the motives of the hon. member opposite in statements that she made but merely to clarify the intent and the facts that were stated, and thus I apologize if she feels that I have impugned her motives.

Thank you, Mr. Speaker.

head: **Government Bills and Orders**  
**Second Reading**

**Bill 12**  
**Education Services Settlement Act**

[Debate adjourned March 11: Dr. Nicol speaking]

THE SPEAKER: The hon. Leader of the Official Opposition.

DR. NICOL: Thank you, Mr. Speaker. It's again just a chance to give me more opportunity to pursue some of the issues that I was talking about before in the context of, first of all, how we got into the position we're in, how some of what we're faced with now could have been averted but also to look at in effect what is an appropriate process and whether or not Bill 12 really deals with what could be an appropriate process.

The way we need to look at this from the perspective of the debate that is under way is to deal with, I guess, whether or not we could be in a position today where the collective bargaining process is progressing more in the context of the way it is intended under the law. Mr. Speaker, as I said at the start before the break, I don't think any of us is happy at being here today debating this bill. It's a set of circumstances that has precipitated it, and we have to look at this bill and whether or not we're going to support it in the context of: what are the outcomes that we can see from the process that is provided in the context of the arbitration outlined in Bill 12?

When we look at it from the perspective of where it goes in terms of the relationship to a normal process, it doesn't even follow what would normally be relevant under, say, an arbitration process that would be set up, you know, through the process that was started a couple of weeks ago with the government's back-to-work order, which in a way was precipitated by the emergency decision by the government which was later overturned. That arbitration process, which is set out under law, would have allowed for all of the aspects of the current negotiations to be on the table.

It's interesting, you know, as we look through the process and we look at kind of how the arbitration tribunal will be set up, the power that they'll have. I guess it starts in a very appropriate way in the sense that each of the bodies that is involved gets a chance to nominate an individual to the tribunal, but what the government has done in there is also taken the opportunity to be a little bit heavy-handed in the sense that if they don't feel the appointed or the nominated representatives are facilitating movement on the issue,

then they have a chance to in effect revoke that appointment and go through a process, I guess, of reestablishing or redefining the tribunal, which then creates a discontinuity in the discussions.

I guess I would hope that as that happens, we don't end up trying to deal with it in the context of being overly critical of the individuals that are appointed, because you know each one of them has to make sure that the views of the group they represent get expressed in the context of this dispute resolution and through this arbitration. If we look at it through different aspects and when we get down to kind of the ground rules under which the arbitration can occur, I guess we have to question why it is that the government in effect took off the table a lot of the aspects that are there in the context of the concerns being raised by the individuals in it, whether it's the ATA or the school boards.

If we try to determine the impact that this is going to have on the outcome, there appear to be some real difficult kinds of situations that come into it in the sense that the arbitrators or the panel, the tribunal, is going to have to be able to really delve into the operation of the school board to a degree that you kind of question the time frame properly allowed them. Basically, we're seeing in here that conditions that have to come up in terms of class size cannot be part of the negotiation.

Does this mean that the settlement can't result in an increase in class size, never mind the targeted or the preferred decrease in class size? Will that be part of it as well? If that becomes part of it, then in effect what you've done is limited the arbitration to the predetermined outcome that the government has. If you take into account the fact that school boards have to deal with the other salary settlements – and a number of the school boards I know tie in their support staff settlements to the settlements that the teachers get – what you end up with is the possibility of trying to deal with the process of: how do they settle it?

If the teachers get an increase, then the other staff get an increase. In many cases we've heard the 3 percent that was provided to the school boards called "available to negotiate with the teachers." It truly isn't, because it in effect makes sure that that part of the budget is tied into whatever settlement is there. So for a lot of those school boards basically the 4 and 2 that we've seen provided in the budget is going to be the only option that comes out, and if that's really what this act is going to do, it's going to really prevent any kind of appropriate spirit of the process to be conveyed into any kind of a solution beyond what was in the budget last spring. I think that that in effect makes this process overly restrictive.

We've seen some school boards across the province who have settled with their teachers, but they've done it on the basis of the fact that those schools did have a surplus position to carry themselves through this year. Then they looked at the business plans of the government and said, you know, "If we do this this year, use up the surplus this year, in effect we can then move into next year with a sustainable process with some adjustments," given the fact that they're looking at increases in the budget as prescribed in the business plans again for next year.

What you end up with is a real situation trying to deal with equity across the province, because what we in effect now have is that some school boards that had surpluses can deal with the solution that's going to be arbitrated, but does that also become part of the negotiation in terms of the previous settlements? What you're seeing in here are restrictions that will not allow a school board to either go into deficit or increase their deficit. Does going into deficit mean on an annualized basis so that they can't tap into the surplus they've got, or does it mean on an accrual basis so that they could in effect have access to that surplus for the one year?

You know, when we start putting words on a piece of paper, it's very difficult to see how these kinds of things can be operationalized

in the context of having the arbitration operate at each school board or for each of the contracts in an equal way. If what we're going to do is see some school board/ATA contracts allowed to be more flexible in the context of their use of a surplus or a projected other revenue, what we'll find is that in the end we have a lot of discrepancy across the province in terms of what the settlements will be. We also have, then, a different set of expectations that come about in terms of: how is the government going to handle this in the subsequent negotiations? What we'll have, then, after August 31, 2003, is a lot of catch-up that'll have to be negotiated into these contracts or a lot of equalization, not because of the market forces that would determine what is fair remuneration for teachers in that school division but because of outside, imposed intervention activities by the restrictions that are placed on the arbitration process through Bill 12.

8:10

Mr. Speaker, I think the thing that needs to be looked at here – and I hope that it eventually ends up getting looked at in the context of the commission or tribunal, whatever appropriate word gets attached to it when it gets set up. Very obviously, if some school boards right now are working with surpluses and others are either in a deficit or threatened-with-deficit position, then what we're looking at is a very strong signal that there are inappropriate allocations of resources from the Ministry of Learning out to the various school boards. Will the commission or the tribunal be authorized to look at the funding formulas that determine how dollars are allocated out to the various school boards? This, in effect, presents the umbrella under which the arbitration process can operate. Will we have adjustments made so that school boards that have rapidly increasing populations or a higher incidence of need for special support services in the classroom, whether it be teaching assistants or technology supports – will those be recognized in the funding formulas? Obviously, because of the way it works right now, the definition of that funding formula doesn't provide a fair allocation of the province's money out to the relative communities.

Mr. Speaker, this is one of the things that's wrong when we start looking at an absolute per-pupil grant, because what it does is it doesn't take into account the differences of the community, the differences of the growth in that community. We're always dealing one year behind for those communities that are growing very rapidly, and they end up having to deal with additional costs of that education system a year prior to the formula recognizing the fact that their population has grown. So we have to make sure that our funding formula in effect recognizes the fact that we're always dealing with a lagged-type operation. Even when we deal with the September 30 enrollment statistics as the basis for the grants, what you end up with is the fact that if you have a transitory community, a lot of people are moving into that community during the year and they end up with growth issues. I think that if we look at some of them, especially some of the new areas of Calgary or the new areas of Edmonton here, those create really severe restrictions on what can happen, especially when the budgets are allocated down to the school at a particular level.

So, you know, these are the kinds of issues that we have to look at in the context of: is this bill providing the flexibility that would give us an equitable settlement in an arbitration process? Mr. Speaker, I don't think it does. We've seen too many of the ways that the restrictions on this will end up with, basically, a constraint on the arbitration process that won't address the issues that were raised, whether it was by the ATA or by the school boards, in the context of their initial attempts at negotiation.

If we also look at, you know, the approach that's taken through

this arbitration in the context of if it gets buy-in from all of the individuals involved, in the contacts that I've had in the last 24 hours since the bill was introduced, basically I think everybody recognizes the fact that very few of the teachers are accepting this as being reflective of what they were expecting in the process. I've also had a couple of calls from individuals who serve on school boards, who are concerned about the limitations that it puts on it as well. So what we're seeing is that some of the voices that are out there saying that this is good or this is bad don't reflect the real operational aspects when you come to looking at it from the perspective of each individual school board and their local ATA they have to negotiate with.

The arbitration process that gets set out here focuses just on the money aspects of a settlement and effectively, as I've said already, backs the arbitration process into recognizing or accepting what is in the budget from last year as the final settlement for teachers, because the flexibility there doesn't allow for anything beyond that. But we also have to look at how the process will be set up to incorporate the other issues, because they can't occur in the context of just a pay package for teachers without looking at issues like class size as well. I think I've touched on it a little bit already, Mr. Speaker, in the sense that if a settlement occurs that is going to require extra dollars from the school board, the only way they can be prevented from going into a deficit position is by altering their class size. Is that going to be allowed or is that not going to be allowed under this arbitration?

In effect, are we just downloading the decisions about the base pay and the base pay structure to the school boards in saying, "You can't go into a deficit, so if the settlement is above what you have in your budget, you're going to have to adjust the classroom size"? Yet in the context of this bill it says that we cannot deal with classroom size, so I guess the question that comes up is: is classroom size not part of the negotiation from the proactive point of view of either the school boards or the teachers? Is it also restricted and prohibited in the context of a passive approach, where in a sense it precipitates out of the end solution?

I would really hope, Mr. Speaker, that if we're trying to make sure that this process deals with class-size neutrality in the arbitration process, it is neutral both ways in the sense that the teachers are not in a position where they can introduce their working conditions into this negotiation. But we also have to have it so that the arbitration process, through the restriction that's in this process about deficit financing, doesn't in effect force onto the teachers a negative direction from what they put into the process. In other words, we'll end up with larger class sizes to suit the arbitrated solution rather than smaller class sizes, which was part of the negotiation in the whole process.

I guess some of the other things in the context of the approach that was taken in this bill that really bother me are some of the interpretations or the allegations that are coming out about the freedom of different groups to react and participate in public events or public activities that associate with the debates surrounding the outcome or the process in the interim. Specifically, Mr. Speaker, I'm talking here about the restrictions in this bill that limit how people can in effect discuss or participate in processes that are involved in a decision by the administrator.

8:20

You know, if two or more employees refuse to comply with responsibilities assigned, if those responsibilities are in the context of this agreement or if they're part of an administrator's new approach to dealing with teaching, with the classroom assignments, with anything that in effect comes up through that school or the

school board management, this bill basically says that for the next year and a half teachers can't talk about that to anybody else, to another teacher. If one of those people that gets involved in that discussion then becomes . . . [interjection] Well, the member here says that it's mistruer, and I would like to have her stand up after my speech and explain where she says I'm misreading this. It says in there that "a concerted activity by 2 or more employees to refuse to comply with responsibilities assigned by their principal or their employer" constitutes a strike under the definition of this act. [interjections]

MS CARLSON: Exactly. Read it. You haven't read it. You've been misled by your own members. [interjections]

THE SPEAKER: Hon. member, the hon. Leader of the Official Opposition has the floor.

DR. NICOL: If they get together and refuse to undertake an activity over the next year and a half, whether it's included in this agreement or not, they in effect are precipitating a strike in the definition of this act. To me, Mr. Speaker, that limits the ability of teachers within a school dealing with their school principal or dealing with their school council when they're asked to do something that was or was not directly involved in this negotiation. That in effect constitutes a violation of the conditions, the way I read it. In that context, I think it limits the possibility of any kind of constructive discussion about classroom conditions, about teaching conditions, about the approach that we have to open participation in our government, in our public services.

The end result, Mr. Speaker, is that we have to look at this from the perspective of: is it going to be enforced to the word, or is it going to be enforced to somebody's arbitrary interpretation of that? In other words, we're setting ourselves up for a whole series of different interpretations of it. You know, we've seen discussion arise now just by my standing here talking about it. If that can bring forward a set of discussions in the context of this debate, then what prevents that same kind of misinterpretation that the provincial Attorney General is talking about across there in the context of, gee, one school board or one school council or one school principal can have that same kind of misinterpretation?

All I'm dealing with is the process of how if we're going to have a clear definition and a clear delineation of where we want this arbitration process to go, then we'd better make sure that it's in the act. We'd better make sure that it's there so that everybody knows where the bounds of this are, where the bounds of these kinds of limits will take effect, or whether the bounds of these kinds of things will get the support of the government or not get the support of the government. We don't want to have to utilize the court system on a consistent basis to interpret how this act is going to be applied and what rights teachers have to deal with it.

You know, Mr. Speaker, it's interesting in the sense that there have been allegations that this has been directed at the teachers, yet there's no limit in this bill that I can see that limits two school board members from getting together and talking about dealing with the same kinds of concerns about the contract that the teachers are prohibited from talking about. So we've created this to deal with this kind of an approach, but it says two or more teachers, so it would in effect – all I'm saying is that that creates a discrepancy. [interjections]

#### **Speaker's Ruling Decorum**

THE SPEAKER: Hon. members, the chair has recognized the hon. Leader of the Official Opposition.

Now, to the hon. Member for Edmonton-Ellerslie, you're sitting proximate to a mike that is live, which means that whatever thoughts you might have to yourself unfortunately are conveyed to everyone else in the Assembly because the microphone picks them up.

So may I just encourage the hon. Leader of the Official Opposition to continue and everybody to listen.

MS CARLSON: I was just responding to the minister.

THE SPEAKER: Excuse me, hon. Member for Edmonton-Ellerslie. You don't have the floor. There's nothing to respond to. Do what you do in life. Recognize that the hon. Government House Leader is a man. Ignore him.

The hon. Leader of the Official Opposition.

#### **Debate Continued**

DR. NICOL: Mr. Speaker, is that the kind of advice you give to everybody when a man stands up to talk?

What we've got is a situation here where in effect any two or more people can get together from the administration side, from the school board side and not be subject to the restrictions of this act. But any two or more people from the teachers' side who get together to talk about the implications or to take action with respect to the implications of this act in effect are found in violation of the act. We've created a one-way scrutiny, a one-way penalty, Mr. Speaker, and that's not what we should be dealing with if we're trying to talk about fair representation, fair legislation, and reasonable responsibility in a democratic society.

As we go through and look at the other processes here that affect the principle or the operation of it, we get to the kinds of issues again that focus on the matters to be considered. I think the main part here that we have to look at is the approach that comes from trying to deal with aspects of job certainty and job conditions that in effect allow for the teachers of this province – you know, the approach of this arbitration affects them. I don't believe that what we're dealing with here is openness when we look at how this act and the process set out follow in the context of some of the aspects of the normal process of arbitration that would come up under the labour code, which normally would be the guidelines for any kind of negotiation undertaken by the teachers and their local school board as they look at it.

As we get to looking at the principle here, Mr. Speaker, I think we have to basically question whether or not this is going to create a good environment over the next year and a half. I've talked in that context about the sense of who can talk about what's happening. But also when we look at it in the context of how the teachers will be able to relate to the administration and relate to the students, anytime we now are going to have a school council come along and say "What do you think about changing some of the processes?" in effect what we're going to have is a situation created where an interpretation of this act and how this act will impinge on the ability of them to enter into a negotiation with the teachers to change their work process, their work commitment, their work direction, their work timing over the next year and a half will all have to be done within the context of this kind of evaluation, in terms of how it looks at or how it affects this particular piece of legislation.

In the end, Mr. Speaker, what I'm just trying to say is that I find the process that's outlined in Bill 12 to be very restrictive. We could have had a process put together that allowed for all of the issues that were raised by all sides in this to be addressed without having to be so restrictive and so limiting in the context of how we as legislators impose a settlement process on them. The end result is going to be

that we're going to have a lot of mistrust, a lot of questions raised about the intent, and how we deal with the process of getting any kind of a solution that serves the children of our province. We have to make sure that the school councils, the school boards, and the teachers have built into their commitment to learning the flexibility that will suit the needs of children within that school as individuals and as a classroom over the next year and a half.

8:30

This bill, Mr. Speaker, puts limitations on what the school boards could do in the context of their negotiations with teachers, puts limitations on what a school council or a school administrator, namely a principal, can do in the context of dealing with any kind of change in requests for teachers. I think that we've got to make sure, as we go through this process, that this bill develops more flexibility so those kinds of things can be addressed. We'll be addressing some of those kinds of things when we get to amendments to the bill, but in the meantime I think the thing we have to really look at is: is this bill in the best interests of kind of the overall relationship that we have in the education system in Alberta? I would suggest no, that we're really faced with an imposition here of a solution to a problem that could have been addressed through dealing with the process in an up-front way, dealing with the process in a way that was consistent and fit with the current parameters of the collective bargaining process and the negotiations that are built into it.

With that, Mr. Speaker, I'll conclude and pick up this debate in a little more detail when we get to committee, where we can talk more specifically about how we would like to see changes put into some of the sections. It's important, you know, that we do make sure that this bill doesn't limit what can happen in the context of settling a collective agreement with the teachers. It's an imposed arbitration that's going to really limit what issues can be addressed, issues that were important enough to the teachers that they felt they should have been brought up in the context of their negotiations for a new contract. By not allowing them to occur here, in effect the government has said: we don't think those are the kinds of issues that should be talked about today; we're going to talk about those sometime in the future.

Listening to the Premier today, it could be as much as a year and a half into the future before the results of the commission get brought forward. Knowing how things work, after that it'll probably be another year before anything can be done with the recommendations out of that commission or tribunal. What we end up with, then, is that in effect a lot of the classroom conditions that the teachers and the parents and the school boards are raising today won't be addressed for at least a year and a half or two years down the road if this bill is passed, and I don't think that's the kind of approach we want to take to education. I think we need to address those issues now, while they're critical, so that the students that are in the system today aren't disadvantaged through the process.

With that, Mr. Speaker, I think I'll let someone else have a chance to speak to the bill. Thank you.

THE SPEAKER: Standing Order 29. We'll go with the Minister of Justice, followed by the hon. Member for Edmonton-Rutherford, and did I see the hon. Member for Spruce Grove-Sturgeon-St. Albert?

The hon. Minister of Justice and Attorney General.

MR. HANCOCK: Thank you, Mr. Speaker. I normally listen and did listen today to the hon. Leader of the Opposition's words with a great deal of interest. Even when I don't agree with him, I admit that he makes an awful lot of sense and clarity. But I want to ask if the hon. leader is aware that the section of the bill which defines

strike is almost a direct lift from the labour code. I quote the labour code, section 1:

"strike" includes

(i) a cessation of work,

(ii) a refusal to work,

(iii) or a refusal to continue to work,

by 2 or more employees acting in combination or in concert or in accordance with a common understanding for the purpose of compelling their employer . . .

The definition that's being objected to is a direct lift from the labour code.

DR. NICOL: Mr. Speaker, it's the idea that it gets imposed into this bill and the fine that goes directly to the teachers that make this an issue. We have to make sure that the issues that come out here are not punitive in the context of any kind of open discussion. The very fact that we've put it into this piece of legislation allows it to be brought forward and made part of a contract, and in effect it becomes a hammer within that contract, that anybody that wants to contain the development or to contain the discussion of two people can do it through that clause.

THE SPEAKER: The hon. Member for Edmonton-Rutherford.

MR. McCLELLAND: Thank you, Mr. Speaker. Last week I'm sure I recall the leader of the Liberal Party supporting the Alberta Teachers' Association when they tried to have the arbitration overturned, and it was overturned. That arbitration included all of the issues that the hon. member has said should be on the table, so now when it's much more narrow arbitration on the table but with the specific intention to have all of the other issues dealt with in an exhaustive review . . .

THE SPEAKER: I think time – we've arrived at it.

DR. NICOL: Mr. Speaker, the problem is that what we were dealing with before was overturning a process of an imposed settlement, not an arbitration. What we're seeing here now is an arbitration that doesn't even fit the definition of a normal arbitration, where it usually takes into account all of the conditions that are on the table. This is not a fair arbitration under any kind of a definition of a labour code. I don't know how anybody can support it.

THE SPEAKER: The hon. Member for Spruce Grove-Sturgeon-St. Albert.

MR. HORNER: Thank you, Mr. Speaker. The hon. Leader of the Official Opposition commented that parents, school boards, and involved stakeholders want to be involved in the solution, and we agree on that point. They have been expressing their concerns, but it should be on a provincial basis, not on a regional basis. Why would you deny them the right to be a part of a provincial policy discussion regarding classroom conditions? It's an in-depth review of the policies of education, which should be by all Albertans and not individually from each division. The items should not be entrenched in employment contracts, and we need to remember who the managers of the system are.

DR. NICOL: I'm on record many times saying that this is the responsibility of the school board. It's done at the local level. We should not be imposing classroom decisions and classroom conditions at a provincial level on a local school board. That's who we give the power to, and they are responsible to their communities through their elections. Do we want to overtake their elections and

overturn the responsibilities and the commitments that they've made to their communities when they're elected to do this at their community level? I don't think so, Mr. Speaker.

THE SPEAKER: The hon. Member for Calgary-Shaw.

MRS. ADY: Thank you, Mr. Speaker. The hon. member referred to the idea that he felt like a study would take too long, and I refer back to the California model, where they legislated class size and overnight they didn't have enough buildings or enough teachers and they were hiring first-year kids out of university. Don't you think that a study that took time to thoughtfully look at that and make those kinds of changes in a thoughtful way would be a better idea?

DR. NICOL: Mr. Speaker, the local school boards get involved in dealing with this. They have to make their decisions and make their allocations and resources on the basis of all of the resources they've got, whether it's dollars, whether it's buildings, whether it's support resources. They are the ones responsible for this. They should be the ones that do it. They should be the ones that make that kind of a decision in a collective negotiation with the teachers who provide the services and with the parents who have to meet the education needs of their community and their children.

THE SPEAKER: I'm afraid, hon. members, that we've arrived at 12 seconds. I think it's impossible to deal with.

Now, the next continuing debate. Did I see movement from the hon. Member for Edmonton-Gold Bar?

MR. MacDONALD: Yes. Thank you very much, Mr. Speaker. I, too, have a few comments regarding Bill 12, the imposed arbitration Education Services Settlement Act. It's a bad act by a bad government, a government that is completely out of touch with the citizens that a year ago elected them to this massive majority. Here, precisely one calendar year later, we have a bill that has been described as beyond punitive. It is vindictive. It's vindictive against the collective bargaining rights of teachers across this province. I even had a constituent phone me enraged about this legislation and compare it to the enabling act that was passed in 1933 in Germany. This was my constituent's comparison to this legislation, and that's how frustrated and upset that individual is.

8:40

Now, teachers across this province, Mr. Speaker – and I understand from earlier in question period today that there are 20 of them in the government caucus – want respect. They want respect from their government, and unfortunately they're not getting it. The teaching profession in this province is responsible for transmitting the collective knowledge of this community, this city, this province from one generation to the next. Perhaps the most important job in all of the province is the transfer of information from one generation to the next, and that's provided by the teachers. For this government to pass or to attempt to pass this legislation is wrong.

I think the best thing to do is to alert all hon. members in this Assembly, Mr. Speaker, about how this is going to destabilize not only collective bargaining in the education sector in this province but also in health care and also in the public service. Now, there are many negotiations going to be coming forward soon, and when a government bargains in bad faith, you're going to have trouble, and the government in this case has been directly participating in education bargaining. Half of the members of this Assembly, I'm sure, have had a look at the e-mail that was sent directly from the Deputy Minister of Learning to various school superintendents and

school boards across the province. That, in my view, is direct involvement, certainly the 4 and 2. Now there are people indicating that the 4 and 2 really meant a two-by-four, and that's what the government has hit the teachers with, hit their organization over the head with, a two-by-four, with this bill. We need to remind ourselves of the past, the difficulties there have been in negotiating contracts with health care professionals and with the public service. Now we see this, and I'm afraid the future does not look bright for the collective bargaining sector in this province.

How can anyone rely on this government any longer after the jurisdictional errors that were outlined in the reason for judgment by the Hon. Chief Justice Allan Wachowich, the jurisdictional errors that were described, and I would encourage all hon. members of this Assembly to read that decision. There was a great deal of insufficient information, as I understand it, before the Lieutenant Governor in Council. Now, when we think of insufficient information, whatever information there was or whatever information the Department of Learning has before them, in this bill we're no longer going to be able to have access to that. I don't understand why this wouldn't be available for the arbitrators.

Mr. Speaker, privileged information from the Department of Learning should be made available in this case. If we're going to have this imposed arbitration, why not have the government provide information which would be helpful to the arbitrator? Unless there is something to hide. Now, I heard an hon. member snicker. I'm sorry; there is the issue of class size that has to be dealt with, and there is the issue of the maximum amount of time a teacher may be required to instruct students. These are all outstanding issues. Now, the hon. Member for Edmonton-Mill Woods has certainly in a very determined and dignified manner brought this whole issue of class size not only before this Assembly but through all of the school districts in the province, and people are well aware. Whether this government wants to recognize it or not, it is an issue with parents, and it's an issue with the teaching professionals.

When we think of fair labour relations, we only have to look, Mr. Speaker, at the preamble of our own Labour Relations Code. This is completely forgotten in this bill. The individuals who were responsible for the drafting of this legislation certainly did not take into consideration the preamble of the Labour Relations Code, and for all hon. members in this Assembly I would like to bring them some familiarity with it. I would encourage you to please read this. The preamble talks about "a mutually effective relationship between employees and employers" and how critical it is so that Alberta will "prosper in the competitive world-wide market economy."

It is fitting that the worth and dignity of all Albertans be recognized by the Legislature of Alberta through legislation that encourages fair and equitable resolution of matters arising in respect of terms and conditions of employment.

Bill 12 is not respectful of that preamble.

Whereas the employee-employer relationship is based on a common interest in the success of the employing organization, best recognized through open and honest communication between affected parties . . .

In this whole series of negotiations in my view the government has not conducted itself in that described term.

Now we look further and we see other examples that could be very well used by the government. The hon. Minister of Justice said earlier in this house – and I'm afraid it is just not true what the minister stated regarding the definition of "strike" in comparison with the definition that's in Bill 12 and the definition that's in the Labour Relations Code. They're very different, and I believe the words used to describe it by the hon. minister were: an overly aggressive interpretation. That was the description that was provided by the hon. Leader of the Official Opposition.

One important point that the hon. minister did not clarify for the Assembly is the fact that in Bill 12 a strike is “a concerted activity by 2 or more employees to refuse to comply with responsibilities assigned by their principal or their employer.” The section in the Labour Relations Code is much longer, to start with, and there’s no mention of the school principal in that definition. I can only conclude from this, and I say this with reluctance, that it’ll probably – time permitting, it could take five years – wind up as a court challenge finally in the Supreme Court. But of course we know, hopefully, that this bill will reach its natural life at the end of the summer of 2003.

But that is not true, and what this does is try to divide the ATA. This government has been trying to divide the ATA for years. I can’t understand why this government can’t be friends with the teachers of this province. Why do you always try to provoke the teachers? The principals and the teachers want to belong to the same bargaining group, or they want to belong to the same professional organization, and that is how it should be. This is divisive. This is very divisive, and it only brings me, Mr. Speaker, to this conclusion, and that is that it is another example of this government’s provocation of the teaching profession.

8:50

We all know that in April of 1999 a recommendation came from the Progressive Conservative policy convention that wanted to make teachers an essential service. I can only conclude from what has gone on in the last six months with these so-called negotiations that this lack of attention to detail with our public teachers across this province is because we want to provoke the public and have the public get upset with the teachers. I don’t think that we should put our parents or the province’s pupils after the policies of our respective political parties. Pupils and parents, Mr. Speaker, should come first.

Now, I go further through this document, and I don’t know where to stop in the 15 minutes. I sure wish I had 20 minutes, Mr. Speaker, but I only have 15 with the new rules in this Assembly. The schedule at the back – and the only reference in this bill to the schedule at the back is, of course, in the definition of “employer,” and that’s in 1(1)(d): “‘employer’ means an employer named in the Schedule.”

Now, when you see the list of school districts that were involved in the original back-to-work law that was struck down in the courts, the order in council, we have 20 districts, but in the schedule here I believe we have 45 school districts. So with one broad sweep of the broom we have put 25 districts in this schedule, and we have extended beyond the 22 districts to include the following, and I’m not going to name them in the interest of time.

My question to the government would be this. I’ve heard in the last six months that we support local bargaining. Well, why don’t you support local bargaining with these 26 districts? Why did you sweep them into this bill? Why did you not allow them to try to work out their difficulties among themselves? We all know that the best collective agreement is the one that’s mutually agreed to by both parties, not one forcing its wishes on the other. That’s what stable labour relations are all about, Mr. Speaker. This schedule: why would we do this? If you were having difficulty with the 22 districts that are listed in Chief Justice Wachowich’s decision, well that’s fine, but why add so many more?

There are over 25,000 teachers involved in this schedule and over 440,000 pupils. We can’t take democracy . . . [Mr. MacDonald’s speaking time expired]

THE SPEAKER: Thank you, hon. member. Under Standing Order

29 the Minister of Learning, followed by the hon. Member for Whitecourt-Ste. Anne.

DR. OBERG: Thank you, Mr. Speaker. Very quickly, is the hon. member aware that any local school board together with their local Alberta Teachers’ Association is able to have a letter of understanding, a memorandum of understanding, or a side agreement to the collective bargaining process which enables them to put in PTR, class size, hours of instruction: anything that they want. Is the member aware of that?

MR. MacDONALD: Yes.

MR. VANDERBURG: Mr. Speaker, I think the member is trying to mislead the public when he compares the legislation in front of us here tonight to the issues that happened in Germany some 60 to 70 years ago. My family lived through those times. The crimes against my family because of the acts of the day of the German government were very serious. You’ve insulted me, and you’ve insulted my family. You should be ashamed of yourself.

MR. MacDONALD: Mr. Speaker, I would remind the hon. member that in 1997 in this province in Fort McMurray the hon. Premier said this: I believe in free speech as long as you say the right thing.

Thank you.

MR. HORNER: Mr. Speaker, the hon. Minister of Learning has already mentioned that local bargaining units can bargain, can negotiate all of the items which the opposition is saying are not included in this binding arbitration, yet his only response was, “Yes.” There’s nothing that stops them from negotiating all of these other areas and side agreements.

MR. MacDONALD: Mr. Speaker, in response to the hon. member’s question I would advise him to please read section 38 of this bill, which is essentially an invitation to refuse to ratify collective agreements.

Thank you.

THE SPEAKER: The hon. Minister of Justice and Attorney General.

MR. HANCOCK: Thank you, Mr. Speaker. The hon. member in his comments went off on some remarks I had made to an earlier speaker with respect to the definition of “strike,” and he’s right: I didn’t read in the last part of that definition in Bill 11 because the last part of that definition in Bill 11 had not been referred to by earlier speakers. They had been specifically focusing on the part about the refusal to work by two or more employees and saying that that was not allowing two teachers to get together and talk, which is blatantly wrong.

MR. MacDONALD: Mr. Speaker, I’m sorry. I didn’t understand the question because I believe the hon. minister was confused between Bill 11 and Bill 12.

THE SPEAKER: The hon. Member for Edmonton-Riverview to continue with second reading.

DR. TAFT: Thank you, Mr. Speaker. There have been many fine points made by my colleagues through this debate in the last several hours, and some of them I would like to reiterate or reinforce, and perhaps I’ll be able to find some points of my own to bring into this that have not yet been considered. I was here listening when the

minister of education introduced the bill and indicated that he felt, I think, that all MLAs would agree that it would have been better to settle this labour dispute through negotiations. I'm sure he's right: we would all agree with that.

Today marks the first year that I've been an MLA. I go back through the first budget that we debated in this House, the first budget that I was involved in debate with, and one of the things that was immediately brought to my attention was this special line item that singled out schoolteachers for salary increases for the next two years, the now well-known 4 percent and 2 percent. There was a lot of debate over that. Why were teachers singled out and social workers or MLAs or nurses and anybody else not singled out? I watched and participated and probably wasn't fully aware at the time of the significance of that particular note in the budget, but what it serves to do for me is to bring to my attention how inflexible this government has been in its supposed negotiations in the education sector.

9:00

A year ago the teachers, as I understood it, were making requests or noises about wanting a settlement in the range of 20 or 22 percent or something, but we have seen them back away from that position. We've actually seen settlements in the range of 11 percent. The teachers have compromised. The teachers have shown a signal that they are willing to move. Yet we stand here today without any movement at all on the offer that's being presented to fund teachers' raises. So when I listen to the Minister of Learning talk about the importance of negotiations and how nice it would have been to settle this whole episode through negotiations, I can't help but think that there never really was a possibility of this being settled through negotiations, because I have seen no sign of good faith or meaningful negotiating occurring on the part of this government. So right away when I saw the minister introduce the bill, I found I had to disagree with his perspective on it.

If we go through the bill section by section – and a number of us have done so – I think it is worth really dwelling on a handful of particular points. Section 1(1)(f)(iii), on page 4, says that “a concerted activity by 2 or more employees to refuse to comply with responsibilities assigned by their principal or their employer” constitutes a strike. I, for one, find that to be a heavy-handed and very restrictive statement to put into law. If we are talking here about two teachers working together or discussing the possibilities of what to do next in their labour disputes, I think we are intruding too far into the rights of respected professionals in this province and into the rights of teachers. I do reflect on the comments from the hon. Leader of the Opposition that it's curious how one-sided this bill is in that it doesn't apply that sort of restriction to anybody else involved in the negotiating process, simply to the teachers.

I also am concerned – and I think it reveals much about the intent of the government – when they talk here under matters to be considered in regards to the arbitration and the bill says, “The arbitration tribunal must be satisfied that an award can be implemented without an employer incurring a deficit.” Well, given that in all meaningful ways this government determines whether or not an employer will incur a deficit, this again seems like a derailing of any possibility of meaningful negotiations or negotiations in good faith with the teachers. It seems more and more to look like a setup for confrontation to me.

We could go on, section by section. The limit on contents of the collective agreement specifically prohibits the collective agreement, as I understand it, from addressing issues such as “the number of students in a class” or “pupil-to-teacher ratios” or “the maximum time a teacher may be required to instruct students.” Surely these

are reasonable things to be negotiating over. These are working conditions. What kind of arbitration or what kind of negotiation are we looking at when those kinds of issues are forbidden from the process by law?

So there are many specifics in this bill that are, I think, simply unacceptable, but we all know that, of course, this stage of the debate is to address principles. So let's go and look at some of the principles behind this legislation.

One of the principles, it seems to me, is the centralization of power. We are seeing a continuation of the ongoing process, that has driven this government for now many years, of bringing power into its hands, removing power from, for example, local property tax payers, people who are now expected to pay property taxes to cover education but have had their right to have any direct say over that removed. That money is taken away from the local property tax payer, comes into this government's coffers, not into the school boards' coffers, and then is redistributed at the whim of this government. So we are seeing there a centralization of power.

School boards, I don't think in anybody's mind, have anywhere near the local power that they once had or the local power indeed that they were intended to have when they were created. One of the principles that's very much at work here is centralization of power. Along with that, of course, there's a loss of local control. No school board here in this province really has the local control it needs, and certainly that local control is being diminished by this bill. I mean, these are boards now that will not be allowed to run any deficits. They will not be allowed to negotiate on particular and legitimate issues over working conditions. There is no true local leeway for the school boards. So we are seeing an erosion of the fundamentals of democracy, which is the right of people to control their own local lives.

We're also seeing here an ongoing principle, a tactic, perhaps – it's not a principle, or it stems from the principle of centralizing power – which is setting up a political buffer between this government and the issues, in this case creating a buffer out of the school boards. We've seen this sort of thing done over and over with, for example, children's authorities and regional health authorities and any number of other boards. I was discussing earlier today that this very issue was brought to my attention by a coalition of people around PDD boards. They ask: what's the point of the board? Well, the point of the board, it seems to all observers, is simply to be a buffer, to be a shock absorber between the real people of this province and the government. That is exactly what we are seeing here occurring, being foisted upon our local school boards, organizations that once had the heart and soul of the local community and now are no more than political buffers for this government.

Well, of course, we're seeing a suspension of the teachers' right to strike temporarily over the next 18 months or so in this bill, and I think we need to all be concerned that that is a development that may easily be renewed once it's implemented in this legislation. Maybe we'll be debating a bill a year from now to extend that suspension of a reasonable right to strike.

This bill, of course, ties the hands of arbitrators in many ways, as I have indicated, and I might as well . . . Oh, he's not here. I won't anticipate the question from the Member for Edmonton-Rutherford.

The arbitrator's ability to address this issue is very limited. All kinds of issues, as I've said, are no longer on the table, so what are we doing there to the collective bargaining process? We are weakening it. We are delegitimizing it. I'll talk later on during committee about the effects of this, I believe, on the whole collective bargaining process.

Finally, I'm concerned here about a principle of union-breaking, a principle of hostility towards unions. I stand here today not as a

member of any union. In fact, very seldom in my life have I ever been a member of a union, but I value unions, and I think we should all value unions. Over the last century unions have been vital in many of the advances that we consider civilizing improvements in our society. Whether it's reasonable working hours, whether it's worker safety or public education itself, those are all benefits to our society that have been brought forward largely through the efforts of unions. So I value unions, and I'm concerned in a province where unions already are in many ways relegated to a very minor status, but if we weaken them further we ultimately weaken the strengths of the ordinary citizens, of the working people of this province. That's a principle that I think is unworthy, and it's a trend in this government that I think is very worrisome.

Mr. Speaker, with those comments I'll take my seat. I'll save further comments for undoubtedly lively debate during committee.

9:10

THE SPEAKER: The hon. Member for Vermilion-Lloydminster.

MR. SNELGROVE: Thank you, Mr. Speaker. I'm wondering: would the hon. member support a return to local taxation for schools, where we have the incredibly wealthy boards like Strathcona and Fort Saskatchewan being able to operate schools at a very high level as opposed to some of the poorer rural boards?

DR. TAFT: Mr. Speaker, when the first question was brought to me under 29(2), I indicated that I felt there were plenty of opportunities already existing for this kind of debate. I would engage that sort of question in committee, but I'm not going to participate in 29(2).

Thank you.

THE SPEAKER: The hon. Member for Drayton Valley-Calmar.

REV. ABBOTT: Thank you, Mr. Speaker. I'm just wondering why the hon. member opposite is refusing to participate in the standing rules. Why are these standing rules any different than the standing rules that we had last session that he participated in, and why are they any different from his Liberal cousins' in Ottawa, who have this very same provision?

DR. TAFT: He should know the answer.

THE SPEAKER: Standing Order 29 permits for two things: the raising of questions and the making of comments.

The hon. Member for Edmonton-Highlands.

MR. MASON: Thank you very much, Mr. Speaker. I was pleased to hear the hon. Member for Edmonton-Riverview talk about the tremendous contribution that unions have made to western society and also to Alberta, and I wonder if he could elaborate on many of the achievements that unions have provided to our modern society.

THE SPEAKER: Additional comments, questions? The hon. Member for Drayton Valley-Calmar.

REV. ABBOTT: I just think it's a sad day for democracy, Mr. Speaker, when we have members that were elected to this House that refuse to speak under the very Standing Orders that we have as a House passed.

MS CARLSON: Mr. Speaker, this provision, Standing Order 29(2), allows for comments, and it is certainly within the purview of any member of this Assembly to refuse to continue to support a Standing Order change that we did not support in the beginning.

MR. MASON: I would like to make a comment with respect to this. There is nothing in the Standing Orders which makes the answering of questions compulsory. There are no rules around it with respect to this as there are some rules with respect to the formal question period part of the Assembly. You know, if members opposite are experiencing frustration when they don't get their questions answered, welcome to the club.

THE SPEAKER: The hon. Member for St. Albert.

MRS. O'NEILL: Thank you very much, Mr. Speaker. The member who just spoke made reference to the negotiating table, and he then made reference to the role of the government. My question is very direct to him. Does he know who the parties are who sit at the negotiating table?

THE SPEAKER: No additional questions, hon. members? The hon. Member for Edmonton-Glengarry.

MR. BONNER: Thank you very much, Mr. Speaker. Again, it's a pleasure to rise this evening and to speak to Bill 12, the Education Services Settlement Act. It is quite surprising, it being the first substantive bill that we've had to deal with in the Legislature this year.

THE SPEAKER: Hon. member, please, can I do the really terrible thing by interfering and asking if I could have the indulgence of the hon. member to revert to introductions? Four speakers ago I was supposed to do this, but I kept recognizing a certain hon. member, and he kept asking questions. So would that be permissible with the Assembly if I revert to introductions? The time will be awarded back.

[Unanimous consent granted]

head: **Introduction of Guests**

THE SPEAKER: The hon. Member for Spruce Grove-Sturgeon-St. Albert.

MR. HORNER: Thank you, Mr. Speaker. I don't recall you asking for reverting to introductions before, but that's okay.

Mr. Speaker, it is my pleasure to rise and introduce to you and through you to all members of the Assembly a constituent, Lori Benner, who is a school trustee with the Parkland school division and is very interested, obviously, in our debate this evening. I would ask her to rise – she's seated in the public gallery – and receive the warm traditional welcome of this House.

head: **Government Bills and Orders**  
**Second Reading**

**Bill 12**  
**Education Services Settlement Act**  
*(continued)*

THE SPEAKER: Hon. Member for Edmonton-Glengarry, my apologies. Please continue.

MR. BONNER: Thank you, Mr. Speaker. I will continue here. It is a pleasure to rise to speak at this time to what I believe are the principles that Albertans are indeed desirous of, and that is that we as a government bring integrity to the table during negotiations. Albertans realize that for harmony to exist after settlements in



contract negotiations, each side must believe that the process was fair and honest, that both sides were willing to work together to resolve the issues, and that compromise would be required by all parties. Unfortunately, Mr. Speaker, we see, as a result of that process not being followed, Bill 12. Bill 12 is a piece of legislation that I certainly cannot support.

AN HON. MEMBER: Is that a quote?

MR. BONNER: No. That was not a quote. Those were my own words.

I also noticed under Government Motions on the Order Paper, day 9, by the hon. Government House Leader: "Be it resolved that, pursuant to Standing Order 73(2), Bill 12, Education Services Settlement Act, may be advanced two or more stages in one day." Now, Mr. Speaker, on this particular point it gives me the whole idea and the evidence that the government is finding it very, very difficult to defend this particular bill in the format in which it is written. Anytime that we have to bring in a time-allocating device, such as a guillotine, to limit or end debate, particularly before we've even had an opportunity to start debate on a bill, then I think we have serious problems with that bill. When we listen to the comments of many of the members who have taken the opportunity to speak, we certainly do see that this bill is quite controversial.

Earlier this evening I had the opportunity to attend a science fair at Scott Robertson elementary school in the constituency of Edmonton-Glengarry, and I must say that I've had the pleasure and the privilege of attending those science fairs for the past five years. It was five years ago that the now principal, Terry McPherson, and a young teacher by the name of Linda Spielman came into this school, and together they thought it would be a good idea to have these science fairs. Now, then, before Mr. McPherson came into the school, all of the extra assignments, extracurricular activities in the school were assigned. His comments tonight were that the job got done but that it didn't get done very well.

In the five years that I've been attending these science fairs, I have noticed an incredible increase in the quality of the projects by the students. I've noticed an incredible amount of effort put in by the students. The participation by families at this event, Mr. Speaker, is incredible. This is what I think the hon. Lieutenant Governor meant when she read in the Speech from the Throne:

The government believes there is a great deal of goodwill on all sides. This goodwill guarantees that the long-term health of the public education system will be protected. Educators will be key to that long-term health.

Mr. Speaker, in talking with that particular principal tonight, he certainly was quite fearful of his role in this particular bill. He was quite fearful of that goodwill being maintained by teachers to participate in extracurricular activities, to walk that extra mile, that they've done so well. It always amazes me in this House how we will tell educators of the magnificent job they are doing, that when our students compete against other provinces, when our students compete against other countries, we have the best public education system in the world. Yet we are, with pieces of legislation such as Bill 12, tearing apart that education system. Why?

9:20

Well, I do want to say as well that the entire process that we now find ourselves in got off to a very bad start when the government made the unprecedented move of including line items in the budget that limited the settlements to 4 and 2 percent. While the Premier indicated at that time that this was only a starting point for negotiations and that it was time for teachers to receive fair compensation that would reflect their sacrifices over the years, his words did not

turn into action. This, Mr. Speaker, was at a time when the government was announcing unprecedented surpluses in this province, and we singled out this particular group of people to limit their salaries.

Now, then, the teachers had done their share in helping this government out when times were tough. I happen to have this in my hand here, and the source is Alberta Learning and Statistics Canada. From 1994-95 to 2001-2002 there was an accumulated percentage increase of 15 percent in teachers' salaries. This is by the government's own department. Now, if we look at the period of time that this was taken over, the eight years, we will see that this amount didn't even keep up to inflation. Is it any wonder that teachers are angry?

Now, as well, other conditions have occurred in the classroom over the last few years. We've certainly had the integration of special-needs children. When I was still teaching, Mr. Speaker, I happened to have the opportunity to have the integration of some special-needs students. They certainly do add, in some respects, to the classroom; they certainly do take away in others. I suppose I was one of the very fortunate teachers who had special-needs children in their class because they had a full-time aide. Yet when I speak with teachers in some of the schools in my constituency who have a little higher percentage of special-needs children, they have many, many concerns.

In one particular instance we have a Down's syndrome child in one of the classes that doesn't have an aide. We have a child with ADD who only has an aide half the time. We have children with many special needs who must be tested. Each one of those tests is in the neighbourhood of \$600, and of course the school must pay for that. So that certainly takes moneys out of their budget which could be spent for many different educational needs. As well, Mr. Speaker, the school pays for those tests. If that child happens to move to another province or if they get a child in from another province, then that testing does not flow through. What happens is that the testing must be redone. So we have those types of situations that are impacting classroom teachers in this province that we didn't have before we had full integration.

As well, I was quite interested this morning to hear some of the results from the last census. In Alberta we've had a 4 percent growth in population in the last five years. The majority of this growth is in urban areas, and a lot of this is because of an influx of new Canadians. Of course, when we start looking in the classroom at English as a Second Language and trying to help students in this situation, Mr. Speaker, again we put tremendous pressures on schools, and we put tremendous pressures on teachers in the classroom, who are already dealing with many different situations.

So when I see as part of Bill 12 that Bill 12 will limit the scope of the arbitrators of the collective agreements to salaries only, what I find disturbing is that when we talk about goodwill, such issues as class sizes, student/teacher ratios, or any other provisions dealing with maximum hours that a teacher may be required to instruct students – this is not a part. Again, I was paying close attention when it was discussed earlier that, yes, this arrangement can be between ATA locals and their school boards, but we are talking about school boards right now, Mr. Speaker, that are strapped for dollars. All of these issues, the issues that do promote goodwill, cost money. As well, we've seen that for school boards that have put some of these conditions into the contract, this has limited their flexibility and at times has cost school boards more money. Certainly these are issues that should be included when we do look at the collective bargaining agreement.

Now, then, Mr. Speaker, this piece of legislation is going to set back education in this province. There is absolutely no way that it will not. For the first time in this province we have had teachers,

many teachers, who are upset. I know that for anybody who was teaching in the '60s, '70s, or '80s, if strike was ever mentioned in the classroom, you would have a group of teachers who would absolutely refuse to go on strike. You would have teachers who would absolutely say that no matter what other people did, they were going to be in the classroom with those students. Unfortunately, when strike votes were taken around this province, that support for the students had been eroded. We have outlined a number of reasons here this evening as to why that support was eroded. We have looked at reasons why we are now in an adversarial position, why we don't have a position where there's co-operation. I know that this bill is not going to help the situations in schools, that this is a further hindrance.

I know that the hon. Member for Edmonton-Riverview certainly talked about union-breaking. I would have to say that when we get an adversarial position, we are looking at union-breaking. Many of the MLAs that just celebrated their fifth anniversary here a day or so ago will certainly remember that shortly after we were elected in '97, there was a situation at Gainers.

Thank you very much, Mr. Speaker, for this opportunity.

9:30

THE SPEAKER: Hon. members, Standing Order 29. The hon. Member for Medicine Hat.

MR. RENNER: Thank you, Mr. Speaker. I've listened intently to the remarks by the member, and I heard him bring something up which I've heard before brought up by other members, and it has to do with reference to surpluses and the government could have spent surpluses on teachers and teachers' salaries. I'd just like to ask the member how it is that he would propose that ongoing salaries would be accommodated by onetime surpluses.

MR. BONNER: Mr. Speaker, one of the great difficulties that this government has had is certainly how to deal with our roller-coaster economy in this province. We do need predictable, stable, sustainable funding for all programs, and by implementing a fiscal stability fund as proposed by the hon. leader of our party, this could be accomplished.

Thank you.

[The voice vote indicated that the motion carried]

[Several members rose calling for a division. The division bell was rung at 9:32 p.m.]

[Ten minutes having elapsed, the Assembly divided]

For the motion:

Abbott	Hancock	O'Neill
Ady	Herard	Ouellette
Cao	Horner	Renner
Cenaiko	Johnson	Shariff
Coutts	Knight	Smith
Danyluk	Kryczka	Snelgrove
DeLong	Lord	Stelmach
Ducharme	Lougheed	Stevens
Dunford	Lund	Strang
Evans	Masyk	VanderBurg
Forsyth	McClelland	Vandermeer
Friedel	McFarland	Zwozdesky
Fritz	Oberg	

Against the motion:

Blakeman	MacDonald	Pannu
Bonner	Mason	Taft
Carlson	Massey	

Totals: For – 38 Against – 8

[Motion carried; Bill 12 read a second time]

### head: **Government Bills and Orders** **Committee of the Whole**

[Mr. Tannas in the chair]

THE CHAIR: I'd call Committee of the Whole to order.

### **Bill 12** **Education Services Settlement Act**

THE CHAIR: Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for Edmonton-Mill Woods.

DR. MASSEY: Thank you, Mr. Chairman. I am pleased to have the opportunity to look at Bill 12 in more detail after we had an examination of the principles of the bill earlier this afternoon. Where I'd like to start, of course, is with the preamble. It's a preamble that puts in place a commitment to examine the learning system in Alberta. This is one of the very first bills that our party under Laurence Decore put to the Assembly in 1993 and 1994. The kind of commission that we had in mind at that time was a much more comprehensive look at schools and schooling in the province than what is proposed here. This is much narrower, and I don't think it in any way is going to serve to make the public or the teachers feel better about Bill 12.

It is an examination. We need an examination of the school system top to bottom, and that has to include everything, and I mean everything, Mr. Chairman, including and most particularly the adequacy of funding and how the kinds of funding that schools receive is determined. It seems to most people involved that there is no rhyme or reason to the kinds of funds that are allocated to a school. Depending on the economic climate in the province, the percentage increase is jacked up a few percentage points, and when things turn sour in the market, that percentage becomes less.

There are a number of things that such a commission would have to look at: the objectives of our schools, what we expect from them, what kinds of priorities should be emphasized in our schools. But along with those goals the resources and the means of achieving those goals have to be included. Given the kind of climate that the government has created, this is going to take an extraordinary individual or group of individuals to head up, and it's going to have to be people who have the absolute confidence of teachers who have been so wronged and are so wronged by the contents of Bill 12.

The preamble and even naming it as a preamble, Mr. Chairman, I think relegates it to a minor position. Also, the kinds of items that are listed under it are much narrower than the kind of examination the school district and the parents that I hear from want and the teachers that I hear from absolutely need.

9:50

So it's there. It has no time lines attached. You can think right now in the present situation that if such a commission were appointed – I think I heard earlier that there wouldn't be any action on it till the fall. If the commission were to meet for 18 or 24 months,

that's another two years. Before anything could be acted upon, it would be two and a half, three years, and I don't think that's going to be very useful in trying to solve the present situation or do anything to dissipate the kinds of problems that Bill 12 is going to visit on the system.

I'd like to look at the section on definitions, Mr. Chairman. One of the very first calls I got this morning was from a principal, and that principal was upset about the definitions and how Bill 12 defines a strike. The bill says that a strike includes, one, "a cessation of work" – so if teachers stop working, that's a strike – two, "a refusal to work or to continue to work by 2 or more employees acting in combination or in concert or in accordance with a common understanding." So if two teachers are sitting in the faculty lounge and decide that they aren't going to take their youngsters on a field trip this year, on a visit to the museum, that can be considered a strike under this definition.

Further, the third definition goes on to say, "A concerted activity by 2 or more employees to refuse to comply with responsibilities assigned by their principal or their employer." One of the very first things the principal said to me is: this divides principals from their staff; they're inserting a clause that is going to make it difficult for that kind of collegial attitude that we have in our schools to operate; it's going to pit teachers against principals. Secondly, "2 or more employees": two or more teachers in a concerted activity can constitute a strike because they don't want to do what the principal says. I remember having great arguments with a principal, Mr. Chairman, about holding a spring concert and the whole staff in revolt and voting against it. We didn't want it. Under this clause, if that would happen in a school, it would be considered a strike. Not only would it be considered a strike, but later on in Bill 12 there would be a whole series of fines levied. "A person who is neither the ATA nor an officer or representative of the ATA who strikes or causes a strike contrary to this Act is guilty of an offence and liable to a fine not exceeding \$1000." So those teachers sitting in the faculty lounge deciding not to take their youngsters on a field trip could under this kind of definition be accused of striking.

The Government House Leader tried to tell the Assembly that that's exactly the same language that appears in the labour act, and that's not correct, Mr. Chairman. Under the labour act the clause goes on to say that they have to be meeting for a purpose to compel "their employer or an employers' organization to agree to terms or conditions of employment." So that meeting has to be to coerce the employer, and that's absent from this. This stands alone, and it's an incredible piece of legislation. As I said, it was one of the very first things I heard in a phone call from a principal from rural Alberta about his concerns.

It points out, I think, that another important aspect of the legislation is that it's not that reader friendly. This is legislation that applies to 32,000 teachers, to school boards across the province, yet you're going to have to have legal advice in terms of how it's to be interpreted, and I'm sure one of the very first things that the Teachers' Association is going to do is put out a companion piece from their legal staff saying: this is what this bill really means. I think that's unfortunate, and I think it attests to the hasty manner in which this bill was crafted and put together over the weekend. I think the mere fact that the Government House Leader didn't understand the clauses and how they could be interpreted or misinterpreted is evidence of that, Mr. Chairman.

I'd like to move from those definitions and look at section 4, and section 4 is really a very heavy-handed section. These are referring to the appointments to the tribunal. It says:

If in the opinion of the Minister of Human Resources and Employment a member of the arbitration tribunal is unduly or unnecessarily

delaying proceedings, the Minister may

- (a) revoke the appointment of the member, and
- (b) appoint another person . . .

So individuals appointed to these arbitration tribunals are going to be working under the heavy threat of the minister. If things aren't moving fast enough, if he doesn't like the way things are going, you're gone. "I'll get someone else to fill your place." I think it's going to make getting qualified people to serve on these tribunals a real challenge. Who's going to want to be an arbitrator and who's going to want to sit on a tribunal when they're placed under that kind of an axe by the legislation? Again, completely unnecessary in terms of trying to resolve the dispute.

I'd like to move on now to section 6(1) and the kind of criteria that have been laid on the tribunal, and this is one of the most offensive parts of the legislation. It's the part that coerces the tribunal to work in a particular manner in terms of determining what the wage settlements should be, and it enumerates the kinds of things that they have to look at. They have to look at "wages and benefits in private and public, and unionized and non-unionized, employment, including the wages and benefits of teachers in other provinces and territories of Canada." So the tribunal has to look across the country and see what other teachers are being paid. I suspect, Mr. Chairman, that a rather punitive tribunal could actually sit down and also look at private school teachers' salaries and determine those private teachers' salaries, which are usually in this province 30 to 40 percent less than those being paid in the public system, and justify an award or the decision they make based on the salaries and the salary increases that are being paid in the private schools.

It's interesting what's left out of it, where they aren't to look. It doesn't tell them to look at settlements in other sectors. It doesn't tell them to look at the double-digit settlements that medical doctors in the province received. It doesn't tell them to look at the double-digit settlements that the nurses received. No. It excludes those and confines itself to other public entities and to looking at factors like layoffs and working hours, et cetera. The whole section is designed to constrain and to make sure that the awards are minimal, and it may as well have come out and said that in plain language: make sure that whatever you award, it's the least you possibly have to, and use any kind of justification that you can find to make that award small. So it's a reprehensible section of the act, and again I think it just shows the depth to which the government will stoop to penalize teachers and poison the atmosphere in schools.

I look further on in the section. One of the other things that they have to consider is "the local economic conditions within the geographic [region] of the dispute." That is what has usually occurred in local negotiations, and the strength of local negotiations, Mr. Chairman, is that they have been able to look at local conditions. We had a group of teachers in to visit us from Fort McMurray, where the costs for accommodation are extremely, extremely high. It makes you wonder about the kinds of awards that are going to be made in Fort McMurray when the boards up there lack resources and the teachers are being faced with skyrocketing costs. We were told by this group of teachers that it's impossible for a beginning teacher to come to Fort McMurray and live alone in an apartment. The costs are such that the teaching salaries just don't accommodate that kind of expense. Again, this tribunal is going to be doing everything it can to make sure that only minimal gains are made by those teachers, and even with this kind of provision in the law they're going to have a very difficult time adjusting their awards to the local conditions.

10:00

I mentioned the business of looking at private schools. I'm amazed that it didn't actually make it into the act, Mr. Chairman. It

may again speak to the hurry with which the bill was put together. Section 6(2) I think is also a rather interesting provision. It says:

The arbitration tribunal must be satisfied that an award can be implemented without an employer incurring a deficit, or if the employer already has a deficit, without incurring any greater deficit, over the period during which the collective agreement has effect.

Mr. Chairman, this just leads to bad practice by boards. When I was on the school board in Edmonton, we had to come to grips with this. Previously, boards hid money in budgets to accommodate teacher increases, and it was buried all over the place, as I say, hidden so that should there be a contract agreed to with teachers, the board could then dig the money out of these hidden places and accommodate the raise.

When I was on the board, we decided we wouldn't do that. We decided that if we made settlements that were above the budget that had been determined, we would go into deficit and we would pick up that deficit the next year. With that, we opened the books to the Teachers' Association and the other groups that we negotiated with and said: "Look, here is where the money is; this is what we're spending. If we make an award, we're going to go into deficit." That was fine because that was open and it was accountable. I think everyone understood it, and it made sense. This doesn't allow that kind of openness to occur in negotiations.

I'm going through rather quickly. Another concern we have with this particular clause is the kind of on-again, off-again financing that government ministries receive. We've had the example in Children's Services of a budget being set, of people going out and contracting with individuals and then, lo and behold, two-thirds through the fiscal year the minister turning around and saying: now I need 1 percent back from everyone. Well, what's to prevent that same thing happening or, even worse, the boards saying at the negotiations: we're going to have to hold back a chunk of money in case the government changes its mind and comes after us for some money because they've mishandled the budget again. So it's a bad clause in a bad bill, Mr. Chairman.

I'd like to move to the judicial review. The legal language aside, Mr. Chairman, as I interpret this – and I stand to be corrected – really these clauses, particularly 13(1) and 13(2), severely constrain what can be challenged in the judgment of a tribunal. There are really going to be very, very limited conditions under which a group that has been offended by a tribunal judgment or decision can go to the courts and seek redress. Again, it speaks to the punitive measures in this legislation, and that's just completely unacceptable.

I have some further comments, but I think at this time, Mr. Chairman, I'll conclude and go on to those at a further time in the committee. Thank you.

THE CHAIR: The hon. Member for Edmonton-Centre.

MS BLAKEMAN: Thanks, Mr. Chairman. I've read through all of the e-mails and letters that I've received around this whole issue, which has now culminated in the presentation of Bill 12, the Education Services Settlement Act. So in Committee of the Whole, which gives me an opportunity to go clause by clause or to comment on particular words or phrases, I'd like to review some of the points that were brought out. In particular what caught my eye again was the preamble. It's specifically setting out what cannot be considered, and I think that the exclusion of these particular areas is important.

The preamble is talking about "a commitment to examine the learning system in Alberta." It then talks about that this "commitment to examine"

will include, but not be limited to, a study of the number of students in a class, pupil-to-teacher ratios and the maximum time a teacher may be required to instruct students enrolled in Kindergarten to Grade 12.

Now, that's an interesting one too; I've got to come back on that one.

Therefore these items should not be the subject of further negotiation or included in a collective agreement between the employers subject to this Act.

It's the exclusion of the discussion of those working conditions from this legislation and from what's being perceived by many as a legislation that takes away the right to strike. It's also taking away the teachers' ability to negotiate for their working conditions. It's exactly things like the pupil/teacher ratio that is part of their working conditions.

It strikes me that the government is trying to have its cake and eat it too in this particular circumstance. They want highly educated, motivated, experienced, high-performing teachers, but they don't seem to want to allow the teachers to have any say in their working conditions. I'm struggling to believe that the issues of salary and working conditions can be severed, and I don't think they should be severed.

My colleagues have spoken eloquently about the government's attitude towards unions. I attempted to but was not nearly as articulate as what I heard my colleagues from Edmonton-Riverview and Edmonton-Glengarry talk about. I think that taking people's right to strike or limiting what a dispute resolution is about does take away people's ability to negotiate their working conditions on a daily basis. The alternative to a collective bargaining process is to have the government or the government through the Alberta School Boards Association negotiate with every single teacher individually. Obviously, that's not an attractive proposition for the government. It's much more convenient that there's a large group of people that a deal could be struck with, and that's the end of it.

It has to be a fair process. If you're going to say, "You can't talk about how much money you're going to make," well, then you have to offer people a reasonable salary. If you're going to say, "You can't talk about the working conditions that you have," then those working conditions have got to be reasonable enough that nobody is going to want to talk about them or feel they have the need to talk about them.

10:10

As I went over those letters and e-mails and messages from phone calls in that file, a file about three inches thick now, a number of issues were brought up repeatedly by the people that were contacting me. Over a hundred of the contacts that I had, about a third of them, were from my own constituents, and the others were copies of correspondence from people living in other constituencies. A couple of themes emerged, repeatedly talking about young teachers leaving the profession and not coming back, taking their BEs and going away and working in another sector with them. As I mentioned in my debate during second reading, I think this should be a cause of real concern for us because we already know that we've got an aging workforce. We know we need young, vital people coming in, and the fact that we are scaring them away or making it unattractive for young entrants into the teaching workforce I think should be of real concern for us.

Another issue that's raised repeatedly is teachers paying for class resources from their own pocket. Unfortunately, I can remember my mother doing this, I can remember my aunts doing this, and now I read that teachers are still doing it, although it even looks to my eye like they're doing more of it, that they're paying more money out of their pocket for resources for the classroom. I know that the minister has said that that's not happening, but there's a disconnect many times between what this government says is happening and what we actually see in the classrooms. One woman said she'd just spent \$350 out of her own pocket. I believe her. I can believe that,

knowing the kind of money that my mother and my aunts and even my grandmother spent. Yeah, 350 bucks; it's easy to see.

Another theme that continually comes up is the need for parent fund-raising. In my schools in Edmonton-Centre, inner-city schools, the parents of the children there are immigrants or new Canadians. For the most part, they're working several minimum-wage jobs. There is no option of parent fund-raising there. They are working. So in fact the fund-raising that's done in my schools in Edmonton-Centre is done by the teachers. They run the fund-raisers; they raise the additional money.

Again another theme repeatedly raised is class size and how difficult it is to provide a quality experience and a consistent amount of time with each child in a class when the class size is too large. There's been much said about ratios and targets and all kinds of other things. I think the point, then, that really needs to be underlined is that we have to address that in some way, shape, or form. I would prefer a target. If it has to be firmer than that, okay; fine. To not address it is to allow things to get to a point where it is now, which I think is a problem.

Another theme that comes up is the lack of teacher aides or support for teachers in the classrooms when they're dealing with special-needs kids, mild- and moderate-needs kids, and with behaviour-challenged children in the class. I know when I went to school, I was in some very large classes.

DR. TAFT: Were you behaviour challenged?

MS BLAKEMAN: No. Yeah, I probably was behaviour challenged.

I was coming through in classes where there were, like, 36 in a cohort that I sort of traveled through elementary school with. That's a very large class, but there were no special-needs kids in those classes. There were no behaviour-challenged kids except, as my colleague from Edmonton-Riverview says, probably me. That's interesting because there are three MLAs that went through those schools, and they are all now in the Official Opposition, three good Liberals. I'm speaking of my colleagues from Edmonton-Ellerslie and Edmonton-Riverview and myself.

I'm sure it must have been difficult for those teachers dealing with a class of 36, but impossible to deal with a class of 36 that included special-needs kids, that included integrated kids that were coming in with handicaps or with developmental disabilities. No English as a Second Language kids. So in our open-heartedness and our desire to be inclusive, we've created a situation that requires support, and I think it's really unfair that we expect teachers to operate in large classes – 25, 27, whatever – having to deal with a number of kids that require an additional amount of attention, both for those kids and for the kids that didn't require special attention. They need a certain amount of time as well.

The final theme that came up over and over again as I went through all of those e-mails and phone messages and letters was the working conditions of the teachers.

I felt it was important that I put on the record those issues that people kept raising. You know, some of those letters are dated as far back as last spring. June 24 is one date I remember when teachers were starting to write and say: "You know, I'm really concerned about what's happening here. We need help. We need support. We need appreciation. We need respect for what we're trying to do here." I think my comments, when I was speaking in second reading, about a lack of respect for the workers and the professionals in our province are really coming home to roost with us.

This government does seem to struggle with respecting people that work for a union, and I think that's wrong. I'm not a member of a union, but I certainly have a lot of respect for what they bring to our

province and in fact some of the things that they've insisted on. I think if we trace it back, we'll find out that public education was something that was lobbied for by the unions. They wanted to see publicly funded, public education. Prior to that, education was privately funded. You could send a kid to a privately funded school. There was no public education system that was available for any kid to go to. That was brought to us as a result of lobbying from the worker class, the people that were involved in the unions, and I thank them for that. I don't think they should be reviled for the work that they do in this province. I think they should be respected for it, and I'm certainly willing to give them that respect.

So I wanted to make sure the comments and the themes of the concerns of all of those people who had so faithfully written to me and, I'm sure, to others and phoned in and sent letters got incorporated into this debate. Alberta is not a province where people get really involved. You know, I look up at the public galleries right now. I can't see into the members' gallery, but I don't think there's anybody up there. [interjection] No. I'm being told it's empty. So we've been joined by a few very hardy souls this evening. There have been a couple that have come in and out tonight. But for a bill that really is going to affect an awful lot of people, not only teachers in the profession but also parents, you know, we don't have anyone here watching what's happening in this debate.

Now, of course, with technology they could all be at home glued to their computer listening to it on live audio, and I hope that that's what happening. All of that is just to underline the point that Alberta is not a province where people jump up and down and get involved in protests very easily, but that doesn't mean that they're not concerned about the fate of education, that in fact they're not concerned about the outcome of this bill. I was impressed by the fact that we had so many letters and e-mails and phone messages from parents, from administrators, from teachers, from business-people, all of them commenting on how important education was, how valuable teachers are, and how much we need to support what they're doing and to respect the collective bargaining process. I know that not many people bother to write, but it's certainly important that we acknowledge their effort and the time they take when they do in fact do it. I wanted to make sure that was honoured, and I'm pleased that I've had the opportunity to do that, Mr. Speaker. I look forward to being able to rise and debate again on this issue.

THE CHAIR: The hon. Member for Edmonton-Riverview.

DR. TAFT: Thank you, Mr. Chair. I will make a range of comments of different types here. One of the things that I think is important for us to consider is the background to this debate, an accurate picture, let's put it that way, of the state of education funding in Alberta today compared to the last 20 years.

I'm looking right now at a graph produced by an accounting professor at the University of Alberta that has adjusted Alberta per student spending on education for inflation. So this gives expenditures per student adjusted for inflation. That allows us to compare these reasonably over a long period of time. This particular graph stretches from 1981 to this year, and it shows that our funding this year is below every single year from 1983 until 1984. There's an 11-year period through the '80s and '90s in which we were spending more on education than we are today. Funding then trailed off very consistently or very considerably through the middle '90s, and then it sort of zigzags its way up a bit to today's level. But what we see there is a deficit in funding, in many regards, or a shortfall in the necessary funding over the last eight years when we compare the last eight years to the preceding 10 or 12 years. The people who have absorbed that reduction in funding are the teachers and the students.

As a result, I think they've carried that far enough, they have reached a breaking point, and the anger that's built up and the frustration that's built up in the education system is now spilling over into the labour dispute that we're seeing today.

10:20

When we look more closely at the bill itself, one of the things that really jumped out is the time frame of this bill, the fact that the bill runs through until I believe it's August of 2003. That raises the question: what then? What will we be facing 18 months from now in the education system? I think we can be certain that we'll be facing angry teachers. I predict – and I'm obviously on public record here – that we will be facing a bitter labour disruption 18 months from now in the education system as a result of this legislation that we're bringing in today.

MS BLAKEMAN: You don't think there'll be a huge injection of money and then an election and then they'll take it back?

DR. TAFT: No, I don't.

I think that this bill, that particular clause of the bill and this kind of time frame, sets up a situation that simply delays and inflames the hard feelings that have already developed over the last several years in education.

There are various other aspects of the bill that I think actually directly or indirectly devalue and degrade teachers in relation to other public-sector workers. No other public-sector workers have been forced into this sort of a situation. None of them have been restricted to such limited increases in funding. None of them have been subjected to being itemized in the provincial budget. None of them have been subjected to this kind of legislation, an arbitrary imposition and restrictions on the arbitration tribunal, that the teachers are being subjected to. So I can well understand that an effect of this bill is to make teachers feel devalued and degraded, and I think one effect of that's going to be to discourage new teachers from entering the profession. I think a subsequent effect or related effect is that it's going to dishearten veteran teachers.

The second half of today my constituency office received about 25 phone calls and e-mails, all of which expressed outrage on this particular legislation. I think that reflects the fact that the veteran teachers, parents, and the children in the education system are taking offence to this piece of legislation. I think it's fair to say, in fact, that this legislation does make a sham of any local bargaining process.

We can look at the experience in other sectors to see what this is likely to bring us. We can look to experience in the health sector to see where the education sector is likely to line up. Today we are short of staff in the health care sector. We're searching the continent for nurses, yet we were laying off nurses by the thousands just a few years ago. We are short of all kinds of other health professionals, people who were disheartened and left the province some years ago. I think there's a genuine risk that we're going to see that same pattern repeat itself in the education system. In the health care system the changes that were brought in through regionalization forbid the participation of anybody from the health sector, any doctors or nurses, from influencing them. We are going to see the same thing occur here, where teachers are not being invited to the table to negotiate or to work out the problems. In fact, educators are being frozen out of this process. We are shutting out the very people who work in the system and have the most intimate knowledge of how the system can be improved.

I've made a number of other comments earlier in the evening on this legislation. I will simply end with the question: what's the

hurry? Why are we rushing this through? Why are we being forced to fight line by line and clause by clause to buy a few minutes of extra debate on this legislation? The teachers are at work. The students are in school. The system is functioning. We do not need to invoke closure on this bill.

Thank you, Mr. Chair.

THE CHAIR: The hon. Member for Edmonton-Highlands.

MR. MASON: Thank you, Mr. Chairman. I'd like to stand and talk briefly about the general clauses of this bill. I'd like to begin with a series of quotations, and I'm wondering if members opposite can identify who has made these quotations.

The first one, I think, is very interesting and very apt, Mr. Chairman: "Government is not reason; it is not eloquence; it is force. Like fire, it is a dangerous servant and a fearful master." Anybody have any idea who said that?

AN HON. MEMBER: Lenin.

MR. MASON: No, hon. member. It was George Washington, the other famous revolutionary.

Maybe the hon. member will know this one: "If you want peace, work for justice."

AN HON. MEMBER: Stalin.

MR. MASON: No. Pope John Paul II.

Mr. Chairman: "Never do anything against conscience even if the state demands it."

AN HON. MEMBER: Khrushchev.

MR. MASON: No. Albert Einstein.

Mr. Chairman: "One who uses coercion is guilty of deliberate violence. Coercion is inhuman." Mohandas Gandhi.

Mr. Chairman: "There is something within the human spirit that cries for and demands to be treated with basic fairness and justice. When such is violated, peace is undermined. Seeking justice for others is a way to peace." Myron R. Chartier. I've never heard of him either.

[Mr. Shariff in the chair]

Mr. Chairman, I want to come to the clauses of the bill. I'm going to be introducing a bit later some additional amendments with respect to this bill, but I want to touch very briefly on them now.

The bill is a collection of steps taken to step on the rights of Alberta's teachers under the guise, Mr. Chairman, of protecting students. In the discussion earlier on second reading we heard people posing the question: are you in favour of the teachers or the children? That is clearly a false dichotomy. That's setting up one against the other. We believe that dealing fairly with teachers, giving them good working conditions, giving them a fair remuneration, and respecting their rights is a key element in a strategy to help Alberta's students, and any member who tries to set the teachers against the students is doing a disservice to both, Mr. Chairman.

10:30

This bill contains any number of clauses which are designed to squelch the rights of teachers. Let's begin with section 3 of the bill under part 1, the dispute settlement process. That sets up the establishment of the arbitration tribunal. Now, we know very well,

Mr. Chairman, that normally in an arbitration process between two parties – and the government says that it wants this to be between two parties; that is, the school board and the teachers – both sides appoint a member of the arbitration panel, and those two members jointly select a third neutral party to ensure that the arbitration process is balanced. That is a time-honoured method of choosing an arbitration board, but the government is not doing it in that way.

We're hearing lots of rhetoric from government members and ministers that they are trying to follow the normal process of arbitration here, but it's not so, Mr. Chairman. It's clearly not so. They are going to have three members as per usual, but one will be selected by the teachers, one by the government, and one by the school boards. So one is set by the employer, one is set by the employer's employer, so to speak, and the other one is the teachers. So automatically the teachers are going to be outvoted on a 2 to 1 basis. Not only that, but if anybody gets out of line in the committee, the minister has the power to instantly replace them. So, clearly, the deck is stacked against the teachers in this so-called arbitration process.

That is not enough, however, for this government, Mr. Chairman. They have set a range of things which the arbitration board must consider. This government and this party in power have a long tradition of trying to stack arbitration by forcing them to consider things other than what is a fair remuneration for the work, but in this case the government has gone even farther and they will not allow the arbitration panel to recommend any settlement which might place a local board in a deficit position.

Given the budgetary system established for this round of negotiations, where the money set aside for the increases for teachers is clearly laid out in the budget, it means that in almost every case a demand which exceeds those amounts will place the board into a deficit position. Therefore, indirectly the government is doing what it couldn't do directly, and that is to impose a 4 and 2 regime on Alberta's teachers. So again, Mr. Chairman, we're seeing that the government is stacking the deck. This is section 6(2), and that is going to be the subject of one of our amendments as well.

Now, the next thing that the government has done is to ensure that it has complete control over any information that goes before the arbitration tribunal, especially as it respects government information, and who can appear. It says:

Despite anything in this Act, when a document is in the official possession, custody or power of a member of the Executive Council or of the head of a department of the public service of Alberta, but a deputy head or other officer has the document in the deputy head's or other officer's personal possession and is called as a witness, the deputy head or other officer, acting on the direction and on behalf of the member of the Executive Council or head of a department, is entitled to refuse to produce the document on the ground that it is privileged.

So here we go, Mr. Chairman. The government can withhold any information it wants from the tribunal, which is already stacked with its own appointee, which is already constrained by the limitations on what it can consider and is prohibited from placing any board into a deficit position. Now the government can keep secrets from the tribunal and doesn't have to produce their documents on how they've managed the whole matter with respect to teachers and their salaries.

Now, here's another one, Mr. Chairman, that really concerns us in the New Democrat opposition. Section 23 says that the collective agreement can't deal with

- (a) the number of students in a class;
- (b) pupil-to-teacher ratios or student-to-teacher ratios;
- (c) the maximum time a teacher may be required to instruct students.

Those are normally elements of working conditions and would normally be part of the collective bargaining. Almost in any area we would find that the employees have a right to negotiate their working conditions, and that includes such things as the number of students they have to deal with or the amount of time that they have to spend with them.

So what this really says is that the board can impose any length of instruction that's required, and it can't be arbitrated. Now, we hear informally from the other side that, well, there could be side agreements. I think the Minister of Learning alluded to this earlier today. There could be side agreements to deal with that, but since the arbitration can't deal with it and since they can't strike, what chance do Alberta's teachers have to actually get these things dealt with? I would suggest, Mr. Chairman, that it's between slim and none.

Now, of course, there's the required section ordering teachers back to work and cutting off their right to strike for the duration of this agreement. So, Mr. Chairman, it's very clear that Alberta teachers are being asked to enter these negotiations not with one hand tied behind their back but hog-tied completely, both arms, both legs, hog-tied and delivered up to the slaughter of Bill 12.

So, Mr. Chairman, I would like to, if I may, introduce an amendment, and I will read it as follows. I have copies that can be distributed to the members.

THE DEPUTY CHAIR: Hon. member, you will have to give a copy to the table as well as to all the colleagues. If you could just wait for a moment, please.

MR. MASON: Yes, sir.

THE DEPUTY CHAIR: Hon. members, an amendment is being moved by the hon. Member for Edmonton-Highlands, and we shall refer to this amendment as amendment A1.

The hon. Member for Edmonton-Highlands.

MR. MASON: Thank you very much. Mr. Chairman, I move that Bill 12, the Education Services Settlement Act be amended as follows: section 2 is amended by striking out subsection 3, and section 23 is struck out. I'll just speak to that briefly.

Before I begin, though, I notice that the hon. Member for Edmonton-Castle Downs suggested that we ought to pull our chairs together with the Official Opposition, and it's apparent to me that someone that can't tell a quote from Pope John Paul II from that of Stalin couldn't be expected to tell the difference between New Democrats and Liberals either.

10:40

Mr. Chairman, I want to indicate that we have moved this amendment because it restricts the agreement from containing any provision that deals with class sizes, student-to-teacher ratios, or the maximum time a teacher may be required to instruct students. As I've indicated, these matters are clearly matters which affect the working conditions of teachers, and as such they ought to have a right to collectively bargain on these points.

Furthermore, Mr. Chairman, I'd like to indicate that we certainly have recognized that Alberta's teachers have made the quality of education a primary objective of their negotiations from the beginning. I think it's a credit to Alberta's teachers that that has occurred, and I believe that we ought to allow them to continue to negotiate on that basis. The teachers have refused on several occasions to sacrifice the conditions faced by their students in order to obtain a temporary financial advantage for themselves, and again I think that speaks well to Alberta's teachers.

We have heard, Mr. Chairman, and we know that not only do

parents actually have to fund-raise in schools for necessities, not withstanding the denials earlier by the Minister of Learning, but that teachers give freely of their own private personal time in order to add extra dimensions to schools, including extracurricular activities, including all sorts of things like sports, drama, and many trips that students and classes sometimes take. We've also learned during this discussion that teachers routinely use their own money to buy classroom supplies which are no longer available because of this government's constant cutbacks.

Mr. Chairman, I want to indicate very strongly that the New Democrat opposition feels that we should not be eliminating these matters from the arbitration process in favour of a vague scheme to study these questions. Given this government's track record, particularly with the Mazankowski report, we have no confidence that those issues will be fairly or adequately dealt with through the process the government has outlined.

With that, Mr. Chairman, I will take my seat and see if any other members wish to speak to this amendment.

THE DEPUTY CHAIR: Hon. Member for Edmonton-Highlands, just for clarification purposes, the amendment that has been moved has the signature of the hon. Member for Edmonton-Strathcona. For the record, I'm wondering whether you're moving this motion on his behalf or on your own behalf?

MR. MASON: I apologize, Mr. Chairman. Yes, I intended to move it on his behalf.

THE DEPUTY CHAIR: Thank you.  
The hon. Minister of Learning.

DR. OBERG: Thank you very much, Mr. Chairman. I will speak to the amendment. Section 23 is a very important part of this act, and this is something that we will be talking about in the summer to fall with regards to our education commission, which is alluded to in the preamble of this act.

I must bring to the attention of the House the other factor in this, and that is that there are presently three boards in the province of Alberta out of the 64 boards that have the maximum time of instruction in their contract, there are two boards that have pupil-to-teacher ratios in their contract, and there's one board that has the student class size within their contract. So I really feel that by taking this out, what we've done is leveled off the playing field for a true discussion of these issues. These are very, very important issues to the future of education and the future of learning in this province. My government has given a commitment to fully investigate these issues, but we have to start off from a level playing field, and that's what's here.

The other thing I will say, Mr. Chair, is that there is absolutely nothing – nothing – stopping the school board and the local ATA, if they feel that PTRs are important, that instructional time is important – if both of them feel that way, they can put in a letter of understanding or a memorandum of understanding to the collective agreement. It is grievable. It is legally binding. It cannot be in the collective agreement, which is what this says.

We are all starting from a level playing field, and I would urge all the members of the Legislature to vote against this amendment.

[The voice vote indicated that the motion lost]

[Several members rose calling for a division. The division bell was rung at 10:45 p.m.]

[Ten minutes having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Bonner	Mason	Pannu
Carlson	Massey	

Against the motion:

Abbott	Fritz	McFarland
Ady	Hancock	Oberg
Broda	Herard	O'Neill
Cao	Horner	Ouellette
Cenaiko	Kryczka	Renner
Coutts	Lord	Shariff
Danyluk	Lougheed	Smith
DeLong	Lukaszuk	Stelmach
Ducharme	Lund	Stevens
Dunford	Maskell	VanderBurg
Evans	Masyk	Vandermeer
Forsyth	McClelland	Zwozdesky
Friedel		

Totals	For – 5	Against – 37
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[Motion on amendment A1 lost]

MR. HANCOCK: Mr. Chairman, I would move that the committee rise and report progress.

[The voice vote indicated that the motion carried]

[Several members rose calling for a division. The division bell was rung at 10:58 p.m.]

[Ten minutes having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Abbott	Hancock	Oberg
Ady	Herard	O'Neill
Cao	Horner	Ouellette
Cenaiko	Kryczka	Renner
Coutts	Lord	Shariff
Danyluk	Lougheed	Smith
DeLong	Lukaszuk	Snelgrove
Ducharme	Lund	Stelmach
Dunford	Maskell	Stevens
Evans	Masyk	VanderBurg
Forsyth	McClelland	Vandermeer
Friedel	McFarland	Zwozdesky
Fritz		

11:10

Against the motion:

Bonner	Mason	Pannu
Carlson	Massey	

Totals:	For – 37	Against – 5
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[Motion carried]



[The Deputy Speaker in the chair]

THE DEPUTY SPEAKER: We'll recognize the Government House Leader before the report.

MR. HANCOCK: Yes, Mr. Speaker. I would like to seek unanimous consent of the House to waive the 10-minute rule and ring division bills for one minute on all further divisions this evening in committee or in the House.

[Unanimous consent granted]

THE DEPUTY SPEAKER: The hon. Member for Calgary-McCall.

MR. SHARIFF: Mr. Speaker, the Committee of the Whole has had under consideration and reports progress on Bill 12. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

THE DEPUTY SPEAKER: Does the Assembly concur in this report?

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.

head: **Government Motions**

#### **Time Allocation on Bill 12**

16. Mr. Hancock moved:

Be it resolved that when further consideration of Bill 12, Education Services Settlement Act, is resumed, not more than one hour shall be allotted to any further consideration of the bill at Committee of the Whole, at which time every question necessary for the disposal of this stage of the bill shall be put forthwith.

MR. HANCOCK: Mr. Speaker, we've been in committee for more than an hour. I'd understood that there were amendments going to be put forward. Committee is a line-by-line consideration of the bill. After every speaker on the other side finished speaking, they finally moved one amendment. It's obvious that there's no intention to deal with this in a reasonable, straightforward manner. Therefore, it's necessary for us to ask that we move Government Motion 16 and pass it forthwith.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Well, Mr. Speaker, here we go. It's closure already. The first substantive bill. Let the record reflect that government members clapped and applauded for this particular motion, which is a closure motion.

DR. MASSEY: For shame.

MS CARLSON: That's right. For shame on every single member in this Legislature that supports this particular motion.

DR. MASSEY: Because they're overwhelmed by the opposition.

MS CARLSON: They are. I think that's a good point. They are overwhelmed by the opposition. After only one small hour of debate

in committee they feel driven to bring in closure on a bill that has yet to be put out to stakeholder groups for their approval.

Mr. Speaker, it's absolutely appalling that this is how they use their heavy-handedness to force legislation through this Assembly, particularly on this bill. What they're doing with this bill is that they take away the right to strike, and now they take away the right to debate. When do we see the potential for closure to be introduced with this particular bill? At every single stage before we've even started to debate the bill. The right to debate is taken away and coincides very well with the taking away of the right to strike and in fact, if we take a look at some of the clauses in this bill, the right to even assemble and discuss and debate.

So, Mr. Speaker, this government, who has this huge majority, is frog-marching this bill through the Assembly as fast as they can. Why? Because they don't want to send it out to stakeholder groups. What would be wrong with doing that? What would be wrong with sending a bill out to community groups, to parent associations, to teachers, to a variety of boards, to the trustees and finding out what they think of it clause by clause so that when they bring a bill in, they bring in a bill that's good and solid and doesn't have the kinds of clauses up for consideration as being questionable at least?

We see that my colleague, when he gets a chance to, before our small hour of debate is up, will be bringing in an amendment that will be dealing with what we think is a clause that does not allow teachers . . .

MR. HANCOCK: He could have done it an hour before.

MS CARLSON: Well, you know what? He couldn't do it in the hour before because it's only one hour and we haven't even had a chance to properly debate the bill in committee, never mind get to the stage where we talk about the amendments, Mr. Speaker. So I would suggest that the Government House Leader is completely incorrect and erroneous in that accusation he has made.

What have we seen in the past in this Legislature when this government frog-marches legislation through? We see mistakes, Mr. Speaker. We see them having to come back to correct legislation through amendments and behind closed doors through regulations. We have seen them withdraw legislation when they've done that in the past, and I would like to remind the Government House Leader of the notwithstanding clause, which turned out to be a huge public relations disaster for them and was absolutely the wrong kind of legislation for them to bring forward, yet to a person on their front bench they agreed and supported it when it came in. When there was a public outcry against it and a swelling of support against that particular bill, they had to make some drastic changes.

For people to be able to take a look at the legislation and bring their feedback into the Assembly and get it through their thick heads that there's something wrong with the legislation takes some time, and that means that we've got to have time to get it out to the community and get it back in. That does not mean that you bring it in at second reading in the afternoon, bring it in committee in the night, the next afternoon we see third reading, and it's over and done with. People don't have that kind of commitment to put towards screening legislation. People have jobs. They've got families. They've got outside commitments. They need time to think about the legislation, to send it out for legal review in many cases. That can't happen in less than 24 hours, which is what we see with this particular legislation.

11:20

So, Mr. Speaker, there is no doubt that we absolutely oppose any attempt by this government to bring in closure, particularly in the

heavy-handed kind of manner that we have seen it brought in this evening. We are happy to stand on these votes, because it's absolutely undemocratic what they're doing and certainly isn't the open and kind of accountable government that they state they like to bring forward. It just simply isn't true. It's a heavy-handed, steamroller approach that doesn't work for the people of Alberta, and it certainly doesn't work for the opposition.

MR. DUCHARME: Mr. Speaker, I'd like to raise a point of order.

THE DEPUTY SPEAKER: The hon. Member for Bonnyville-Cold Lake.

**Point of Order  
Reflections on a Member**

MR. DUCHARME: It's 23(j). The Member for Edmonton-Ellerslie on two occasions during her debate referred to the government as frog-marching. Also, as the Member for Whitecourt-Ste. Anne indicated earlier, he felt that his heritage had been somewhat abused. At this point in time I would like to state the same and would demand an apology.

MS CARLSON: No problem, Mr. Speaker. He's got an apology and a withdrawal of those particular remarks if they offend him. Certainly there was no intent to offend in this particular instance, and if he could suggest some better terms that mean the same thing to me, I would be willing to take them under advisement.

Thank you.

THE DEPUTY SPEAKER: Hon. member, we have two people that have spoken to it and a withdrawal. There's no need for further debate on the point of order unless you have a new point of order.

MR. MASON: Mr. Speaker, if I can speak to the point of order.

THE DEPUTY SPEAKER: The person who occasioned the rise to a point of order has withdrawn the remark. That ends the matter for the time being.

[The voice vote indicated that the motion carried]

[Several members rose calling for a division. The division bell was rung at 11:23 p.m.]

[One minute having elapsed, the Assembly divided]

[The Deputy Speaker in the chair]

For the motion:

Abbott	Fritz	Oberg
Ady	Hancock	O'Neill
Broda	Herard	Ouellette
Cao	Horner	Renner
Cenaiko	Kryczka	Shariff
Coutts	Lord	Smith
Danyluk	Lougheed	Snelgrove
DeLong	Lukaszuk	Stelmach
Ducharme	Lund	Stevens
Dunford	Maskell	VanderBurg
Evans	Masyk	Vandermeer
Forsyth	McClelland	Zwozdesky
Friedel	McFarland	

Against the motion:

Bonner	Mason	Pannu
Carlson	Massey	
Totals:	For – 38	Against – 5

[Government Motion 16 carried]

**head: Government Bills and Orders  
Committee of the Whole**

[Mr. Tannas in the chair]

THE CHAIR: I call the Committee of the Whole to order.

**Bill 12  
Education Services Settlement Act  
(continued)**

THE CHAIR: The hon. Member for Edmonton-Mill Woods.

DR. MASSEY: Thank you, Mr. Chairman. I'd like to propose an amendment to Bill 12: that Bill 12, Education Services Settlement act, be amended in section 1(1)(f) by striking out subclause(iii). You have copies of the amendment. This is a clause that I mentioned in my previous examination of the bill in committee. What it does is take out the clause that says that a strike is deemed to be "a concerted activity by 2 or more employees to refuse to comply with responsibilities assigned by their principal or their employer." It just doesn't make sense, Mr. Chairman.

11:30

THE CHAIR: Hon. members, just so that we all know it, the amendment as moved by the hon. Member for Edmonton-Mill Woods will be known as amendment A2.  
Go ahead.

DR. MASSEY: Okay. Thank you.

It just doesn't make sense, Mr. Chairman. As the Government House Leader said, it was lifted from the labour act, but the lift wasn't in its entirety. The labour act has the reason that there has to be an effort by these two individuals to compel the employer to act in a particular manner. They're trying to coerce the employer. The labour act says that that's a strike and that they can't do that, but without that, it doesn't make sense. More importantly, it just is so out of tune with life in schools. The debates over school policy and school activities are constant. It's part of the give-and-take of making a school setting work. I can think of at least three examples from my own experience where this kind of a clause, had we been under this kind of arbitration and working under Bill 12, would have been considered a strike, and it would have been ludicrous.

I can remember a group of teachers objecting to being asked to teach French when they had no background in the subject and a principal saying: "Oh, yeah. You know, we can get you some books and some recordings, and you can do it." And the teacher said: no, I'm not going to do that. Yet under this clause that would be considered a strike, and they would be subjected to their fines. I can remember similar arguments over music and males on staff with no musical ability being asked to take music classes saying: no, we're not going to do that; we're not qualified. I gave a previous example of a school concert where a principal, because that particular principal liked to have a healthy bank account, decided we would have a school concert every year, and the staff said: "No. We've had enough of it." Ridiculously enough, that would be considered a

strike under this bill. So our proposal is that we'd get rid of it altogether, Mr. Chairman.

I guess one last observation is that it's potentially divisive, and I did have a call from a principal who objected to it, saying: you know, that really puts principals against teachers. It's contrary to the kind of climate that most principals and staff try to create in the school. This does nothing to enhance it and in fact has the potential to impede it.

With those reasons, I'd ask for the support of the Assembly, Mr. Chairman.

THE CHAIR: The hon. Minister of Learning on amendment A2.

DR. OBERG: Thank you very much, Mr. Chairman. What I will do is read two sections. The first section I will read is from the existing School Act. Under section 18

a teacher while providing instruction or supervision must . . .

- (g) subject to any applicable collective agreement and the teacher's contract of employment, carry out those duties that are assigned to the teacher by the principal or the board.

That is in the School Act.

I will now read what is in the Labour Relations Code. In the Labour Relations Code in section 1(v) under the definition of "strike,"

"strike" includes

- (i) a cessation of work,
- (ii) a refusal to work, or
- (iii) a refusal to continue to work,

by 2 or more employees acting in combination or in concert or in accordance with a common understanding for the purpose of compelling their employer or an employers' organization to agree to terms or conditions of employment or to aid other employees to compel their employer or an employers' organization to accept terms or conditions of employment.

Mr. Chairman, under section 1(1)(f) the definition of a strike in this act reads:

"strike" includes

- (i) a cessation of work

Again this is directly taken from the labour act.

- (ii) a refusal to work or to continue to work by 2 or more employees acting in combination or in concert or in accordance with a common understanding.

Mr. Chairman, again this is directly from the labour act. If two or more employees refuse to work, that constitutes a strike.

- (iii) a concerted activity by 2 or more employees to refuse to comply with responsibilities assigned by their principal or their employer.

As I have just stated under section 18(g) and will state again, Mr. Chairman: a teacher must

- (g) subject to any applicable collective agreement and the teacher's contract of employment, carry out those duties that are assigned to the teacher by the principal or the board.

Mr. Chairman, the section that the hon. member is wishing to delete is a combination of the School Act, where it outlines a teacher's duties and is basically saying that any concerted activity not to do their duties – not to do their duties – is constituted as a strike, and that is definitely under the Labour Relations Code as printed.

DR. MASSEY: You didn't read the whole thing.

DR. OBERG: Yes, I did. [interjection] No, I didn't.

THE CHAIR: Hon. member.

DR. OBERG: Thank you, Mr. Chairman.

So, Mr. Chairman, I would urge the Assembly to vote against this amendment for the reasons that I have given.

THE CHAIR: The hon. Member for Edmonton-Highlands.

MR. MASON: Mr. Chairman, notwithstanding the comments of the Minister of Learning I would urge members of the Assembly to support the amendment. It is clearly in the context of this legislation going to be used as a sword of Damocles over the heads of any teachers who might wish to take exception to the direction that they're given and the labour climate the government is creating. This is open to abuse, and notwithstanding the fact that it is mirrored in current legislation, I think it is dreadful. Obviously we need to review provisions of existing acts if this is in fact the case.

I'm tempted to urge members to leave it in because I suspect, Mr. Chairman, that this particular clause may in fact offend the Charter of Rights and Freedoms and would give rise to a successful challenge of this legislation. So I think the government ought to be cautious in retaining this, but I certainly think it's interesting, and it's interesting to learn that it pre-exists in existing legislation. Quite frankly, I think this is extremely open to abuse, and to impose heavy fines because a couple of teachers may oppose unfair direction from a principal or other administrator – and that can certainly be the case – I think is wrong, and I support the member's amendment.

THE CHAIR: Are you ready for the question?

The hon. Member for Edmonton-Glengarry.

MR. BONNER: Thank you, Mr. Chairman. I'd just like to make a comment here in support of the amendment as proposed by the hon. Member for Edmonton-Mill Woods. In looking at the Labour Relations Code and comparing it to section 1(1)(f)(iii), subclause (iii) in the Labour Relations Code specifically states:

- (iii) a refusal to continue to work, by 2 or more employees acting in combination or in concert or in accordance with a common understanding for the purpose of compelling their employer or an employers' organization to agree to terms or conditions of employment or to aid other employees to compel their employer or an employers' organization to accept terms or conditions of employment.

So if we're not going to include the entire section (iii) under the Labour Relations Code, then I certainly think that all members should be supporting the amendment as proposed by the hon. Member for Edmonton-Mill Woods.

Thank you.

[The voice vote indicated that the motion lost]

[Several members rose calling for a division. The division bell was rung at 11:40 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Bonner	Mason	Pannu
Carlson	Massey	

Against the motion:

Abbott	Fritz	McFarland
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Ady	Hancock	Oberg
Broda	Herard	O'Neill
Cao	Horner	Ouellette
Cenaiko	Kryczka	Renner
Coutts	Lord	Smith
Danyluk	Lougheed	Snelgrove
DeLong	Lukaszuk	Stevens
Ducharme	Lund	VanderBurg
Dunford	Maskell	Vandermeer
Evans	Masyk	Zwozdesky
Friedel	McClelland	
Totals:	For – 35	Against – 5

[Motion on amendment A2 lost]

MR. MASON: Mr. Chairman, I would like to move on behalf of the hon. Member for Edmonton-Strathcona an amendment to Bill 12, that the Education Services Settlement Act be amended in section 3(2) by striking out clause (c) and substituting the following: “(c) appoint one additional member as chair of the tribunal whose appointment has been agreed to by the ATA and ASBA members of the tribunal, and.”

THE CHAIR: This amendment will be known as A3, should it ever be delivered.

MR. MASON: Mr. Chairman, if that amendment has now been distributed, I'd be pleased to speak to it. This is the amendment which fixes a major flaw in this bill, and the flaw is that it is a fixed game, as the president of the ATA has said. This is not a normal arbitration process. This is not the structure of a normal or a fair arbitration tribunal. This is in fact something that is designed, in our view, to fix the game against the ATA so that they don't have a chance. It's a bit like shooting fish in a barrel. The fish really don't have much of a chance in this kind of situation.

Now, I've listened with interest as the hon. Minister of Learning has said that the government wishes to extract itself from the relationship between the school boards and the ATA. Well, I can't think of a better way to do that, Mr. Chairman, than to remove themselves from the arbitration tribunal that's going to settle the issue. Obviously, with all of the other safeguards in place, the government is not at risk of losing millions and millions of dollars, because the rest of the legislation really prevents that from ever occurring. So why wouldn't the government agree that if you want an arbitration process that is in the least bit fair, it should be established on the same basis as a normal arbitration under the labour act?

I don't think the minister will be able to get up this time and point to a section in the labour act and say: we just pulled it out of the labour act; it's already the existing practice in these matters. If you're going to have arbitration, Mr. Chairman, the arbitration needs to be fair. That's already provided for in existing legislation. I see no reason to impose a government-appointed member into this tribunal, which can only have one effect, and that is for the school board member and the government member to gang up on the teachers' member and produce a result that's going to leave no one happy except of course the government, and that's not what arbitration is about.

Thank you.

11:50

THE CHAIR: The hon. Minister of Learning.

DR. OBERG: Thank you very much, Mr. Chairman. I'll speak on two points with regards to this section. First of all and I think by far the most important thing I can say tonight is that this form of panel was suggested by Mr. Larry Booi, president of the Alberta Teachers' Association, to us, one hundred percent verbatim from what Mr. Larry Booi said.

The other thing that I will add to alleviate some of the hon. member's concerns is that it is a majority rule panel. So if the ATA and the ASBA arbitrators agree, then that will be carried forward. It is a majority rule panel.

Mr. Chairman, because this came directly one hundred percent from what the ATA had said, I would suggest that the Assembly vote it down.

MR. MASON: Just to briefly respond to that, Mr. Chairman, we don't know the context of the proposal from the president of the ATA. We do know that many things have changed since the time he came out of the Premier's office with a smile on his face. He's not smiling now, and that's not because he's changed his mind. That's because the government has changed the rules of the game. So to suggest in the context of this bill, which the ATA is vociferously opposing, that it came from the president of the ATA and it should therefore be no problem to members of this House to adopt it, I think, is clearly not a reasonable argument to be made.

[The voice vote indicated that the motion lost]

[Several members rose calling for a division. The division bell was rung at 11:52 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Bonner	Mason	Pannu
Carlson	Massey	

Against the motion:

Abbott	Hancock	Oberg
Ady	Herard	O'Neill
Broda	Horner	Ouellette
Cao	Kryczka	Renner
Cenaiko	Lord	Smith
Coutts	Lougheed	Snelgrove
Danyluk	Lukaszuk	Stelmach
DeLong	Lund	Stevens
Ducharme	Maskell	VanderBurg
Dunford	Masyk	Vandermeer
Evans	McClelland	Zwozdesky
Friedel	McFarland	

Totals:	For – 5	Against – 35
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[Motion on amendment A3 lost]

THE CHAIR: The hon. Member for Edmonton-Glengarry.

MR. BONNER: Thank you very much, Mr. Chairman. I would like to take this opportunity to speak to Bill 12 in committee, just a few comments in regards to the preamble. I certainly commend the government at this point for setting up a study of classroom conditions. I think, in looking at the classroom conditions, we have

to definitely look at the examination of all factors which are included in classroom conditions. Certainly the major reason that we are here today is the adequacy of funding for schools. This has not been a priority of this particular government and school boards since 1995. We certainly have not had long-term, predictable, stable funding, and it certainly has led to a number of situations in our classrooms. Particularly when we look at when revenues have dipped or available dollars just aren't there, schools have had to make cutbacks. These certainly affect the working conditions of teachers. It also affects the learning conditions of students.

As we look at this legislation, we certainly know that one of the areas that should be under examination here is the factor of the greater stress that has been placed on teachers because of their increasing role in the teaching of students of every imaginable ability and, as well, of students who do have special needs. I was very disappointed this evening when the Government House Leader brought in closure, Mr. Chair. There are quite a number of educators in the Assembly here this evening. Some of these educators have a long and distinguished career in education, and I certainly would have welcomed their input into this debate. I also think that many of them, if they had the time, perhaps might have. It is quite interesting to note that we have had a number of divisions here tonight, and constituents from these particular constituencies represented by former educators are going to be quite interested to see what part of the debate and how much of the debate their member participated in.

12:00

When we do look at Bill 12 under Committee of the Whole and we do look at the increased stress of teachers, I would hope that part of this study would include over the next 18 months, Mr. Chairman, just how many sick days are taken by teachers who are certainly going to be feeling increased stress because of this situation. I would also like this committee to look at how many teachers go out on long-term disability or on stress leave. I also think that another important factor here, Mr. Chairman, should be the number of new teachers who leave the profession. All of these factors are definitely going to impact education in this province.

I think that another issue that is not mentioned in here is having an adequate supply of textbooks so that each student has their own textbook when necessary.

As well, Mr. Chairman, in the preamble we certainly have avoided technology, and as we all know technology can be the black hole when it comes to eating up funds in schools. Certainly the amount of funding that is presently provided by the government does not anywhere begin to meet the needs and demands in schools today, so as a result we do have a tremendous amount of fund-raising that's taking place just to supply the essentials of education and not the extras.

One last point that the preamble does not address is new curriculum. Now, a number of years ago, Mr. Chairman, when we introduced a new science curriculum into our schools, teachers first of all were provided in-services, the textbooks were available to all students before the new curriculum was put into place in the schools, and all the aids that teachers required and all the supports were in place as well. I think that this is also another issue that could have been put into the preamble here that certainly would aid teachers in dealing with their everyday situations in the classroom and improving the learning conditions in the classroom as well as working conditions.

So with those few comments, Mr. Chairman, I will cede the floor to another one of the members. Thank you.

THE CHAIR: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Chairman. I am happy to be able to respond at committee to Bill 12, the Education Services Settlement Act. We have only 24 minutes left to debate this bill because of closure brought in by this government.

The first point that I wish to address here are some comments that were made earlier in the evening by myself. I talked in second reading about this government frog-marching this bill through the Legislature, and another member took offence at those comments and asked me to withdraw them, and I did, Mr. Chairman. I apologized for any offence, stating that it certainly wasn't my intent to personally offend anybody or any particular group with the words that I had said and then withdrew those words.

Having had some time to reflect and actually do some research on the definition of that word, I would have to say, Mr. Chairman, that I stand by my comments of not wishing to offend any person or any group by using that terminology but do regret having withdrawn that word for a variety of reasons which I will now indicate. If we take a look at *Beauchesne*, which is the parliamentary rules and forms that we use quite often in this Legislature, and we look at 489 under the words that have "been ruled unparliamentary for the following expressions," we don't see "frog-march" there anywhere. If we look, Mr. Chairman, at the freedom of speech . . .

MR. HANCOCK: There could be offensive words that aren't included in that list.

MS CARLSON: And that's true. There could be offensive words, but let me finish my comments, and then certainly the Government House Leader can comment.

If we then look to Freedom of Speech in *Beauchesne* – and I refer members to 75, 76, and 77, which are on page 22 and which come under the heading Privilege – "the privilege of freedom of speech is both the least questioned and the most fundamental right" of members. Then I would refer members to *Erskine May Parliamentary Practice*. Chapter 6 talks about the privilege of freedom of speech, where in the opening comments it states that

subject to the rules of order in debate . . . a Member may state whatever he thinks . . .

And I'm sure in this case they also mean she thinks.

. . . fit in debate, however offensive it may be to the feelings, or injurious to the character, of individuals; and he [or she, I'm sure] is protected by his or her privilege from any action for libel, as well as from any other question or molestation.

So then I would refer members to this small pocket dictionary, the *Collins English Mini Dictionary*, which has only 40,000 entries, which we know, Mr. Chairman, is not very many for a dictionary. What do I find under the terminology "frog"? What I see is: frog-march, a verb, force a resisting person to move by holding his arms. In fact, that was exactly my intent when I used that terminology in my debate before. This government is effectively taking teachers and frog-marching them through this legislation. So that was the intent of what I had to say earlier.

I will definitely in the future reserve my right to withdraw a comment until it has been fully researched because particularly this day in this Legislature we have seen members who support the government's position on this bill trying various tactics to limit the terminology and the words that we have used in this Legislature. I don't want to see that practice continue unless it can be defended with the kind of documentation that we have available to us.

So I will end my comments on that particular point because I have many other very important issues that I would like to address in the few remaining moments that we have, not the least of which, Mr.

Chairman, is the lack of entry into debate we have seen by members of this Assembly who support the government's position on Bill 12. What particularly concerns me is those members who in their lives before politics were, in fact, teachers. I believe and I'm sure that many teachers in this province also believe that when bills come before the Legislature that are particularly applicable to any particular expertise that people who have moved through their role in life, out of a profession and into politics and political decision-making may have had and may still have, it is fundamentally important for those parliamentarians to stand up and be counted and put their comments and concerns on the record in the Legislature so that those who are watching and are affected by the decisions made in this Legislature can see what their opinions were and can weigh those opinions based on their actions. What we have seen here today in this Legislature is very, very few government members actually get on the record. I count one, two, three, four, five in terms of those who participated. Too bad – isn't it? – that only one of those people speaking actually came from a teaching background.

12:10

So, Mr. Chairman, I would ask where the rest of the members in this Assembly were on the record. Why didn't Wetaskiwin-Camrose have anything to say about this bill? We have seen that the government has limited debate. We have only 17 minutes and some odd seconds left, and we see that he didn't have any comments. Why is it that . . .

MR. LUKASZUK: You used up too much time.

MS CARLSON: No, I didn't use up too much time. Your government limited the amount of time that we had to debate on this.

Now, we have one, two, three, four, five, six, seven, eight, nine, 10, 11 for sure members in this Legislature that came from the teaching profession and had nothing to say. I'm wondering why Edmonton-Meadowlark has had nothing to say on this particular bill. I am sure that he has many friends and former colleagues . . .

MR. HANCOCK: A point of order, Mr. Chairman.

THE CHAIR: The hon. Government House Leader is rising on a point of order.

#### **Point of Order Imputing Motives**

MR. HANCOCK: Mr. Chairman, under 23(h), (i), and (j), imputing motives and generally causing debate, the hon. member is supposed to be in Committee of the Whole and supposed to be discussing line by line the sections of the bill. Instead she's using the opportunity to lecture people about their duties as MLAs. The members of this House full well know their duties as MLAs and have spent a good deal of time over the last month and a half talking about this issue. They don't need to be lectured by the hon. Member for Edmonton-Ellerslie on their duties in the House. If she's complaining about lack of time, she should be getting on to amendments to the bill, which is what committee is for; otherwise, she's just wasting everybody's time.

THE CHAIR: Hon. member, on the point of order?

MS CARLSON: Yes, absolutely on the point of order, Mr. Chairman. Given the late time of this evening, the Government House Leader is a little touchy and is finding a point of order where there is none. Had he listened to my earlier comments on freedom of

speech in debate, it states that I may say what I think, "however offensive it may be to the feelings, or injurious to the character, of individuals." So I would state that, in fact, there is no point of order here, and he is simply venting given the late hour.

THE CHAIR: The chair would observe that an important point has been made, whether it's a full point of order or not, and that is that spending the time in committee, where you're supposed to be dealing with various aspects of the bill, and instead reflecting on why other people aren't entering into debate seems to me to at least bring question to the hon. member and her point. So I wonder if you could return to the bill or if you've completed your comments.

Hon. Member for Edmonton-Highlands, you want to speak on the point of order?

MR. MASON: No, but if the hon. member is finished, I would like to speak.

THE CHAIR: No, she's just sitting down so that the chair may amble on.

The hon. Member for Edmonton-Ellerslie on the bill.

MS CARLSON: Yes. Thank you, Mr. Chairman. I take your guidance on this. Certainly we had a visitor in the gallery earlier this evening who, on her way out of the public gallery, asked me how it was that particular members weren't speaking to this bill. I think that it's very important as a part of the outreach to people in the community and bringing back stakeholders' interests – and this particular person was a teacher – that we bring up issues that they have addressed, and one of the issues that was addressed was those who did not speak to debate. Well, in fact, the Government House Leader is trying to limit what I am saying on the bill.

When we are in committee we have a far-ranging debate. We know that there has always been a great deal of latitude given by the speakers and chairmen in debate, and I expect that to continue. I am nearly at the end of those particular comments.

AN HON. MEMBER: Good.

MS CARLSON: Well, they make the members uncomfortable, and that's good, because that was the intent. Certainly I am not going to be the only one asking those particular questions as people in the community review what was said in *Hansard* and who did and who did not participate in the debate, Mr. Chairman.

#### **Debate Continued**

MS CARLSON: I have many, many, many tablings that I would like to put on the record, but given the very short period of time – and I know that there are more amendments that are being put forward tonight, albeit we don't have an opportunity to fully debate them because of the time constraints and closure brought in by the government. [interjection] No. You know what? That's not good enough. In fact, we need more time than just the mover of an amendment to be able to come in here and give a very short summary. We need to be able to fully debate those. We need full participation by both sides of the Assembly.

MR. HANCOCK: So get one on the table, and let's get on with it.

MS CARLSON: We will, and if you were to stop harassing me like this, we would get to it a lot sooner.

In fact, because of the kind of feedback that we've had from

government members here tonight, we're not going to get to all of the amendments we have. Certainly we will be seeing some of those come up in third reading, I am sure, as many as are applicable. I'm sure that those that are not applicable in third reading will be tabled tomorrow, and all of that because this government chooses to bring in closure on a bill that has been debated for less than five or six hours in this Assembly.

THE CHAIR: The hon. Member for Edmonton-Highlands.

MR. MASON: Yes. Thank you very much, Mr. Chairman. I would like to move on behalf of the hon. Member for Edmonton-Strathcona an amendment, that Bill 12, the Education Services Settlement Act, be amended in section 6 by striking out subsection (2).

THE CHAIR: When we receive it, this will be called amendment A4.

MR. MASON: And the clock will restart?

THE CHAIR: Hon. members, usually we give just a moment so that someone . . .

MR. MASON: Is the clock running while this is happening?

THE CHAIR: Yes, it is.

MR. MASON: Then I think I'd better talk, Mr. Chairman. The time is running out, and I have three amendments, and I'm feeling a little bit squeezed here between the government's imposition of closure and other members wishing to dwell at length on certain matters.

I will get right to the point, Mr. Chairman. This will eliminate the section of the bill that says that

the arbitration tribunal must be satisfied that an award can be implemented without an employer incurring a deficit, or if the employer already has a deficit, without incurring any greater deficit, over the period during which the collective agreement has effect.

This is clearly another attempt to load the deck against teachers.

You know, there is all kinds of hocus-pocus on the other side about how this kind of thing actually works. The suggestion was actually made by some members that, well, you know, teachers must have been responsible for deficits going back to the beginning of school boards, because until the government put 4 and 2 in the budget, it obviously had to come out of classroom costs or it had to have come at the expense of a budget. But it's absolute nonsense. The fact of the matter is that school boards always had reserves that were put in place in order to pay the costs of collective agreements, and if in fact those reserves were not sufficient, then they would actually go to the government and say in their next budget that they needed to have a certain amount, and the government always had to respond to the changes in the cost structure of schools and of education. The government always had to respond to those, and they're not just driven strictly by labour costs.

What the government is doing here is effectively saying that unless it's in the budget, the arbitration board can't give it to the teachers, and of course what's going to be in the budget of the school boards is exactly the line item that was given to the school boards by this government in its ill-considered budget of a year ago. So what the government is doing is playing on the public's response, the public's concern about deficit budgets, which rose to their heights under the Conservative government of this province under Mr. Getty. That's where the deficits were. There was no intervening period when there was some kind of socialist or Liberal government that ran up the deficits. It was this party that drove up the deficits in this province.

12:20

Naturally the public is very concerned about deficits, Mr. Chairman. So what are they doing? They are taking advantage of that and saying, "Oh, we can't give the teachers what they want because it would mean a deficit." What it does is it just gets the government completely off the hook financially for any further contribution to education in this province, and that is exactly where the government wants to be: off the hook for education. Well, I'm sorry; they're not off the hook for education because we're here to keep them on the hook.

THE CHAIR: The hon. Minister of Learning.

AN HON. MEMBER: You're not off the hook.

DR. OBERG: Yeah, but at least I'm not a hooker.

Thank you very much, Mr. Chairman. I'll rise to speak to this, and I'll take the Assembly back two and a half years. At that time, in August of 1999, this government, these people that are here, spent \$151 million to bail out the school boards' deficits, \$151 million. We will not allow that to happen again. We will not allow any arbitrator to put in any settlement that will cause the school boards to run a deficit again. That is completely unconscionable to the Alberta public. After that \$151 million – correct me if I'm wrong. I do believe there was an election after 1999, and what were the results of that election? I think we won.

This is a very important part of this bill. What this does very simply, Mr. Chairman, is put into this bill that any arbitrated settlement cannot exceed the school boards' ability to pay. We have allocated numerous dollars to the school boards, an increase of \$245 million this year alone, an increase of 8.4 percent to the school boards this year alone as opposed to 9.8 percent the year before. This is very important, because these school boards cannot be allowed to go into deficit again so we bail them out to the tune of \$151 million like we did the last time. Those are moneys that could be spent for other things. They could be spent in the classroom. They could be spent for more teachers. They could be spent for a lot of different things. That's the whole reason it's here.

Ask the people of Alberta if they think school boards should run a deficit to pay the teachers' salaries. Mr. Chairman, all I would say to the hon. opposition party is: take a look; listen to what people are saying. Maybe they're different people where they live. Listen to what the people are saying. The people that I talk to, the people that this government talks to do not want the school boards to run another deficit like they did. That is why this is in here. It's an extremely important part of this act, and I would urge all members of the Assembly to vote this amendment down.

THE CHAIR: The hon. Member for Edmonton-Highlands on amendment A4.

MR. MASON: Just to briefly respond, the minister is attempting to portray what is essentially a clause to keep teachers' settlements within the range previously set by the government as some kind of deficit prevention mechanism. Nothing could be further from the truth. Obviously, if a deficit is run, the government has a responsibility to provide the school boards with that cost so that there's not an additional deficit. I would contrast the minister's statement of the generosity towards bailing out school boards with corporate bail-outs such as Bovar and others, that made the bail-out of the school boards that he's referred to look like peanuts.

THE CHAIR: The hon. Minister of Learning.

DR. OBERG: Thank you again, Mr. Chairman. I'd like to reiterate that I do not feel that \$151 million is by any stretch of the imagination peanuts. It is taxpayers' dollars. It is people in this room who have paid those dollars; \$151 million is an awful lot of money.

Quite simply, what this section of the act does is limit the responsibility. It allows the school boards to be accountable. It allows for the sustainability of education funding through these arbitrated settlements. I don't think anyone would agree that an arbitrator should go to a school board and say, for example, "Well, we think that teachers should be paid 50 percent more; we think that the teachers should be paid 80 percent more." It has to be affordable. It has to be within the school board's budget, and quite simply that is what section 6(2) does. I will read it.

The arbitration tribunal must be satisfied that an award can be implemented without an employer incurring a deficit, or if the employer already has a deficit, without incurring any greater deficit, over the period during which the collective agreement has effect.

Mr. Chairman, there is one school board in the province that presently has a deficit, but they are in the midst of paying this deficit back. It has been extremely difficult for this school board, but they are doing an excellent job of paying back this deficit.

When I came in August of 1999 and we gave the school boards the moneys to pay off their deficit, that was the start of a new day for the school boards, and since that time they have not looked back. I think it would be a grave mistake for this Assembly to allow school boards to incur another deficit purely because of an arbitrator's settlement. Quite simply, that is what section 6(2) is saying. It is saying that it must be affordable, that it must be sustainable.

Mr. Chairman, the school boards are accountable to their electorate. They are democratically elected, and they're responsible to their electorate. Each and every one of us is democratically elected as well.

AN HON. MEMBER: They are taxpayers.

DR. OBERG: They are taxpayers; absolutely right. They are taxpayers, and they must be accountable.

THE CHAIR: I hesitate to interrupt the hon. Minister of Learning, but pursuant to Government Motion 16, agreed to March 12, 2002, which states that after one hour of debate all questions must be decided to conclude debate on Bill 12, Education Services Settlement Act, in Committee of the Whole, I must now put the following questions to conclude debate.

First the amendment as moved by the hon. Member for Edmonton-Highlands on behalf of the hon. Member for Edmonton-Strathcona, known as amendment A4.

[The voice vote indicated that the motion lost]

[Several members rose calling for a division. The division bell was rung at 12:28 a.m.]

[One minute having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Bonner	Mason	Pannu
Carlson	Massey	

12:30

Against the motion:

Abbott	Fritz	McFarland
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Ady	Hancock	Oberg
Broda	Herard	O'Neill
Cao	Horner	Ouellette
Cenaiko	Kryczka	Renner
Coutts	Lord	Smith
Danyluk	Lougheed	Snelgrove
DeLong	Lukaszuk	Stelmach
Ducharme	Lund	Stevens
Dunford	Maskell	VanderBurg
Evans	Masyk	Vandermeer
Friedel	McClelland	Zwozdesky
Totals	For – 5	Against – 36

[Motion on amendment A4 lost]

THE CHAIR: The next question to come before us, then, is the question on the bill itself, Bill 12, Education Services Settlement Act. On the clauses of the bill are you agreed?

SOME HON. MEMBERS: Agreed.

THE CHAIR: Opposed?

SOME HON. MEMBERS: No.

THE CHAIR: Carried.

[Several members rose calling for a division. The division bell was rung at 12:33 a.m.]

[One minute having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Abbott	Fritz	Oberg
Ady	Hancock	O'Neill
Broda	Herard	Ouellette
Cao	Horner	Renner
Cenaiko	Kryczka	Smith
Coutts	Lord	Snelgrove
Danyluk	Lougheed	Stelmach
DeLong	Lukaszuk	Stevens
Ducharme	Lund	VanderBurg
Dunford	Masyk	Vandermeer
Evans	McClelland	Zwozdesky
Friedel	McFarland	

Against the motion:

Bonner	Mason	Pannu
Carlson	Massey	

Totals:	For – 35	Against – 5
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[The clauses of Bill 12 agreed to]

[Title and preamble agreed to]

THE CHAIR: Shall the bill be reported? Are you agreed?

SOME HON. MEMBERS: Agreed.



THE CHAIR: Opposed?

SOME HON. MEMBERS: No.

THE CHAIR: Carried.

The hon. Government House Leader.

MR. HANCOCK: Thank you, Mr. Chairman. I'd move that the committee rise and report Bill 12.

[Motion carried]

[The Deputy Speaker in the chair]

MR. LOUGHEED: Mr. Speaker, the Committee of the Whole has had under consideration and reports Bill 12. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

THE DEPUTY SPEAKER: Does the Assembly concur in this report?

SOME HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed?

SOME HON. MEMBERS: No.

THE DEPUTY SPEAKER: So ordered.

The hon. Government House Leader.

MR. HANCOCK: Thank you, Mr. Speaker. At this time I would move that we adjourn until 1:30 p.m.

[Motion carried; at 12:40 a.m. on Wednesday the Assembly adjourned to 1:30 p.m.]

