LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS
Tuesday, March 6, 1990.

TIME — 8 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Parker Burrell (Swan River)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Mr. Enns, Hon. Mmes. Hammond, Oleson

Messrs. Ashton, Burrell, Cowan, Edwards, Evans (Fort Garry), Maloway, Patterson, Praznik

WITNESSES:

Mr. Dennis Atkinson, Private Citizen

MATTERS UNDER DISCUSSION:

Bill No. 31—The Labour Relations Amendment Act

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Mr. Chairman: Order, please. I call the Standing Committee on Industrial Relations to order. This evening the committee will resume hearing public presentations on Bill 31, The Labour Relations Amendment Act. If there are any members of the public who would like to check and see if they are registered to speak to the committee, the list of presenters is posted outside the committee room. If members of the public would like to be added to the list to give a presentation to the committee, they can contact the Clerk of Committees and she will see that they are added to the list.

If we have any out-of-town presenters or any presenters who are unable to return for subsequent meetings, please identify yourselves to the Clerk of Committees and she will see that your names are brought forward before the committee as soon as possible.

Just prior to resuming public presentations, did the committee wish to indicate to members of the public how long the committee will be sitting this evening? What is the will of the committee? Mr. Ashton.

* (2020)

Mr. Steve Ashton (Thompson): We, I believe, sat till 10 yesterday, but I suggest that if we need a few extra minutes or thereabouts, we can sit past that. We can set a general target of ten o'clock.

Mr. Chairman: It is the will of the committee to aim for ten o'clock? (Agreed)

This will be the order of the presenters: Mr. Dennis Atkinson, No. 50 on your list; Mr. Robert Hilliard, No. 52; and Mr. Hugh McMeel, No. 56. We have Daryl Reid on deck.

Mr. Dennis Atkinson, please. Mr. Atkinson, do you have a written presentation?

Mr. Dennis Atkinson (Private Citizen): No, I apologize for not having.

Mr. Chairman: Oh, no, that is fine. It is just that we distribute it first. Then just go right ahead. Could you pull the mikes in a bit so that we can hear you? Thank you.

Mr. Atkinson: Mr. Chairperson, I would like to begin by saying that I have been involved in a great many negotiations and labour disputes since 1978, which was my first experience in terms of negotiations. My own organization which I work with has somewhat of a reputation for being perhaps hard-nosed bargainers, but at the same time having been involved in, I suppose, an off-shoot of being hard-nosed bargainers, a great many companies which have reputations as hard-nosed bargainers. We have taken a great many strikes and lockouts over a fair number of years.

I would also like to say, Mr. Chairperson, that I have been a fair supporter and a strong advocate of anti-scab legislation. Because of my experience in this labour-relations field, and since I gather the Bill that we are discussing tonight is final offer selection, my experience with that in the last two years might suggest that it is certainly the answer to what society needs in Manitoba, a society that requires and demands and desires a rather stable labour-relations climate. I think that has given that to us in the last 26 months, and I think that has been demonstrated by the facts over that 26-month period.

I do not think this Legislature wants the reputation, I might suggest, of managing or controlling labour relations. Rather, you would want to stimulate collective bargaining and provide the legislative atmosphere that stimulates that kind of collective bargaining which culminates in rather amicable collective bargaining. So I say that you do not want to provide legislation that provides managing nor controlling, but more one of stimulating and motivating parties to get together. I think that since January 1988 final offer selection has certainly demonstrated that.

I will be getting into a few examples of which I am fairly familiar with from my own organization's point of view. My understanding is that of 59 applications dealt with to date, only five have actually been settled by selectors' decisions. Now I think that should tell everyone that 54 applications out of 59 were not settled by final offer selection but only stimulated or guided by that legislative process and that system that essentially brought both parties together to reach a reasonable resolve on their own.

* (2025)

I want to harken back to a few situations that I am very familiar with that this committee may not be familiar with, the Export Packers' strike in the fall of 1982 and the winter of 1983. There we were dealing with a company that was essentially—their head office out of Toronto took a very tough line, the company did, in terms of bargaining, and it resulted in a strike. The membership was not prepared to accept management's very hard-line position in terms of wages and benefits.

You have to remember what was going on in 1982, the fall of 1982. We were dealing with the 6 and 5 federal guidelines, and at that time, in the fall of 1982-83, they were called guidelines. The membership was not prepared to accept—now this bargaining began in the spring of 1982, well before these guidelines were resurrected or whatever out of so-called—from the federal Government in the spring of 1982. I believe it was June 1 or July 1 of 1982 in which the 6 and 5 came out.

Bargaining proceeded through the spring and the summer and the fall of 1982. The company armed themselves with this 6 and 5 guideline. I was dealing with a membership that was not prepared to accept that and a strike resulted. It was a six-month strike. The company hired replacement workers. The strike was not broken, but the membership finally decreed after six months that they were no longer interested in working for that employer. There were only 48 people involved in that strike. That employer did not successfully replace those workers, but was prepared to do anything in his power to take on those workers.

There were a lot of ugly incidents on that picket line. Those of you that recall, there was one picketer that was, I guess, rather tragically injured, did not die, but I spent a great many weeks in the hospital. A lot of what you would call picket line violations, a lot of horrible incidents. Those workers certainly could have used something like final offer selection. I think this province could have used the final offer selection process in order to avert a whole lot of ugly incidents on that picket line.

The second example I would like to give you is at the same time, the J.M. Schneider strike of 1982 and'83 lasting from October'82 to February of'83. Once again, it was probably precipitated by these so-called 6 and 5 guidelines by the federal Government. Bargaining began in early spring of 1982. It became apparent from the outset—and maybe I should bring the committee back to what they term to be pattern bargaining. It is not unknown in a lot of industries and a lot of so-called professions or careers or businesses such as the police, the firemen, where police and firemen follow patterns that are set in other provinces, other jurisdictions. Such was the same in the packing house industry and has been and still is to a certain extent. I will elaborate on that further.

In the spring of 1982, there was a settlement reached by the major packers, a settlement that certainly followed pattern bargaining since 1947, a very long time. Schneider, their local plant here, had followed that pattern bargaining in terms of settlements with some variations within each collective agreement; most packing houses right across Canada had followed that.

* (2030)

In the spring of 1982, that pattern had been set by the major packers, those being Canada Packers, Gainers, Intercontinental Packers and Burns. That was also being followed by some of the smaller packers in Quebec and Ontario, western Canada. Schneider presented a resistance to that pattern bargaining. That bargaining began in April of 1982. June 1, I believe it was when the 6 and 5 guidelines came down. At that time Schneider said, well, now we have a real reason for saying no to that pattern bargaining. At that time settlements in that packing house sector—they may sound rather incredibly large in terms of 11 percent settlements. That is what that settlement was in the spring of 1982.

Schneider met that and said no, all you are going to get is 6 percent. The strike precipitated. A strike that probably would not have been necessary had we had final offer selection at that time because there is no doubt with the present legislation, albeit Mr. Edward's proposal of this afternoon at one o'clock might change that. Certainly, with my agreement, the suggestion in the legislation is that the final offer selection process would look at other collective agreements, other settlements in the industry, as well as looking at what the employer could bear. There is no question that in 1982 the packing house industry across Canada was in a reasonably healthy position, not like the state of decline that they are in at present in terms of overcapacity, at any rate.

At that time in 1982, there was no reason at all why Schneider could not have followed the pattern bargaining, the pattern settlements that have been reached as they had for many years in the past.

It was only with the argument of the 6 and 5 guidelines to which they held on. Schneider's head office in Kitchener, Ontario, at that time hired a person by the name of Jack McNichol who had assured them that he would be able to break the industry pattern bargaining in their negotiations in the Winnipeg plant. We negotiated all summer. We went through the conciliation process, and in September of 1982, Schneider's flagship plant in Kitchener, Schneider's Kitchener operation, settled at the industry level, the pattern bargaining settlement of 11 percent.

They felt they had a small plant here in Winnipeg of 150 people, and Mr. McNichol convinced the Kitchener head office level management that he would be able to break that pattern bargain. It was more or less a take-it-or-leave-it position. A strike took place in October of 1982, not that the workers wanted it, but the workers were not prepared to settle for less than the people who had settled at 11 percent across the street who had settled for four months previously, nor were the people at Burns who had settled three months previously at 11 percent. Why should they who were doing the same jobs settle for less? But Schneider insisted.

* (2035)

Well, the strike dragged on for four months, and it was not a happy situation. Schneider did not attempt to hire replacement workers as is the norm in some industries, some sectors, but in early February of 1983, the strike was still on. Schneider then came to those people and said, if you do not accept 6 and 5—we are tired of your strike—if you do not accept it, we are closing the plant for good. Those workers still stayed out on strike. They rejected the 6 and 5 a second time. Schneider posted notices on the perimeter fence along the picket line—this plant permanently closed.

Well, two weeks later, the workers voted again and voted by a narrow margin to accept at 6 and 5, less than they had settled for across the street, less than they had settled for down the street, less than they had settled for across Canada.

Schneider's management, by the way, within a month following that strike, was so embarrassed perhaps by what had taken place during the strike, because there was a rather large boycott going on right across Canada. Our union had promoted a boycott and it had been picked up by a large majority of the labour movement and working people who were not buying Schneider's product. Schneider's management was so embarrassed by this situation that they, because Schneider happens to be a good employer, fired this Jack McNichol. He no longer worked with them shortly after the end of that strike. Schneider is a good employer and does not want to see that any longer.

To this day, Schneider has maintained pattern bargaining, except for that one glitch, a glitch that would have been solved through this own legislative process. Okay, a process that says the factors that you look at would be what is going on in other collective agreements in the same industry, what wages rates are being paid, what settlements are being arrived at, and the company's ability to pay. There was no question at that time Schneider was not talking about this plant losing money, not at all.

The third example I would like to raise from my own personal experience is Burns Meats, both in Winnipeg and Brandon, 1984. I do not think that—well, those of you that are particularly from the Progressive Conservative Caucus here tonight understand what is going on in the beef industry. We have had a rather large layoff at East-West Packers. In fact, with the layoff at East-West Packers there is only one beef slaughterhouse right now in this province and that is in Burns, Brandon, and they are this week only killing two days slaughter this week. I mean, there is no beef in this province.

That plant in Brandon is negotiating this spring and may be forced into a situation like they were in July of 1984 where Arthur Child, who is the president and chief executive officer—although I am not sure about the title, but those of you that know Arthur Child or heard of the name—is still responsible for the Burns Meats operation.

Arthur Child, in 1984, in those negotiations—and we are still in a matter of pattern bargaining, what we call the master agreement bargaining, Burns, Canada Packers, Gainers, Intercon, because at this time Swift's was no longer an entity in this country—took it upon himself to be the saviour of the packing house industry. Not of the workers, not of the communities that relied on them, but of the industry, because at this time following 1982-83, there was developing a certain amount of overcapacity in the industry.

* (2040)

Arthur Child said to the Burns workers, I want a $2.50 an hour rollback. You are talking about people on the leading edge of the industry, people on the leading edge of the sweat and toil of people who produce food in this country, and they were not about to accept $2.50. Arthur Child knew damn well that they were not going to accept $2.50 an hour rollback. He knew that and knew that he was precipitating a strike.

We were not exactly sure why Arthur Child took that position because this is the first time in Burns' history where they had ever led a strike. Canada Packers and Swift's had always led strikes. Burns had never been on strike before. From 1947 until 1984, never a strike in the Burns chain, but Arthur Child said, there shall be a strike. The strike started July 1. On July 8 he closed permanently his Calgary operation. Those workers who had by contract severance pay and vacation pay owing to them, were told by Arthur Child, sorry, your plant is closed permanently. I no longer wish to operate in Calgary.

The rest of the packing house industry continued on. Canada Packers went out on strike in late July and early August across their chain in 1984. They received a settlement in late August of 1984. Arthur Child continued his strike and offered his Kitchener plant workers a settlement they could not accept, and said: If you do not accept, I will close you down permanently. Now, mind you, both facilities in Calgary and Kitchener were rather aging facilities, not that Arthur Child could not afford to pay a little money into it to upgrade those facilities. Those facilities closed permanently, both Kitchener and Calgary, not as a result of a strike, not as a result of action workers took, but as a result of action Arthur Child precipitated, initiated and in fact wanted.

Arthur Child has now three slaughter and processing houses, one in Lethbridge, one in Brandon, and one in Winnipeg, the flagship. In fact, the one in Winnipeg does all their processing. I would suggest to the Members of this committee they be very careful about what is going to be happening in the spring and summer of this year in the Burns Brandon plant, because Arthur Child is still at the helm, and without final offer selection you will see another 1984 where one of those plants will close, Lethbridge or Brandon. I do not think that he is above taking a strike and forcing a strike in the Winnipeg plant, because the man is not above trying to prove his point.

* (2045)

The last example I give you took place in the fall and the winter of 1986, Smitty's Family Restaurant in Transcona on Regent Avenue. My union organized Smitty's Family Restaurant at the request of those

employees, by the way. They wanted to join a union, and this was the year prior to, in 1985, when we were able to exact, and I say exact, a first contract from that employer. Smitty's had a reputation, at the same time as we had organized the Transcona restaurant, of closing their Dauphin restaurant, their Dauphin facility, because their employees had organized into a union.

We got a first contract, a one-year contract in Transcona in the Regent Avenue restaurant. You have to remember that the restaurant trade is not a hot bed of union activity. I do not know why; maybe it is because people are willing to work for $4.75 an hour and long hours and very few benefits, but every now and then one of those employee groups in a restaurant says, let us join a union. Well, they did in 1985 on Regent Avenue.

They got a first contract mainly because of legislation, first contract legislation, a one-year contract. We began negotiating for a second contract. Smitty's refused to bargain seriously on a second contract, and I suppose they had good reason, because most of the restaurant facilities in the area and around the city and around the province and around the world are unorganized. They used that.

Not that those employees were asking for a wage that was incredibly larger than—I mean, we were talking about pennies. We were talking about benefits. We were talking about job security. We were talking about seniority provisions in that collective agreement at Smitty's. What Smitty's was doing in those second contract negotiations was attempting to get rid of all those. Never mind wages, never mind benefits; let us get rid of seniority, let us get rid of job security.

Those employer demands told us one thing. They wanted a strike, and a strike took place. I remember in 1986 in the fall and the winter we did not have final offer selection. We did not have anywhere for those people to go. They had to go on strike or accept what would be termed to be gutting of a traditional normal collective agreement.

While my union loses a few strikes, employees say, look, let us end this strike. They are tired of dealing with an employer they no longer wish to work for, and that can follow six months, 12 months of being on a picket line and attempting to get to a bargaining table where the employer does not wish to deal with them on a reasonable basis.

Just a few comments on at least one other presenter who has been here, and I am not sure whether this committee tolerates comments on other presenters' presentations. There was one—well, perhaps I do not have to talk about what he presented here because it was well published in the media—but his remarks really disgusted me. He cast aspersions on every working person. He insulted this legislative body. He suggested that the economic future of Manitoba was in grave danger because of The Labour Relations Act and particularly final offer selection in this province, the economic future of this province. Now, how irresponsible a suggestion. Why would someone say that?

* (2050)

He talked about having personal contact with eight or 10 companies who had wanted information on relocating in this province. I do not know why they would have contacted him. I never had any personal dealings with him, and in fact very few of the people, my colleagues, have had any contact with him, so I do not know what credibility he has. To get in front of this committee and suggest that eight companies have contacted him and they are no longer interested because of what he had to say, in locating in this province. He said, if there is some other province that would better suit your marketing needs, do not go to Manitoba.

This is not a place to advise business to locate because of a Labour Relations Act and particularly final offer selection. Does the record say that? In terms of final offer selection, in the last 26 months have we had any suggestion that final offer selection will cast this darker cloud over the future of the economy in Manitoba? Where did these companies go? Do they go to Alberta? Is that where they located? Or perhaps Saskatchewan, a much better labour relations climate. Maybe the Maritimes, another hotbed of economic activity. North Dakota, a good right to work state, another hotbed of economic development. No, they likely located in Quebec where they have anti-scab legislation, or perhaps in Ontario, with probably the most progressive plant-closure legislation in Canada.

No, I really do not buy Robert Watson's arguments. I cannot see anyone in this legislative committee buying those arguments. No, those comments are an affront to the workers of this province, not only an insult to this Legislature, but they are a dangerous and irresponsible attack on the future of this province.

It is not final offer selection that we should be talking about repealing and get rid of. We should be rid of the Robert Watsons of this province. Thank you, Mr. Chairman.

Mr. Chairman: Thank you, Mr. Atkinson. Are there any questions? Mr. Cowan.

Mr. Jay Cowan (Churchill): I missed part of your presentation. I apologize, although that which I heard I found to be very informative and in keeping with that which we have heard from many other individuals in Manitoba who are associated with the labour movement and who are activists within their own unions or labour organizations. We have heard a lot of different criticisms of final offer selection.

Mr. Chairman: Excuse me, Mr. Cowan, would you pull your mike up a bit? I cannot hear you at all from here.

Mr. Cowan: We have heard a lot of criticisms over the last little while about final offer selection. I would like to ask for your comment on some specific ones from your perspective as someone who has worked within and operated within the labour movement for a number of years. First, before I ask the question, I might ask how many years you have been involved in a professional way in the labour movement, and how many years you have been involved in a volunteer capacity? How many contracts have you been, an approximate number, involved with over those number of years directly?

Mr. Atkinson: My involvement with the collective bargaining process began in 1972 when I worked at Canada Packers. I was involved in their master negotiations, in what we called national negotiations with that chain for the first time in 1978. That was on a personal basis, as part of the bargaining team, of the national bargaining team. That was my first experience with a strike and a lockout, in 1978.

In 1979 I administered or looked after a strike at the Canada Packers poultry plant as well as assisted in the small packers strike of the same year. I began my full-time service in a position similar to what I have now in February 1981, and in the spring of 1981 encountered my first strike at Federated Co-op.

In fact it is always a rather embarrassing point for people such as myself; it is your very first negotiations that you are absolutely, solely responsible for, where you have your first taste of a strike, not that others have not felt that. That was an eight-day strike in the spring of 1981. Following that, my biggest test, I guess, personally was 1982 and'83, Export Packers and the J. M. Schneider strike.

Pardon me, Mr. Cowan, I would say approximately 42 negotiations that I have been personally responsible for or assisted in since at least February, 1981.

Mr. Cowan: Out of those since February of'81, how many have resulted in strikes or lockouts?

Mr. Atkinson: That I have been personally involved in, eight.

Mr. Cowan: Have you used final offer selection at all?

Mr. Atkinson: Myself, personally, only on—no, not in any of the situations that I have been involved in. I assisted during the 1988 Fisons Western Peat Moss strike, assisted in the administration of that strike and the final offer application in August of 1988 in that strike.

Mr. Cowan: We have heard a lot of hardship from individuals who have been involved in strikes, personal hardship, economic hardship, family hardship, and it is obvious that individuals who take the decision to strike do so quite seriously and are advised, at least they told us they were advised, by their unions that the strike was not going to be an easy part of their life, that it was going to be very difficult. Yet there are some who would suggest that final offer selection should be made mandatory for employers and employees which would effectively remove the right to strike or could remove the right to strike for employees who had employers that wanted to impose final offer selection on them.

Now, we know that strikes are not a very nice thing, nor are lockouts, and we know they create hardship. What would be your union's position with respect to the suggestion by some that the system is unfair and unbalanced because only employees can effectively, democratically impose final offer selection while employers can only suggest it?

* (2100)

Mr. Atkinson: I can tell you what my union's response would be. I can tell you what my response would be, and it is not going to be any different than what the members that I represent would say. Do not ever restrict my right to strike. Provide me with a process that enables me to conclude a reasonable and rational collective agreement, a settlement that would serve both parties, and there will not be any need for a strike. Do not ever restrict a member's right to strike.

I look back, and probably one of the hardest and bitterest, I guess, from my own personal point of view, and those members, was the Schneider strike of 1982-83—four months and what they went through over Christmas, and then faced with a plant closure—and still saying, in spite of having a letter signed by the employer, saying if you do not accept this on February 8, 1983, this plant will close permanently, they still rejected it. You talk to those members now—and by the way, a psychologist suggests that it takes about eight years, depending on what is going on in a plant and the state of labour relations in a plant. When a strike takes place, I read, I am told that it takes about eight years normally before a membership is adamant, militant, determined to face an employer on a picket line. Eight years. I am not sure what happens within that eight years without a process like final offer selection if an employer wishes to take advantage of them.

Back to your question, Mr. Cowan, I do not think that there are any members that I represent that, as much as they would not want to go on strike, would want to have their right to go on strike restricted by having a process that would enable management to restrict their right by a legislative stroke of the pen.

Mr. Cowan: How do you answer the criticism then, Mr. Atkinson, that final offer selection tips the balance, that there is a balance in the labour relations legislation out there now that provides for a fairly equal sharing of power, that final offer selection, by giving the veto over whether or not it will be used to the employees and the employees alone, upsets that particular balance? How would you address that particular criticism?

Mr. Atkinson: I am not sure that there is a particular balance in the weight of employees or their unions at the present time. Strikes take place, and ordinarily strikes do not take place where workers know their employers can easily replace them. In fact, the best situation in terms of where you have collective bargaining that breaks down or an intolerable industrial relations climate within a plant or given bargaining unit, sometimes a strike perhaps should take place.

In fact, that was Canada Packers psyche, management psyche, that every now and then they had to take a strike, and they did it. It was a conscious decision, because they sensed that there was a state of unrest amongst their workers, that they had to show that they could take a strike, that they had to demonstrate that their employees had to lose some money. Strikes take place from a worker's point of view as an economic fight between them and their employers. Their employer cannot operate, and they do not get

a weekly or an hourly rate. That is a worker's perception of a strike.

When a plant can operate, that might suggest that there is a balance of power, or an imbalance of power—a balance of power on the side of the employer. If he can readily operate his plant through replacement workers or scabs, then that is an imbalance within the labour relations structure, process. There already is and exists that power for management to operate. If this Legislature would ever consider introducing anti-scab or anti-replacement worker legislation, I would certainly be receptive to it. That might certainly balance out what I consider to be a potential and ever-growing imbalance in the process, but with respect to final offer selection, I do not consider the right of workers to refuse or the right of workers to reject the process to be an insurmountable imbalance.

It is not imbalance in my mind. It is a right of a worker to take that kind of action. Just as it is the right of an employer to lock those workers out, it is the right of an employee to withdraw his services. So I do not consider the fact that employers do not have the right to say nay. My God, if employers had that right, that would then eliminate the right to strike, and that would be tantamount to insurrection inside some of those plants. Those workers would not want to look forward to collective bargaining without having that right to withdraw their services, not that they want to, but they have the right.

Mr. Ashton: You raise some interesting points, because what has happened in, for example, Australia, where there has been compulsory arbitration for many years, is that people still go on strike.

Mr. Chairman: Mr. Ashton, would you pull your mike over closer to you, please?

Mr. Ashton: My apologies, Mr. Chairperson. So essentially, what you are saying would be the concern here, has been played out there, that when you take away the right to strike in a legal sense, people still feel the need to exercise it. What, I guess, we are essentially talking about, in terms of final offer selection, is providing alternative, a fair alternative. One that is not particularly biased one way or the other, but does provide an alternative. So I take it by your remarks, essentially you are saying that is the beauty of final offer selection as it stands. It keeps the right to strike without taking away the right to strike.

Mr. Atkinson: I think, Mr. Ashton, what would happen, if you restricted a worker's right to strike during collective bargaining, you would probably promote inside the workplace an atmosphere of unrest during the term of a collective agreement. It would not take too many arbitrated or imposed settlements where workers may be dissatisfied, and I think, during the term of that collective agreement, you would find a great deal of unrest. You may even find what would be termed to be illegal walkouts, work stoppages, job actions out of frustration to a certain extent, not because of perhaps the settlement so much but because something that did not take place during collective bargaining would have to take place later on.

* (2110)

Mr. Ashton: In fact, I think that is an important observation. I appreciate your giving your perspective to this committee. I do believe one of the tremendous things that has happened with these committee hearings is we are getting a perspective that perhaps a lot of people on this committee have never really had in terms of what happens out there, in terms of negotiations. You outlined some particularly tough ones you have been through. I think that is important.

I just want to ask you. You brought your experience to this committee. A lot of people have brought their experiences to this committee. I have asked people throughout these committee hearings if anyone has really been asking to try and get some idea what level the consultation is. Let us take yourself, let us take your union. Has the Minister of Labour (Mrs. Hammond), for example, the Conservative Government which is so anxious to repeal final offer selection, taken the time to really ask for your union's opinions, your opinions on this? I do not mean just in terms of formal presentations.

I know the Manitoba Federation of Labour has made presentations to the Minister. I am talking in terms of what has happened—you mentioned in terms of Fisons, for example. To my mind that would be the classic case study of whether final offer selection works or not. We have had people come before this committee and say that is the best example of how it does work. I just want to ask really, has anybody taken the time to ask you?

Mr. Atkinson: Well, with all due respect to the Honourable Minister—I have the unique opportunity as Treasurer of the Federation of Labour also to meet on rather regular occasions and certainly voice my opinion, but no, I have to admit that outside of those opportunities no one has approached my organization to ask our opinion of whether or not final offer selection has been working. No one has approached us to survey our members who have been in strike situations or collective bargaining situations, whether or not on strike or not is irrelevant, whether or not they would have used or whether or not it could have been used or how good it was. No one has ever requested information in that aspect.

Mr. Ashton: The reason I am asking the question is because here we have a Bill that been put in place for a five-year period. It was put in place on a trial basis. It is new and innovative. I think everybody recognized that in 1987. Throughout these committee hearings we have heard people come forward such as yourself, individual after individual, people who have been involved at whatever level as a member of a union, member of the negotiation committee, member of and executive, staff representative for the union, whatever level, and they have been saying that final offer selection is working. You are saying that this Government has not taken the time, despite the fact there has been two years, just over two years worth of experience to really seriously look at what has been happening out there.

Mr. Atkinson: No one has, and I am not sure whether I really anticipated anyone from either the Liberal or

the Conservative Caucus would have asked for even some contact with people who had been through the process. Quite honestly, a lot of members do not understand what is going on. In spite of the fact that we talked to them about it at a membership meeting, and going back to the Fisons situation, every Friday morning, at a membership meeting with those workers. They could not understand, when we applied for final offer selection on August 5, why it took until August 25 to get off the picket line, why their strike did not terminate in accordance with the regulations as we read out to them at membership meeting after membership meeting on Friday morning.

It was only due to the intervention by an employer and his lawyer, Grant Mitchell, who went to the Labour Board and the result of that was that they withdrew their case before the Labour Board hearing. It was a three-week delay in the termination of that strike. No, no one has ever asked our workers, our members.

(Mr. Darren Praznik, Acting Chairman, in the Chair)

Mr. Ashton: We are at the situation now where we have been in these committee meetings for a couple of weeks, and now the suggestion is being made by one of the Parties that was originally very hawkish on this, that perhaps they have been listening.

I would just like to ask for your opinion, because I know you did mention briefly in your opening remarks, but the suggestion has been made that somehow we should pass the current Bill, proclaim it at the end of this year, conduct a review that will then come in six months after the Bill has been repealed, and that somehow this is going to give final offer selection a fair chance.

I am asking this question, it is frustrating I must tell you, because we sense maybe there is a bit of change of heart from the Liberals to a certain extent, but I have yet to figure out how you can really give something a chance by killing it first and then after you have killed it, say that you want to resuscitate it.

I think any doctor that suggested that you do that with a patient would be subject to a malpractice suit rather quickly. I am just wondering what you think of that particular suggestion and if you have any alternate suggestions on how we can give final offer selection a fair review, and as I said now under the current situation with a suggestion that we somehow kill it first, and then if we want to, revive it six months later.

Mr. Atkinson: You talk about killing the baby and then try to put a diaper on it. I do not know what motivates this situation. I understand that two of the Parties are on record as stating they are going to repeal the legislation.

The fact is we have had 26 months, we have had 59, my understanding is, applications dealt with to date, there are approximately another 15 to be processed to date and there was a Liberal suggestion today that perhaps another 10 months would be sufficient to review that situation rather than a full five-year term. I mean in saying that, any suggestion that a review takes place after the repeal of the legislation or the end of the process is ludicrous, is absolutely ludicrous.

I mean, if you are going to review it—I suppose to a certain extent you have had a two-week review of it, albeit as a matter of public presentation. You have never really had an investigation or an inquiry into everything that went on from an impartial point of view. I am not sure whether any review process could be impartial, but any review process that takes place should take place, must take place, while the legislation is still in effect.

I mean, if you are going to suspend the legislation, if you are going to suspend the process while a review is going on, and then suggest after six months, well, it proved that over 36 months it was fine, let us carry it on, what happened in the six months while the review took place? Do those people, those workers, those companies—does a strike go on six months? Are settlements arrived at that are totally unreasonable? My God, what is some suggestion that a review takes place after a process is suspended? And that is not saying that 36 months is adequate.

* (2120)

We had 60 months to begin with. Now I understand that 60 months might have been too long for certain interests in society, and there is no doubt that employers that I deal with do not have any desire to be involved in final offer selection, particularly in some industries where they know those employees, never mind do not want to go on strike, are prepared to accept. What happens when the workers do not want to accept?

Those employers are demanding from certain political Parties in this Legislature—and Burns Meats being another one, I alluded to it before, 1984. You will see a repeat of it in Brandon this spring and summer. There is no question in my mind that Arthur Child will be playing off Lethbridge against Brandon. Whoever takes a softer settlement will remain open, the other one will close—no justification. There is a meat settlement coming down in Alberta, it is being done right now. Arthur Child has no justification for playing that kind of a game.

In 1991 there will be 700 people at Lagimodiere and Marion Street, a repeat of 1984, Arthur Child taking position. 1991, they will not have final offer selection as some Members are proposing to date a three-year sunset clause. Well, Arthur Child does contribute to certain political Parties and those political Parties are listening to Arthur Child and Burns Meats, and those Burns Meats workers in 1991 may remember, and then again they may not; they may remember before. No, 36 months is not enough time. Quite honestly, three years ago I was rather astounded that 60 months was enough time—five years. While I was assured that there would be a review process well within that 60 months, and that if the legislation was working, that it would remain in accordance with the Government of the Day. Now that is being shortened to 36, and no review within the 36 months. That is disgusting, to say the least.

Mr. Ashton: I think the proper analogy is closing the barn door after the horse is out of the barn, in this particular case. You have a major concern. After all, the talk about the packing industry—I do not know if

I want to talk about horses and barns. Maybe that analogy is a little bit too close to home, so I will maybe switch off here somewhere into another area, but I do think you raised a very important point. This something we will be continuing to raise. It has been very clear that there has not been a process of review. Really, we are being faced with two options now. One Party is suggesting, kill it without any review, and another Party is saying, kill it and then review it after the fact.

I can tell you what our position is. First of all, we do not think it should be killed. The logical thing to do is review it first. If it is working, save it. But quite frankly, if it is not working, I suppose we would be arguing for the repeal. I think that is why the sunset clause was put in in the first place, in recognition of that, although as one who in 1987 and one who many years prior to that was in favour of final offer selection as an option, I quite frankly sit here three years later and feel I can say I told you so. It has been interesting throughout these committee hearings hearing people, whatever their opinion was in'87, say it is working. So I appreciate your comments.

I want to go a little bit further, because we are seeing day by day in this committee, hour by hour, presentation by presentation, this great monolith that was put up in front of those of us who have been trying to save final offer selection being destroyed, pulled apart brick by brick. We heard for example that final offer selection lengthens strikes, that the 60-day window in particular would lead people to go out and strike, all the loss of income, all pressures they have from a strike, so they could access final offer selection 60 days into a strike, a provision that is there under the current legislation that could be accessed before any strike ever takes place.

(Mr. Chairman in the Chair)

You mentioned your experience in terms of Fisons, because I think that is probably the best example of a case in which final offer selection—well, there were a couple of other cases—and the 60-day window come into play. I just want to ask you, in your experience—and you have been involved in a number of negotiations—you have obviously had to make some pretty tough recommendations to the membership at times. Do you, in any way, shape or form see any sort of scenario under which you would go and say, okay, let us go on strike for 60 days, let us sit out, do not worry about it, we can access final offer selection after 60 days? In fact, if you ever said that, I would like to ask for what you think the response would be from the membership?

Mr. Atkinson: Two situations that I am familiar with. That is the Fisons strike and the small packer strike of 1988, the fall of 1988. In both situations, both memberships were adamantly opposed to using final offer selection. In both situations, both memberships felt—and in spite of what advice or counsel we as their union negotiators can offer. Quite often union memberships will tell you to go fly a kite. In both those situations that is somewhat the way things happened. But in the Fisons situation, which was rather unique, as we are dealing with a rather rotten strike, I guess, there were replacement workers hired albeit the company was operating not too successfully, but a lot of ugly situations on a picket line.

I think one of the TV news broadcasts covered some of that situation in the summer of 1988 quite succinctly on their broadcast when they were covering Mr. Edwards' proposal for the 36-month sunset clause with a review after. That flash really brought it back to mind, and I have tapes in our office. We do not review them very often, but they are there. What took place was a rather ugly situation on a picket line, not because they were producing, not because workers were worried about their job, but because they were damn pissed off because somebody was taking their jobs, albeit not very successfully and not very productively. There was a lot of court action going on. To date that has cost our organization in the neighbourhood of $35,000 in legal costs. A two-month strike, well, as it turned out a little longer than that because of an intervention by the employer.

* (2130)

At any rate, getting back to that, in late July, we were approaching the window so-called, and these workers were adamant about staying out. We had suggested the possibility of applying for final offer selection 60 days into the strike. It probably was not until the employer suggested that they were going to close down for a year that the workers said, well, maybe what we should do is apply for final offer selection, take whatever settlement comes out of that selector, have the strike finish, at least we are eligible for unemployment insurance because we are not on the picket line. Because that employer had stated, we will close down the plant for a year.

You have to understand the industry. It is a peat moss outfit, and they harvest in the summertime from late May into September, October, depending on the weather. They have to strip this stuff off the field, out of the peat bogs. You cannot do that in the wintertime. Had the strike dragged on into the fall, there was no point in the employer, as the employer stated, no point in us operating. We have no peat to bag; if we have no peat that we have harvested through those combines, there are no jobs for you people.

Then the suggestion of final offer selection became a reality. It was almost at the promotion of the employer. At any rate, the employee group agreed. We do not apply unless the employee group suggests that we should. This is before the vote because there has to be a secret ballot vote on whether or not they want it, right? The employee group says, okay, go ahead and apply. We apply and there is an intervention by the employer, even after suggesting that he is going to close his plant down for a year if the strike does not terminate. On August 5, we apply. Normally a vote takes place within two weeks following the date of application. This strike did not terminate until August 25. The employer goes to the labour board and says, this application is no good; these employees have already turned it down in the first window. The labour board ruled in the employees favour. A vote took place. The strike did not terminate until August 25.

The employer made that strike last an extra 20 days. You are talking about an 80 day strike. Now, that may not show up in the statistics as being the employer promoting the length of the strike, but you can ask Grant Mitchell about that one.

Mr. Ashton: Next time he is back in the committee, I will. It is interesting, because in the case of Fisons what you are saying is essentially in this particular case some of the statistical "evidence", and I use that word very loosely, that people have been suggesting, indicated that FOS extended strikes, was quite the opposite in this particular case.

The 20 days additional over and above the 60 days was because of the employer taking it to the Labour Board and contesting the very 60-day window itself, but what you are saying is essentially, in the Fisons situation, that strike could have gone on for months. It could have gone on indefinitely. So in other words without final offer selection and the 60-day window, it could have been a really lengthy strike that would have had a major impact on the statistics. If you were to look at it in terms of actually what happened, the 60-day window or in this case the 60 day plus the 20 day delay, shortened the strike dramatically.

Mr. Atkinson: There is no question that the 60-day window shortened the strike dramatically, albeit through the intervention of the employer it lasted 80 days rather than 60. Yes, in this case the employer, as a tactic perhaps but nonetheless, stated that they were prepared to close that plant down for a year. In fact it might have been a lockout rather than a strike had we gone to the employer and said, okay, we wish to terminate the strike. The employer said we do not wish to terminate the strike, and the employer does not wish to carry on business any longer, albeit, it may have been able to do so productively. Now, devastating to that community—you are talking about eastern Manitoba—Elma, Beausejour, Whitemouth, Lac du Bonnet, employing approximately 150 people in that area, devastating to the economy of that community but, yes, final offer selection actually ended that strike and got those people back to work.

Mr. Ashton: I appreciate your first-hand knowledge of that, and we do have some Members of the Legislature here tonight who represent those areas. They may wish to look into the circumstances. I indicate in this particular case one of those Members is a Member of the Conservative Government.

I am an optimist. I must admit that I believe there may be a faint glimmer of a hope with the Conservatives, because I said there is a monolithic wall of arguments that we saw even just two weeks ago when people came into this committee, at the beginning of the committee, and said it is bad legislation. It has to go. It is disastrous. It is terrible. Brick by brick the mortar has been collapsing, and we are seeing more and more just how weak the arguments were.

I want to take you further in case Members of the committee are concerned what the question is. I know they have heard it before but sometimes repetition is an important part of learning. We are hoping the Members of this committee will learn, and in particular learn the error of their ways and some of the arguments they put forward at the beginning of this committee.

I would appreciate if Members would give me this opportunity to ask these questions again, because I am going to keep asking them until people get the answer, get it very clearly in their minds.

I want to ask you in particular, the concern was expressed and it amazed me that this was coming from Conservative Members and Liberal Members, I can understand when there was talk about the Chamber of Commerce position and the business views, but they said it is bad for unions. They said it is bad because it weakens the accountability of the union leadership to its membership, creates division in the workplace. We even heard suggestions that somehow in the case of Fisons or other cases where final offer selection was applied for, yes, it would end the strike, but the division would only be worse because of final offer selection.

I just want to ask you on those issues, because obviously accountability is important for you in terms of your relationship to your members. Have you seen any evidence of that in the period of time that final offer selection has been in place, any erosion of accountability, any of those concerns that were expressed supposedly in the best interest of the labour movement, and remembering of course this was the Conservatives and the Liberals who were trying to suggest that somehow they were acting on behalf of the labour movement, of unions, their membership in this province?

Mr. Atkinson: In our experience in my organization since the legislation was brought into being in January of'88 have had no adverse reactions from members, memberships, employee groups, and when I talk about for—according to the statistics, I guess, we are actually talking about five, because what we term to be one application, the small packers, East-West, Best Brand and Jack Forgan, we call one. At any rate, out of the four that we have been involved in, no, in none of those situations have we had an erosion of the collective bargaining climate, the labour relations atmosphere.

In fact, in the Fisons' situation, although I am not personally familiar with what is going on at that plant now, I have knowledge that employer and the employee group is now sitting together. They have, with the assistance of some federal funding, begun some discussions about what should take place in the workplace. In fact, probably because of the 1988 strike, the employer realizes something has to take place. Probably because of final offer selection and the shortness of the strike, there is no long-lasting bitterness in that workplace. That employer is going overboard, and the employee group, our members, are enjoying the kind of atmosphere that is attempting to be developed inside that workplace.

* (2140)

Mr. Ashton: I could continue with the arguments, but they have been so repeatedly demolished in this

committee. In fact in the years I have been in this Legislature, the eight years, I have never seen arguments so completely and absolutely destroyed over a period of time, arguments which I might indicate were made more in the hallways of this Legislature than in the Chamber. They were not considered forceful enough to be raised often in debate in the Legislature, and it has been one of the more unique non-debates in terms of the presentation of some of the caucuses in this particular case. I will not do that because of obviously the shortage of time and the fact that we have covered a lot of that ground.

What I want to do is give you the chance I have given a lot of other people before this committee, and my colleague, the Member for Churchill (Mr. Cowan) has given. We are at a point now, as I said, after two weeks, perhaps those of us who are optimists, the eternal optimists, have seen some glimmer of hope in terms of final offer selection. The Liberals have said as of today—I assume they have acknowledged—there is some merit to final offer selection. Obviously if it was that bad, they would not even be talking about a 10-month extension, although once again I am puzzled why they would kill it and then see afterwards if they want to resuscitate it.

Given two weeks of committee hearings and listening to people such as yourself and many working people who have come before this committee and spoke of a personal experience—given it has shifted people that far, and I really believe by the way that the first steps are the more difficult ones. To go from saying it is a bad law to saying well, maybe it is not that bad after all, that is the tough part. It is easier from that point on in. I hope to be able to convince my colleagues here from the Liberal Caucus. Even who knows, there may be hope for the Conservatives, but be that as it may, they have taken that tough step. They have said there is some value to it.

I am wondering if you might have a bit more success in getting to go that further step. I want to give you the opportunity to put to them what you would say, what you would urge them to consider, when they make their final decision on how they are going to vote on this. As you said, it is going to affect not only people in 1990, it is going to affect people in 1991. It is going to affect a lot of people that you deal with on a regular basis, people you know as individuals. We are not just talking about numbers or statistics or abstracts. These are people who earn a living and are faced with some pretty tough decisions in terms of contracts. So I want to give you the opportunity to address that and ask: what would you say to the Members of this committee who perhaps are beginning to edge toward recognizing the value of final offer selection but cannot quite bring themselves to give it a fair chance? What would you say?

Mr. Atkinson: Well, I am sure the Minister from Gladstone (Mrs. Oleson) would appreciate it. If the Minister from Neepawa, Ste. Rose (Mr. Cummings) was present, he would understand it. The Springhill hog plant will be in negotiations in January and February of 1991. I think it is probably well-published knowledge that they have had a rather downsizing of that operation although the forecast for the plant's viability in the long term remain good. The contract expires at the end of January, 1991.

There is a rather strange feeling in that plant. That plant was built—and just to give you a bit of a history lesson—with all the good intentions. There was an expectation that it would provide work for a rather unemployed labour market out there, but they found out that people who grew up on a farm who kill a hog or a steer in their barn on a Saturday, it is a little different than working eight hours on a production line doing the same thing five days a week. Then when the plant is in trouble and you are only getting four days a week or three days a week or two days a week, it is not an enjoyable situation, especially when you have to drive 40 or 50 miles or whatever it is from Silver Ridge or Amaranth or places north or south. They draw on a rather large population.

What I am trying to get at is that plant population, not because they belong to a union, there is a high turnover rate, but there is a good workforce remaining. Those who are remaining are concerned about their future. They are concerned about the wages they make because they are substandard in the industry in which they are working. There is no question, not that they enjoy the work, it is a job, and it is a half decent paying job, but there is a strange movement in that plant, and these people are not going to—I guess what I am trying to tell you is come next February I am not sure just what is going to happen. I think that employer might want to have final offer selection around, I really do. That is one example.

I have already told you about Burns, 1991. There are a few other examples I could give you, but I will not bore you with the details. You would have to check the political contribution list, I suppose. The fact is, five years, 60 months, and now we are down to a proposal on 36. Sixty months in my mind was not long enough. We have had 59 applications dealt with to date, 74 are on the board. I am not sure how many will be around 10 months from now in terms of the total review. I am not sure whether you can legitimately say that in 60 months you can look back and say we have had good success; it has been good for Manitoba, it has been bad for Manitoba.

* (2150)

I would think that 60 months would give us a pretty good idea of what the labour relations climate is and how it was affected by final offer selection in the process. That was not a long time. I never understood what a sunset clause was. I heard the phrase, said what does it mean? I said that is no good. They said, well, we will do a review in between. Five years, now that might give us a pretty good understanding of what kind of investment was sitting there on the border waiting for its repeal. I am not sure how many organizations, how many companies inside Manitoba right now are holding back expansion plans, how many companies are not willing to come into Manitoba.

We have heard from Mr. Robert Watson. He says he is personally familiar with eight or ten, and he knows

of another ten, making a total of 20. I do not think that they went to Quebec. I do not think they went to Ontario, or they probably did. They did not go to the Maritimes. They did not go to North Dakota. No, they probably went where there was anti-scab legislation, Quebec. They probably went where there was very progressive plant-closure legislation. Is 60 months too long to have a look at what a piece of legislation does to this province? Are there people taking off out of this province, relocating in somewhere else? Are there people actually—I mean, do we believe the Mr. Watsons of this world who say that there are people standing at our border just salivating, waiting to come in here as soon as you repeal final offer?

No. 1 Highway is just going to be—well, I am not sure, do they still drive trains in this province? -(interjection)- Right. Will economic development really take off if you repeal this legislation? Does it really deter economic development in this province or is this just a political payoff to those employers in this province that are aggravated because they cannot try to beat an employee group into submission? Well, my God, they could kick an employee group out on strike, lock them out for heaven's sakes, never mind the employee group wanting to go out on strike.

Lockouts do take place, by the way. I was involved in one in 1978, Canada Packers. Canada Packers said, if Burns goes on strike, wherever there is a Burns plant in Canada, the Canada Packers plant in that same location will lock out. And they did—boom, out we went. No, I mean, it was not to any economic advantage of Canada Packers to lock us out in 1978. None at all.

Is there any advantage to an employer to lock out employees? Is there? Unless they are talking about bringing in replacement workers. If they are talking about bringing in replacement workers, then they would not want to do that just for 60 days and have final offer selection invoked. No, they intend on breaking that employee group into submission. Not too concerned with the concerns or the wishes and the welfare of the employee group itself, but to keep the enterprise going. Why would they want to have, what do they call it, the 60-day window interfere with their long-term plans of breaking that employee group? Absolutely none.

I understand Westfair bargains with my union, albeit with a different local. That is coming up this year I understand. Well, I am surprised at the Liberal proposal this afternoon which suggested that it was 36 months, therefore Westfair might be involved in final offer selection. We might not have a repeat of their previous strike. Strikes will take place in this province because employees wish to go on strike. They wish to withdraw their services from their employer. Not because they have this vision that there is a 60-day window or a 30-day window or an umpteen dozen window; it does not really matter to them. No one wants to miss two mortgage payments just because they want to bash their employer over the head. There will be strikes in this province with or without final offer selection. What final offer selection does in its present form is induce and initiate a calming of the waters, particularly before any strike takes place. Believe me, you have heard from other presenters what happens in negotiations when an employer drags his feet.

Mr. Chairman: Thank you, Mr. Atkinson. Mr. Edwards, any questions? Mr. Ashton, did you have a—

Mr. Ashton: I just wanted to thank Mr. Atkinson for his presentation. As I said, we have seen some movement in the two weeks here. There is still time left, and I am hoping that people will listen to the direct experience, the personal experience of people such as yourself. Thank you for coming to the committee.

Mr. Chairman: Mr. Patterson, did you have any questions, Al?

Mr. Allan Patterson (Radisson): I have no specific questions. I would just like to thank Mr. Atkinson very much for his presentation.

Mr. Chairman: Thank you very much, Mr. Atkinson.

Mr. Atkinson: Thank you for the committee.

Mr. Chairman: Since it is five to 10, is it the will of the committee to rise?

Just prior to rising for the evening, I would like to remind committee members and members of the public that the committee will also be meeting tomorrow, March 7, at 8 p.m. in this room.

The time is now ten o'clock. What is the will of the committee?

Committee rise.

COMMITTEE ROSE AT: 9:56 p.m.