Third Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee on Economic Development

Chairperson
Mr. Mervin Tweed
Constituency of Turtle Mountain

Vol. XLVII No. 3 - 10 a.m., Friday, June 20, 1997

ISSN 0713-9969

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON ECONOMIC DEVELOPMENT

Friday, June 20, 1997

TIME – 10 a.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Mervin Tweed (Turtle Mountain)

VICE-CHAIRPERSON – Mrs. Shirley Render (St. Vital)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. Downey, Gilleshammer, Hon. Mrs. McIntosh, Hon. Messrs. Newman, Reimer

Ms. Friesen, Messrs. Maloway, Reid, Mrs. Render, Messrs. Sale, Tweed

APPEARING:

Mr. Gary Doer, MLA for Concordia
Mr. Gary Kowalski, MLA for The Maples

WITNESSES:

Bill 15–The Government Essential Services Amendment Act

Mr. Bill Sumerlus, Canadian Union of Public Employees, Manitoba
Mr. John Doyle, Manitoba Federation of Labour

Bill 16–The Council on Post-Secondary Education Amendment Act

Mr. William R. Eichhorst, Independent Colleges of Manitoba
Ms. Elizabeth Carlyle, Canadian Federation of Students, Manitoba

Bill 32–The Workplace Safety and Health Amendment Act (2)

Mr. Harry Mesman, Manitoba Federation of Labour
Mr. Bud Shiaro, Canadian Union of Public Employees
Ms. Jackie Kuryk, Private Citizen

Bill 39–The Labour-Sponsored Venture Capital Corporations Act

Mr. Rob Hilliard, President, Manitoba Federation of Labour

Bill 27–The Public Schools Amendment Act

Ms. Diane Beresford, Manitoba Teachers' Society

MATTERS UNDER DISCUSSION:

Bill 11–The Northern Affairs Amendment Act
Bill 15–The Government Essential Services Amendment Act
Bill 16–The Council on Post-Secondary Education Amendment Act
Bill 27–The Public Schools Amendment Act
Bill 32–The Workplace Safety and Health Amendment Act (2)
Bill 39–The Labour-Sponsored Venture Capital Corporations Act

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Clerk Assistant (Ms. Shabnam Datta): Good morning. Will the Standing Committee on Economic Development please come to order.

Before the committee can proceed with the business before it, it must proceed to elect a Chairperson. Are there any nominations?

Hon. Linda McIntosh (Minister of Education and Training): I nominate Merv Tweed.

Clerk Assistant: Mr. Tweed has been nominated as Chair. Are there any other nominations? Seeing none, Mr. Tweed, would you please take the chair.

Mr. Chairperson: Good morning. Would the Standing Committee on Economic Development please come to order.

Before the committee can proceed with the business before it, it must proceed to elect a new Vice-Chairperson. Are there any nominations?

Mrs. McIntosh: I nominate Shirley Render for Vice-Chair.

Mr. Chairperson: Shirley Render has been nominated. Are there any other nominations? Seeing none, Shirley Render has been elected as the new Vice-Chair for the committee.

This morning the committee will be considering Bill 11, The Northern Affairs Amendment Act; Bill 15, The Government Essential Services Amendment Act; Bill 16, The Council on Post-Secondary Education Amendment Act; Bill 27, The Public Schools Amendment Act; Bill 32, The Workplace Safety and Health Amendment Act (2); Bill 39, The Labour-Sponsored Venture Capital Corporations Act.

To date, we have had a number of persons registered to make presentations to the bills this morning. I will now read aloud the names of the persons who are preregistered: Bill 15, Allen Bleich, CUPE Manitoba, and No. 2, Rob Hilliard, Federation of Labour, Manitoba; Bill 16, Dr. William Eichhorst, Elizabeth Carlyle; Bill 27, Diane Beresford; Bill 32, Harry Mesman, Bud Shiaro, Jackie Kuryk; and Bill 39, Rob Hilliard.

If there are any persons in attendance today who would like to speak to the bills referred for this morning and whose name does not appear on the list of presenters, please register with the Chamber Branch personnel at the table at the rear of the room, and your name will be added to the list. In addition, I would like to remind the presenters wishing to hand out written copies of their briefs to the committee that 15 copies are required; and, if assistance in making the required numbers of copies is required, please contact either the Chamber Branch personnel or the Clerk Assistant and the copies will be made for you.

At this time I would like to ask the committee if they wish to set time limits for the hearings of presentations.

Mrs. Shirley Render (St. Vital): Mr. Chair, I suggest we have 10 minutes for the presentation and five minutes for questions, as we have done in past committees.

Mr. Daryl Reid (Transcona): Mr. Chairperson, I do not know what the hurry is of this committee today. It is early in the morning. We have got all day Friday. We have some presenters that are coming in from out of town. I do not know why we would want to limit. There is not an extensive number of presenters here today. So I think, in fairness to the presenters, that we should have some latitude and give them the opportunity to make the presentation that they came here to make, not to limit them to just a measly 10 minutes of time.

Mrs. Render: Mr. Chair, the practice has been for many, many years to have presentation for 10 minutes, and I believe that would be more than adequate for presenters.

Mr. Gary Doer (Leader of the Opposition): Well, the practice has been rarely applied, but most recently applied by this government. I would suggest that there are about nine presenters, and it is ten o'clock in the morning. There are some bills that are very, very important to people, very important to Manitobans. The Deputy Premier (Mr. Downey) mentioned that he wanted the bills to get through today. Obviously, that will be determined by members of this committee, but I think we have enough opportunity now. It is not as if we have hundreds of people presenting going into the middle of the night. I think we should hear people and allow them to present their views on these bills and let us listen to them. We do not have to restrict time. I would suggest that in general I disagree with time restrictions but, in specific terms, today it is just not warranted.

Hon. James Downey (Minister of Industry, Trade and Tourism): Mr. Chairman, I think the point my colleague makes is that she has made the point that we have set time limits before, that it is not an unusual practice. I have been in committee where if there was a special case that could be made if a person had an extra two or three minutes the committee has the latitude to allow leave to have that happen if that is the request and could be accommodated.

I think we should get on with hearing the bills, because we have now taken something like seven minutes, and we should proceed. If there is an extra minute or two or three that is required to make a point, I think the committee could decide at that particular time, and that would be the accommodation that I think this committee could provide to the presenters.

Mr. Doer: Well, I just would say to the Deputy Premier that we would like the time to hear people and we do not see any urgency in terms of time requirements, which is a government motion. In terms of allowing bills to proceed, usually it is determined by the opposition party in terms of, we have the ability, as one has probably witnessed with the other previous bills in the past when there was public opposition to bills, to speak in committee for quite a long period of time, but we would prefer to hear Manitobans speak.

I would suggest to this committee that time allocations and time limitations are not required this morning with these bills with the numbers of people that have signed up. It is overkill by the government and just not necessary.

Mr. Chairperson: It has been proposed that we hear presentations for 10 minutes and questions for five. What is the will of the committee? Agreed?

Some Honourable Members: No.

Mrs. Render: Mr. Chairman, I think my colleague the Deputy Premier suggested that if there is a need to give some extra time, we on this side will be perfectly prepared to, but I think it is unfair to say that just because there are not 100 presenters here that therefore this set of presenters has more time than other presenters for other bills where there may be 20 or 30 or 40 or 50 presenters. I think it is proper to be consistent. Most presenters know that there is approximately 10 minutes-plus for presentations.

If my memory serves, I think at the Constitutional Task Force the presentations were 15 minutes. As speakers in the House for private member's resolutions, the maximum time is 15 minutes. So, Mr. Chair, I suggest that if a presenter, if we feel that there is need for an additional two, three, four, five minutes, I think we on this side will certainly be prepared to give it. So I suggest that we start off with the 10 minutes and five minutes and proceed from there.

Mr. Chairperson: Would it be the will of the committee to work within these guidelines and give me some latitude to make some extensions as asked for from the floor?

Mr. Tim Sale (Crescentwood): Mr. Chairperson, if the intent is to be flexible and to allow people to make their case well and to have as many questions as members opposite and members on this side wish to ask, if that is the intent, that surely is what we on this side said ought to happen. So if that is your intent, then I have no problem with going ahead, that we are going to be flexible, but if you are going to say, you know, 10 and five, then I think that is silly to have to sit here and say, we are being flexible, now we have to continue to be flexible in each presenter. Why not just do what you said, which makes sense to us, and let us go.

* (1010)

Mr. Chairperson: So 10 and five with some judgment with the Chair. Agreed? [agreed]

In which bill order did the committee wish to hear presenters? We do have some out-of-town presenters registered to speak to bills today. Is it the will of the committee to allow the out-of-town presenters to be heard first? Agreed? [agreed]

More procedure, just in the sense, if a presenter is not here when his name is called, is it the suggestion of committee that that name be dropped to the bottom of the list and called a second time; if not here at the call of the second time, he will be removed from the list. Agreed? [agreed]

Mr. Reid: As long as we can be assured, Mr. Chairperson, that the presenters have indeed been called by the Clerk's office, because there was some problem in past years where some of the presenters were not called.

Mr. Chairperson: It is certainly my understanding that everyone that has made registration to present has been contacted, but we will make sure that they are requested.

Did the committee wish to indicate how late it wishes to sit this morning, or suggestion–as time required? We will perhaps bring this issue up further, closer to noon, and we can set times if we so desire. We are going to start with Bill 32. I would like to call Jackie Kuryk to come forward please. Do you have a handout for the committee?

Ms. Jackie Kuryk (Private Citizen): I prefer to wait, to just go in the order that things are called, if that is all right.

Mr. Chairperson: Sure.

Bill 15–The Government Essential Services Amendment Act

Mr. Chairperson: Then we will start with Bill 15, The Government Essential Services Amendment Act.. I will call on Allen Bleich. I am not sure if that is the proper pronunciation.

Mr. Bill Sumerlus (Canadian Union of Public Employees, Manitoba): Mr. Chairman, it is the proper pronunciation. I am not Allen Bleich. However, I am Bill Sumerlus. I am standing in for Allen this morning.

Mr. Chairperson: I have to ask the leave of the committee if it is okay for this presentation. [agreed] Is it Somerville?

Mr. Sumerlus: It is Sumerlus. S-u-m-e-r-l-u-s.

Mr. Chairperson: Do you have a handout for the committee? I will ask someone to hand it out. Please proceed.

Mr. Sumerlus: Mr. Chairman, members of the committee, I am here on behalf of CUPE Manitoba. We represent approximately 7,000 workers in Manitoba that will be affected by this legislation. As you and the members of the committee will see from our brief, the first question that we would ask in terms of this legislation is: Why is it necessary?

It is our submission, Mr. Chairman and members of the committee, that these parties have been bargaining together for decades without the necessity of legislation like this and that these parties have historically been able to enter voluntarily into essential services agreements which have met all the needs of health care and child protection in the province. We submit, as you will see from our brief, that the legislation is essentially contrary to the preamble of our Labour Relations Act, which states that it is intended to encourage collective bargaining between the parties. Ultimately, it is our submission that this legislation is restrictive of collective bargaining and free collective bargaining.

As you will see from our brief, the right to withdraw services or the right to strike is an essential part of the collective bargaining process. We feel that it seems incongruous in this legislation to remove that right, to remove the right to strike, and at the same time allow employers all its normal rights of using replacement workers and essentially keep the process running.

We feel, Mr. Chairman and members of the committee, that this legislation will end up providing working people with the right to have an ineffective strike, and it is our submission that the give-and-take of free collective bargaining ends up in the best deal for both sides. It ends up in the best deal for management and the best deal for employees. We feel that the parties themselves should be able to come up with an agreement. I think an example that we point to in our brief is the 1980 strike at the Health Sciences Centre. That was a three-week strike. It involved approximately 2,000 members of the CUPE Local 1550, and in that case, there was no government intervention required. The parties were able to come to their own agreement, and they worked out a voluntary essential services agreement. We as a union, and I know others in the labour movement, have always worked at coming up with an essential services agreement on a voluntary basis through the process of free collective bargaining.

Going on, as you will note from our brief, we feel that the inclusion of Child and Family Services is an unnecessary aspect of this legislation. I think you, Mr. Chairman and other members of the committee, will agree that these are among the most dedicated workers, that is, the people dedicated to child protection, and there has never been a strike, much less a strike vote, in this sector in the history of the organized sector.

We submit that there is a fundamental problem with the legislation in that there is no real impetus on the employer to bargain an essential services agreement. The legislation, as I read it, sets up a system whereby the parties have 90 days within which to voluntarily bargain an essential services agreement prior to the expiration of their collective agreement. If that is not reached, then the employer simply designates who it wants. So I submit, Mr. Chairman and members of the committee, it is not really free collective bargaining, and there is no impetus on the employer to bargain as they normally would.

As you will note from our brief, strikes are very serious situations. They are not taken lightly by unions, as they are not by employers, and I submit that to remove this impetus from the employer will be destructive of not only the free collective bargaining process but potentially of the agreement that is reached ultimately. So we submit that (1) there is no real need to bargain on the employer's part pursuant to this legislation; (2) assuming that there is no agreement reached and the employer designates who it wants, the bargaining agent or the employees then have to go to the Labour Board like they are like an appellant. They have to appeal the decision of the employer, so they are already starting one step below. They are not on an even playing field, and we submit that kind of removes what has worked so well in the past; that freedom to bargain your own deal. So, in that respect, we submit that the legislation is destructive of that aspect of it and taking away that level playing field which, we feel, is very important to labour relations.

So, if there is going to be a third party, if there has to be third-party intervention, Mr. Chairman, members of the committee, we would submit that something like other jurisdictions use in terms of binding arbitration, the right to go to binding arbitration, would be preferable to that proposed, but we say it is not necessary as, quite frankly, we believe, as history has shown, the parties can and do negotiate their own voluntary essential services agreements. Binding arbitration I am not a big fan of in terms of–I believe again that the parties are best left to come up with their own agreement, but as an alternative I believe it would be preferable. It is used in numerous jurisdictions in the country and has worked well.

One other aspect might be a consideration. The Labour Board, who is the appellant or the appeal jurisdiction in this process, I do not believe, is even noted as essential, and I do not know how that might work in the event of a strike, but I leave that to the committee.

Now those are my comments, Mr. Chairman and members of the committee. Thank you.

* (1020)

Mr. Chairperson: Thank you, Mr. Sumerlus. I will ask for questions.

Mr. Gary Doer (Leader of the Opposition): Yes, thank you very much for your presentation to the committee this morning. In Manitoba we had a voluntary negotiated essential services agreement that covered everyone in the health care, almost everyone in the health care, sector. The committee was charged by Cam McLean. I believe Clive Derham from your organization was part of that group. Joyce Gleason and then Irene Giesbrecht and others were part of that group. This voluntary agreement, I think, came about after the strike in 1980. Have you had any strikes since that voluntary agreement has been in place across the health care sector?

Mr. Sumerlus: Mr. Chair, in our sector, there has not even been a strike vote since that time–so not in 17 years.

Mr. Doer: Yes, CUPE represents workers across Canada with varying degrees of rights in collective bargaining in the health care sector. It seems to me that the Manitoba voluntary agreement with health care workers where workers themselves would provide essential services for life and limb, which is obviously an important principle, along with the principle of collective bargaining–that system has seemed to work to have less days lost to strike in the health care sector than in sectors where it was even illegal to strike, if I am not mistaken. What is your view on the voluntary negotiated agreement versus the legislative hammer that is being proposed here and other jurisdictions?

Mr. Sumerlus: Mr. Chairman, I think that it has shown in the past to have worked the best. The

voluntary agreement, I think, ultimately yields the best agreement for both parties and has shown in the past to be the best determinant of agreements that are necessary.

Mr. Doer: Your union is still committed to the voluntary essential services agreement negotiated with management, arbitrated or conciliated by Mr. McLean, that allows and requires workers to provide life-and-limb services in the event of a strike and lockout. Is that correct?

Mr. Sumerlus: Yes, that is correct.

Mr. Doer: One last question. Has the government given you any rationale for having Child and Family Services employees given all kinds of Filmon Fridays, or required by law to take Filmon Fridays, and then scoping them into this agreement as so-called essential services? It does not seem to make any sense to me. Has there been any explanation from the government to you on that issue?

Mr. Sumerlus: No, there has not.

Mr. Chairperson: Are there any other questions of the presenter. Seeing none, I will thank you for your presentation today.

Mr. Sumerlus: Thank you, Mr. Chairman, members of the committee.

Mr. Chairperson: I would like to now call Rob Hilliard to come forward and make your presentation, and I ask that, if you have any handouts for the committee, I will ask someone to pass them out. Please proceed.

Mr. John Doyle (Manitoba Federation of Labour): Good morning, Mr. Chair. I, too, am not who I seem to be. My name is John Doyle. I am employed by Mr. Hilliard, and I will be making the presentation this morning on behalf of the Manitoba Federation of Labour.

Mr. Chairperson: Is there leave for Mr. Doyle to make the presentation?

Some Honourable Members: Leave.

Mr. Doyle: Thank you.

The Manitoba Federation of Labour has the duty and the obligation to speak out in the defence of the rights of workers. These rights include the right to organize, the right to free collective bargaining and the right to strike. While the right to organize is recognized in the Charter of Rights, the rights to free collective bargaining and to strike are recognized by international labour conventions, by federal and provincial legislation, by jurisprudence and by longstanding practice.

These rights were won by working men and women over many decades of hard-fought battles and political action. It is these rights that are the foundation of the union movement. These are the things that have enabled working people to coax and lever justice and fairness in the workplace from their employers.

Last year, the government enacted Bill 17, The Government Essential Services Act, an act that seriously diminished the ability of government employees to exercise their internationally recognized right to strike. The government employees bargaining agent, the Manitoba Government Employees' Union, estimates that as much as 70 percent of the provincial Civil Service could be declared essential and forbidden to participate in a future strike. In fact, it can be argues that by exercising the provisions of Section 6 of The Government Essential Services Act, 100 percent of the provincial government workforce could be declared essential and forbidden to take part in a job action.

This measure undermines the ability of government employees to engage in meaningful collective bargaining, diminishing the effectiveness of their Charter of Rights guarantee to form unions and, fully applied, is government-sanctioned, before-the-fact strikebreaking.

Governments of all political stripes and levels have often been cautioned that when they contemplate limiting the rights of those whom they govern they must take great care and err on the side of democracy. Because of the vulnerable position that working people have occupied in our society, this rule is of extreme importance when legislation affecting them is being contemplated. The balance of justice and fairness in

the workplace has always been fragile and, once disrupted, it is difficult to restore.

Historically, in Canada, business and commerce have been the focus of government efforts to develop and maintain our economy. Our legal framework has become one that sometimes encourages their development at the expense of other considerations. It has taken a great many years to put in place even the most basic protections for workers safety and health, minimum wages, employment standards, workers compensation, pension benefits and collective bargaining. In spite of these advances the hold that workers have on them remains tenuous.

In the last decade workers in Canada have been affected by government legislation that tends to weaken their ability to form unions or to be effective in their relations with their employers. The purpose of this legislation has been to react to corporate guidance in order to make Canada a more friendly place for business activity. Manitoba has not been an exception.

Examples of this kind of legislation include the repeal of progressive dispute resolution labour legislation that put tangible power in the hands of shop floor workers. Other legislation has increased the standards that workers must meet before receiving certification from Labour Boards as bargaining units. Others have made it more difficult for injured workers to have financial security between the time they are injured and the time they return to work. Other legislation suspended public sector workers bargaining rights and freezing or rolling back their wages.

In 1997 this trend continues. Bill 15 will further erode the rights of workers, this time in the health care sector.

A fundamental aspect of the economic strategy adopted by many governments in Canada is to reduce public program spending, even though much of it is designed to maintain an acceptable standard of living for the most vulnerable members of our society and is not a major contributor to public debt and deficit. Caught in this strategy are public sector workers.

Under this philosophical light public sector workers are viewed as a principal cause of public spending. They deliver services which cost money. They feel a responsibility for the well-being of their clients, be they the destitute, the elderly, the ill, or those in need of education and training.

The last thing this strategy can withstand is an effective union. This is the instrument that public sector workers use to give voice to their objections to what is happening to their jobs, the social safety net and their future. It is through their union that they are able to fight back against this agenda.

The Government Essential Services Act was enacted last year following a period of public sector strikes. That act should not have been passed into law. Bill 15 extends the regressive impact of The Government Essential Services Act to the health care sector and, strangely, to Child and Family Services agencies where, to our knowledge, there has never been a work stoppage. It has the effect of limiting the right to strike in the health care sector and will undermine the future ability of health care workers to bargain a fair collective agreement.

Its main impact is not focused on the preservation of essential services. It is not about any of the reasons that are being put forward by the government, high minded though they might seem on the surface. Bill 15 is about weakening the collective strength of health care sector workers and their bargaining agents. It is an action that takes away from a certain number of workers of one of their most fundamental rights, the ability to withdraw their services if their employer refuses their demands for a just and fair collective agreement.

This creates an irreconcilable conflict of interest. The government is creating a favourable labour relations situation for itself as an employer in the health care sector and for other employers in that sector. It is doing so at the expense of working people. If the concern of the government is about preserving essential services during unusual circumstances, such as a strike, then surely this should be the subject of a negotiation process. Health care workers have a demonstrated high level of concern about the impact of a strike on their clients. In fact, workers in this sector have a lengthy history of negotiating and supporting essential services agreements that meet the basic needs of their clients while enabling them to conduct an effective strike.

For more than two decades, most of the members of the Manitoba Health Organizations have been part of an agreement with health care unions that guarantees that certain jobs will be filled for the duration of a strike in order to meet the basic needs of a patient. The point is, it is a tested process, one that arrives at a workable agreement. We have the proof in the health care sector. It is an agreement that has been tested in a number of health care sector strikes over the past two decades, and it works.

* (1030)

Bill 17 undermines that negotiation process by stripping health care sector workers of one of their most basic rights, the right to strike. Further, it allows employers to impose essential service status on job classifications and workers in the event that the parties are unable to reach a negotiated agreement. The appeal process that is contemplated to be available to workers is lengthy and easily manipulated by an employer who wishes to drag the process out to avoid an agreement prior to the termination of a collective agreement.

The existing negotiated dispute resolution process contains strict guidelines and ready access to arbitrators with a health care sector background. It has been argued that there have been a very small number of examples where either the employer or the union has not been willing to negotiate a voluntary agreement. This appears to be the only legitimate criticism of the voluntary process by those who believe in a balanced approach to labour relations. It is therefore unnecessary to use the heavy hand of government authority to deny workers their rights in order to solve a relatively modest challenge. A more equitable approach would be to use the dispute settlement mechanisms which are outlined in the attached documentation, if it is necessary to provide incentive to bring reluctant parties to the bargaining table.

The Manitoba Federation of Labour urges the government to not proceed with Bill 15 and instead encourage unions and employers in the health care sector to participate in the existing health care sector's essential services agreement process, which is attached to this brief.

Thank you for your attention.

Mr. Chairperson: Thank you, Mr. Doyle. Questions, Mr. Reid.

Mr. Daryl Reid (Transcona): Thank you, Mr. Doyle, for your presentation here today. You referenced the fact that Manitoba Health Organizations has been a part of the agreement with the health care unions to put in place plans to have certain workers fulfill certain essential functions during a strike or lockout.

Last year, in committee, this committee in consideration of Bill 17 last year, we had Manitoba Health Organizations come before this committee and say that the voluntary essential services agreement was not working and then later in their presentation said that they were able to achieve consensus with the various unions with which they negotiate. So there was a mixed message in their presentation here last year. To the best of your knowledge, are you aware of any problems that have been encountered in the implementation of the voluntary essential services agreement that have been negotiated by the various parties and MHO?

Mr. Doyle: I have no direct knowledge, that is, from being at a particular negotiating table where things came apart, and there was no progress towards a mutual agreement, but I have heard anecdotal references to the, I believe, the potential that one union in the health care sector was unable to reach an agreement with the MHO, or an individual employer within that sector. I have also heard of employers not willing to participate in the whole process and preferring to undergo a lockout or a strike with the absence of an essential services agreement.

Mr. Reid: Do you see, Mr. Doyle, considering your knowledge of some problems, that there would be any further willingness on the part of the employer in those cases to encourage them to want to work towards, or move towards, a negotiated voluntary essential services agreement considering this legislation now and the previous Bill 17?

Mr. Doyle: I am sorry, Mr. Reid, I did not catch the first part of the question.

Mr. Reid: Do you see that there would be any encouragement as a result of this bill and the previous

Bill 17, where there is now the heavy hand of government imposing or giving employers the opportunity to have imposed an essential services agreement? Do you see any willingness on the part of employers, in light of the problems that you mentioned, having them move to the negotiating table to negotiate a voluntary agreement? Do you see that that would be an encouragement for them or a discouragement?

Mr. Doyle: Prior to the enactment of Bill 17 and further Bill 15, if things go the way they appear to be going, the main impetus for an employer to bargain in good faith and reach a voluntary essential services agreement with their employees would be the court of public opinion. It would be very difficult for an employer to have to explain within their own community why they are resisting the idea that on the surface appears to be putting the needs of patients and the needs of the community before the labour relations process.

I think with the presence of Bill 15 that there will be even less encouragement for employers to undertake this process because the act itself lays out a process that is friendly to employers and not friendly to workers. That is in the absence of a negotiated essential services agreement, the two sides would then embark on an appeal process to the Manitoba Labour Board, a board which we have a great deal of confidence in. However, the process that that involves can be manipulated by an unfriendly employer and can lead to an unreasonable period of an absence of an agreement prior to determination of a collective agreement. With so many variables in the air, the impact on the collective bargaining process cannot help but suffer because of it.

Mr. Chairperson: Are there any other questions?

Mr. Tim Sale (Crescentwood): Mr. Doyle, do you have any sense of the morale in organizations that are impacted by this legislation at the line level when they contemplate this kind of legislation?

Mr. Doyle: The whole question of morale within the health care sector is, as you know, gaining a lot of years of experience. For many years, the rate of stress and burnout on the job has increased to enormous proportions throughout the health care sector. To take what is left of that sector and say, now, these are a few more hoops that you have to jump through in order to attain a fair collective agreement, with so many other things in the mix that it has got, well, it is hard to imagine morale going down. But if anything is going to do it, this would be in that class of helping it slide even further if that were possible.

Mr. Sale: Mr. Chairperson, as a person of long experience in the labour-management field, what is the impact on productivity of lousy morale?

Mr. Doyle: Perhaps five or six years ago, a study was done by three practitioners at Harvard University that looked into the impact of the presence of an agreement. Now I know this does not directly speak to your question, but these three participants investigated production plants and facilities operated by the same company in different markets, where in some markets they were unionized and in other markets the same company operated a nonunion facility. The impact of having a collective agreement in place, a guidebook, if you like, for both parties to follow during the average working year, they found that the lack of uncertainty, the lack of knowledge about how things are accomplished in terms of labour relations, resulted inasmuch as a 32 or 33 percent difference in productivity.

Mr. Chairperson: Mr. Sale, with a brief, final question.

Mr. Sale: Final question, Mr. Chairperson. So, in summary, are you saying to the committee that actions that tend to make morale worse than it is can have some pretty substantial impacts on productivity and ultimately then cost the people of Manitoba as well as the employer of record quite substantial sums of lost productivity or lost benefit from the monies that are being spent in the health care system?

* (1040)

Mr. Doyle: Manitoba enjoys a level of expertise and dedication in the health care sector that compares favourably, in my opinion, to anywhere in the world. I think that the level of dedication these practitioners bring to the workplace is as high as they can make it possible. The point I am making is rather than

expecting a deterioration in the quality of the care that they deliver, I think the duration of the time that they are able to deliver that level of care will likely be impacted most obviously. The costs that are associated with addressing stress in the workplace, addressing illness due to stress, addressing workers injured by stress in the workplace, that is where you can expect to see, I would think, substantial increases.

Mr. Chairperson: Thank you, Mr. Doyle, for your presentation today.

Mr. Doyle: Thank you very much.

Bill 16–The Council on Post-Secondary Education Amendment Act

Mr. Chairperson: We are now moving on to Bill 16, The Council on Post-Secondary Education Amendment Act. I would like to call Dr. William Eichhorst to come forward, please, and ask if you have any presentations for handout.

Mr. William R. Eichhorst (Independent Colleges of Manitoba): Yes, Mr. Chairman, I do have some handouts.

Mr. Chairperson: I will get them passed out. As soon as you are ready, we can proceed.

Mr. Eichhorst: Mr. Chairman, should I wait until they are handed out? [interjection] Just proceed.

My presentation is rather brief today, but I wanted to say something concerning this bill and specifically to give support to it, so I will read it as it is stated. Bill 16 draws attention to a reality in post-secondary education in Manitoba, a reality that recognizes that not all university students in Manitoba are studying at the public institutions. There are some fine post-secondary institutions in Manitoba where students are getting a university-level education, and Manitoba is greatly benefited by having them. These institutions function as approved teaching centres, affiliated or associated colleges, and/or otherwise accredited bodies in relation to Manitoba's universities.

The majority of courses offered are either cross-credited or transferrable to the universities. These independent colleges are autonomous institutions which contribute a valuable human and financial resource to the province. Many of the college employees are highly skilled. There are about 50 faculty members who hold Ph.D. or equivalent degrees. Local students who have chosen to attend these colleges will remain in the province to receive their education here. Without the independent colleges, the majority of these students would probably leave the province. These students contribute a combined enrollment of over 1,000 students and represent the interests of parents, alumni, and many constituents.

We believe that more co-operation and co-ordination among post-secondary educational institutions in Manitoba can be beneficial to students and public alike. Independent colleges believe they make a valuable contribution to Manitoba society, as they participate educationally, culturally, and religiously.

We support the passage of Bill 16 to enable the Council on Post-Secondary Education to consider the interests and welfare of all of Manitoba's university students.

Mr. Chairperson: Thank you, Mr. Eichhorst. Are there questions of the presenter?

Ms. Jean Friesen (Wolseley): Dr. Eichhorst, you make a number of good points here, one about the retention of students in Manitoba, as well as the qualifications of faculty members in the colleges. Your presentation speaks generally about independent colleges. The minister in her speech mentioned six colleges. I wondered, are those two things the same? Are you speaking about the same six colleges that the minister spoke about?

Mr. Eichhorst: Mr. Chairman, I am speaking specifically to the principle involved here. I know of six institutions that would qualify in one way or another here, but I am not sure if there might not be more down the road or if there might be fewer down the road. The principle is really what I am making a point of here.

Ms. Friesen: Thank you very much. Then probably my questions are more appropriately directed to the minister later on. Thank you.

Mr. Chairperson: No other questions? Then I thank you for your presentation.

I will now call Elizabeth Carlyle and ask if you have any handouts for the committee. Seeing none, okay, I would ask you to proceed.

Ms. Elizabeth Carlyle (Canadian Federation of Students, Manitoba): Thank you. My name is Elizabeth Carlyle, and I am on the provincial board of the Canadian Federation of Students. We represent about 10,000 students in Manitoba. My comments will be fairly brief. I have a few concerns about Bill 16, and they are as follows.

First, I have a question to the minister perhaps as to whether the intention of this bill is to simply include the colleges that were mentioned in her speech presenting this bill to the Assembly. If that is not case, if the case is that other independent institutions are to be included at later points, I would like to have some detail concerning that.

Also, on a more global point, I think that there is a real problem if this government is moving towards including private or independent, as you like to call them, institutions in the legislation. I think that it is a real problem with the funding cutbacks that have occurred to post-secondary education and to other public service sectors. It is a real problem to consider giving grants to private institutions, notwithstanding the fact that my own university, the University of Winnipeg, works very closely with one of the institutions to be considered, Menno Simons College. I think that if a service needs to be provided, if it is indeed important to retain the students in the province, if it is indeed important that these services be offered by these independent colleges, if it is important that they be offered, then I think that they need to be offered through the public education system in order that these services, these curricula and these courses may be offered to all students in Manitoba.

Now, I also would like to just comment briefly on some of the comments that the minister made during her speech presenting the bill. The minister said that Canada spends more and achieves less than other countries in terms of post-secondary education and continues to say: so it seems we do not need to spend more on education. I think that this is a misrepresentation of what is happening in the post-secondary education sector. I think that what has occurred in terms of funding is not that the cuts have not had an effect; it is not that we need to spend less or that we do not need to spend more on education, I think that the problem is that the burden has been shifted from the public sector onto the backs of students as individuals. So the costs have not disappeared; they have just been simply shifted to the private sector.

So I think that my points, at this point, are probably quite clear: while I do not necessarily have a problem with looking at specific colleges and moving towards making those independent colleges public colleges, and if we can do that through the Council of Post-Secondary Education, so much the better, I think that my real problem is with giving funding to private institutions at a point where the public education system is suffering greatly from cutbacks.

Those are all the comments I have right now, and I hope to receive some questions.

Mr. Chairperson: Thank you, Ms. Carlyle.

Are there questions of the presenter? Seeing none, I will thank you for your presentation today.

Moving to Bill 27, The Public Schools Amendment Act, I would call Diane Beresford to come forward and make a presentation. Diane Beresford. As Ms. Beresford is not here at this point, we will move her to bottom of the list.

Bill 32–The Workplace Safety and Health Amendment Act (2)

Mr. Chairperson: We will continue with Bill 32, The Workplace Safety and Health Amendment Act (2). I would like to call Harry Mesman to come forward, please. I will ask if you have any handouts for the committee.

Mr. Harry Mesman (Manitoba Federation of Labour): I do. They are going to be distributed.

Mr. Chairperson: Thank you very much, and whenever you are ready, you can proceed.

Mr. Mesman: The handouts include a couple of appendices. One is an executive summary of a report of public hearings that the Manitoba Federation of Labour conducted in February of last year, and I just want to bring to your attention, in the summary lists, some of the common themes that appeared throughout the province in the various communities we went to. Two of those were that random inspections are largely unheard of, and that the inspector presence has greatly decreased and their involvement has grown more difficult to obtain. The other is that nonunion workplaces were found to be flush with examples of noncompliance with the act and regulations, not to suggest that those do not appear in union workplaces also, and that the protection of the law seems largely meaningless in those workplaces. We note that there are numerous examples of that, it seems, every month or so occurring.

The other is a report from the occupational hygienist at the Occupational Health Centre that was prepared subsequent to those hearings on the effectiveness of enforcement, and she conducted some research and found that a combination of activities is required to reduce injury and disease: education and persuasion–we certainly heard the word "education" a lot, but not too much of the other elements that we think are necessary–laws and regulations, and policies. Those are the combination that she determined through her research was required, and she notes that the enforcement of laws and regulations plays an important role in reducing the occurrence of injuries and accidents in the workplace and cites numerous studies that back that up, one of which notes that enforcement activities should be maintained or increased, where possible, if the program's legislated purpose of preventing occupational injuries and illnesses is to be met. She cites another study that found inspections imposing penalties induced a 22 percent decline in injuries during subsequent years.

* (1050)

Now, that is relevant information for what we are going to say in the main portion of our brief. We will start by saying that certainly we are extremely supportive of an increase in penalties for infractions of The Workplace Safety and Health Act; however, we have concerns on two major counts with the proposals contained in Bill 32. Those concerns in a nutshell are that the penalties simply are not high enough, and secondly, that increased penalties alone are an insufficient measure to address serious violations of the act. Even employer groups agree that the current level of penalty in the act, a maximum of $15,000, is insufficient.

Employer members of the minister's advisory council on workplace safety and health have concurred with the recommendation resulting in the proposed levels in Bill 32. The labour representatives on the council also agreed for the sake of getting a unanimous recommendation to the minister, but the minutes show that their preferred option was a penalty level of $250,000, still half the level in Ontario. The minutes also note, and we do again here today, that labour's preference is for a penalty assessment system that would enable the inspector to apply appealable penalties on the spot, as is done in British Columbia. The positive aspect of this system is that it avoids the prolonged and costly process of prosecution and leaves the application of penalties in the hands of those who, unlike the judiciary, are familiar with occupational health and safety.

This would require a change in law in this province to empower the Workplace Safety and Health division of the province to issue an order to the WCB, the Workers Compensation Board, to impose penalties which could be collected through the regular assessment mechanism. The system would provide for penalties on a sliding scale depending on hazard, repeat orders, number of workers exposed or affected and overall past compliance performance. Automatic penalties for serious infractions, including the lack of an effective joint committee and repeat offences, would also be part of this system.

Higher penalties in a penalty assessment system, then, should be the primary enforcement mechanism for health and safety infractions. Prosecutions are costly, wasteful of inspector's time, and require a high standard of proof in the courts. That is not to say that prosecutions should not occur, they should, but we believe that if they are carried out properly and vigorously and with significant penalties at the end, their deterrent effect should result in only a small number being necessary. In addition, criminal

prosecutions, we believe, should be considered where employer negligence has resulted in a fatality or serious injury, including injury resulting from health effects caused by exposure to hazardous substances. What is really needed to drive the message home of the seriousness of such offences is harsher penalties, including, in some cases, imprisonment. I have the record of prosecutions in this province from 1984 to the present, and it is a shameful record when you find almost every second penalty is less than you might incur for a parking violation in this province. It says something about how seriously our society takes the damage, the fatalities, the illnesses, the serious injuries that are caused to working people in staggering numbers.

I want to use one of them as an example because it ties in with our call for a penalty assessment system, and that is the Cordite construction one, which, if you will recall, made some front-page news. There was a worker trapped in a trench that collapsed; he was trapped waist-deep or so for quite a period of time. The individual who was largely responsible for introducing the penalty assessment system in British Columbia, Terrence Ison, arguably the foremost expert on workers compensation in this country, when he introduced it, he used the example, as a matter of fact, of a collapsed trench. I will quote from Mr. Ison and this would be in the early '70s when this system was introduced in British Columbia.

He says, let me illustrate the point. An employer, let us call him A, is engaged in trenching operations for the purposes of laying underground pipe. He is digging in sandy soil; the trench goes to a depth of 10 feet with vertical sides; no shoring is used. The trench walls collapse, and the worker is killed, leaving a wife and four children.

Contrast that with the second case. An employer, let us call him B, is engaged in trenching operations for the purposes of laying underground pipe–same conditions, sandy soil, 10 feet. The trench walls collapsed, but through sheer luck there is no one in the trench at the moment of collapse and no one is injured.

Now consider which of those two employers is more likely to be the object of condemnation. Surely, it is more likely to be A than B. The conduct of A is more likely to come to the attention of other employers than the conduct of B. Workers are likely to feel intensely resentful, if not angry, towards employer A. But they may not feel more than a mild rebuke towards employer B. If union officials are demanding action, it is more likely to be against employer A than employer B. If there is a prosecution, it is more likely to be A than B.

Contrast this with the need for sanctions in those two situations. Which of those two employers is more likely to repeat behaviour of that kind? If A has any humanity at all, it is sure least likely to be A. To punish A in these circumstances might seem like shutting the stable door after the horse has bolted, and that is not to suggest that A should not be punished. But, unless sanctions are invoked, nothing has happened to change the behaviour patterns of B. Of these two employers, it is surely B who is most likely to see no harm in what he has done, and surely B who is the more likely to continue the same course of hazardous behaviour in the future if no action is taken. If sanctions are to be used effectively for preventive purposes, there is surely a greater need that they be applied to B than to A.

In other words, the success of any enforcement program will depend largely on the extent to which it can invoke sanctions for preventive purposes rather than having them used only as an act of retribution after the event. I suggest to you that the sanctions in terms of Cordite construction, who was charged on two counts, failing to supervise the excavation through the period and failing to cause shoring to be installed, the penalty on the first was $100, on the second, $400. Again, as Mr. Ison points out, this is not a serious deterrent. What we are doing is waiting for this individual to kill someone, and, unfortunately, even then the penalty is insignificant.

The other shortcoming of this bill is that the level of penalty by itself really is not all that relevant, and studies done for the Occupational Safety and Health Administration in the U.S. have backed that up. It is really only part of the blueprint for constructing a meaningful enforcement structure. Without the rest of the blueprint, to use a rather apt metaphor for our neck of the woods, the scaffold is going to collapse.

If it is truly the intent of this government to get serious about enforcement, that intention will not be

met by a mere raising of the fines. The act has to be changed to remove the ambiguity of the role of the state as an enforcer of health and safety laws. Changes that are needed in enforcement include a legal obligation on government to enforce legislation and regulations that guarantee a safe and healthy work environment, and specific performance standards to ensure that preventive measures are taken and workers' rights respected. These standards would require the inspector to review and approve plans for all new workplaces and major modifications to existing workplaces.

By coincidence I was hearing from an individual yesterday speaking about the brand-new Schneider operation, and it is a good example of why this probably should happen. Apparently the speed in there is quite something to observe, and already the cases are coming out of repetitive strain injuries and the like. Of course, there is no involvement–and I am not saying this is absolute fact because I do not know; perhaps there was some involvement. I would be surprised because normally there is not an involvement of the health and safety division in setting up the–[interjection] I am sorry? One minute?

Well, I do not want to waste my time complaining about the lack of time, but that is truly unfortunate, given the short list of presenters. Well, I am very disappointed in that.

I trust and I hope that you will read through the presentation and see that there is–

Mrs. Shirley Render (St. Vital): Mr. Chairman, I would suggest just so that he does not have to rush through and see what he is going to delete, that we let him know, please go ahead with your brief. There is latitude. Your one minute is more than a minute.

Mr. Mesman: I appreciate that very much. We are not talking an extra half hour or anything. I will not go through the entire list, then, of the specific performance standards, but I ask that you have a look at those: the inspection of all workplaces on a regular basis; the immediate investigation of work refusals failing which workers may legally resort to collective work refusals.

* (1100)

The work of the inspectors should include some clear requirements, and they are listed there again: notifying the union of any inspection; observing work as it is carried out; asking workers about symptoms or health problems, exposure situations, et cetera; recording all potential exposures to chemicals, physical agents, biohazards, and repetitive strain; taking samples and photographs.

Taking workers' deaths, injuries and illnesses seriously from a legislative perspective also means giving more power and rights to those workers. That is another part of the recipe, if you like.

The right for individual workers to know and to participate and refuse, and those rights are in our current act. Those rights have to be substantially–and I see it says "expended." Now obviously that should be "expanded," although there are two meanings to "expend." Expend great energy, yes. To include the following: extended WHMIS training, and this does not happen, Workplace Hazardous Material Information System, the required training of people to know what chemicals they are working with and what hazards they face in working with those chemicals; the right to refuse where information or training is lacking or misleading, or when workers believe their work with hazardous substances may endanger other workers, or when they are required to discharge chemicals in the general environment; extension of whistle-blower protection to workers who inform enforcement agencies and media about workplace problems; the right for individuals to take complaints to the joint committee, have an investigation and a formal response within a limited time period; the right to require action from the committee and the employer on worker symptoms and health complaints even if those exposures are below occupational exposure limits.

I will not go into the changes that the advisory council recommended on the joint health and safety committee back in 1991. Unfortunately, that unanimous recommendation, which may have helped the process considerably, was never acted upon by the government of the day, by this government. In addition to powers to inspect the workplace and to accompany government inspectors and to intervene on work refusals, worker health and safety reps should have powers to shut down unsafe work, to order compliance

with regulations, to conduct necessary tests or monitoring, to participate in the planning of air sampling, to have access to the workplace at any time to carry out the responsibilities, to initiate, approve and carry out worker health and safety training, and to call emergency meetings of the joint committee.

Given recent history, it is not surprising that the best this government can muster to respond legislatively to the endless tales of tragedy emanating from Manitoba workplaces is, unfortunately what I have to label as tokenism. I hope I am wrong. Making a broad public gesture of raising the fine level but doing nothing else that will really change things is not the solution here. I refer you back again to that appendix from Kit Galvin, the occupational hygienist, where she cites a study done by a fellow named Braithwaite, to punish or persuade, and the studies are listed at the end of the piece.

This is about mining fatalities. There were three times when they noted decreases: the first after 1941 when inspectors were first permitted into mines; the second after 1969 when regulations included mandatory citation of violations and mandatory minimum of four inspections a year; the third where you would expect a decrease, the third time there was a change in regulations was in 1952 but interestingly, as she says there was little decrease in mining fatalities after '52 and the authors describe the '52 act as a symbolic law, not resulting in tougher legislation. We are hopeful that this is not merely a symbolic law, but again in and of itself we are not sold on the fact that it is going to have meaningful significance.

As we note, you cannot help but note that this government could have reassured its friends in the business community by pointing out–and I am not saying that they did–that Alberta has had a fine level equal to the one proposed by Bill 32 for years but very rarely prosecutes, and on those rare occasions that they do, rarely seems to apply penalties that are much more significant than those we see under the current act in Manitoba.

Twenty-seven fatality claims last year, the Workers Compensation Board accepted. This figure alone should be enough to cause a caring government to take a comprehensive look at what is required to stop such a grim toll. Keep in mind also this does not include the kinds of tragedies like, to use two examples just from the past year, the permanent neurological damage suffered by the 39-year-old father of two teenagers at Poulin's or the lifelong effects of third degree burns to 80 percent of the body endured by a 19-year-old worker at Power Vac. If there is truly a greater concern for the lives and well-being of its citizens over the bottom line of its contributors, then this government will begin to take the same hard-line approach to offenders under The Workplace Health and Safety Act as it does in other areas of lawbreaking.

Along with consideration of the foregoing recommended changes, it will begin to include criminal liability as part of the enforcement picture. On those occasions where the workplace accident may be attributable to negligence, criminal charges, including manslaughter, should be laid.

So, yes, we say by all means pass this bill, raise the fines, do that, but if that is all that you are going to be doing, do not expect the working people to see it as much more than political posturing. Thank you very much.

Mr. Chairperson: Thank you, Mr. Mesman. Questions, Mr. Reid?

Mr. Daryl Reid (Transcona): Thank you very much, Mr. Mesman, for your presentation here today. I note in your presentation you have indicated that fines alone are insufficient to encouraging both workers and employers to improve the safety of worksites in the province of Manitoba. The government has said over and over to the questioning that we have had in the Legislature over a number of years that the purpose of this act is purely for educational reasons and that they see no reason to really move into the area of prosecution for those that flaunt The Workplace Safety and Health Act. We have, I believe, over 40,000 worksites, employers in the province of Manitoba, and yet we only have approximately 40 inspectors, field officers, inspecting those worksites. So you can see that it would take quite a number of years, if ever, because the government freely and openly admits that they only go to what they term to be high-risk worksites.

Do you recommend–I note in your presentation here today because you referenced the B.C. model of workplace safety and health, or occupational health and safety–to this government that they adopt the B.C. model for occupational health and safety versus what we currently have in place here in the province of Manitoba?

Mr. Mesman: Whether it is literally the B.C. model or not, some kind of model that enables the inspectorate to issue penalties on the spot for clear violations, serious violations of The Workplace Safety and Health Act, we would very much recommend, yes.

Mr. Reid: I believe in the B.C. model they also have the publication of a list of names of those that are in violation of the occupational health and safety act in that province. Would you recommend to this government and to this province that we would have similar type of actions?

Mr. Mesman: I certainly would, yes.

Mr. Reid: Are you aware of any employers ever having been prosecuted in this province in addition to the companies themselves under The Workplace Safety and Health Act in this province?

Mr. Mesman: No, I am not, and as you are aware, in fact, I believe we will soon be hearing from a family member of somebody who died in the workplace not so long ago where that kind of action I think was very much called for. That would be rare, but there are certainly circumstances, particularly these companies that appear and disappear and crop up under different names that have seriously violated the workplace accident and caused injuries and fatalities and yet nobody seems to pay the price for that.

Mr. Reid: We had an example, and I believe you raised it in your presentation here today, with respect to Cordite construction where the individual was trapped in the trench, and then that particular company attempted to shut down its operations and start up the next day under another company name. We have a situation in this province, and I have raised this in the House here for the last two weeks with respect to the Canadian Corrosion Control company, and no action is being taken against that company, because they just simply shut their doors, and the government refused to take any actions against the owners. What recommendations would you give with respect to criminal prosecutions? Do you think that criminal prosecutions in some of these cases would be warranted?

Mr. Mesman: Absolutely no question in my mind, and what I am told is that the answer, when the Crown is asked to prosecute an individual, is that there is no precedent for this. Well, I suggest that precedents get set somewhere, and someone has to find the guts in this province to set that precedent, and the case you cited strikes me, on the face of it, as a perfect example for doing just that.

Mr. Tim Sale (Crescentwood): One question, I guess, in the form of an observation: Do you find it strange, as I do, that fish and game officials can issue citations on the spot for illegal fishing, but putting people's life at risk does not allow the same kind of action?

Mr. Mesman: I am afraid that is one of a list of bitter ironies on this subject. I certainly do, and the fact that there is more of them than there are inspectors for the workplace too tells me something about how important this subject seems to be to the state.

Mr. Chairperson: Thank you, Mr. Mesman, for your presentation today, and thank you for the time you provided also.

Bud Shairo, Shiaro, you can correct me when you come up. Do you have anything to pass out to–okay. I will ask that they be passed out, and if you want to give me the correct pronunciation.

Mr. Bud Shiaro (Canadian Union of Public Employees): Either one was fine.

Mr. Chairperson: Okay, I would ask you to continue, please.

Mr. Shiaro: While my handout is being distributed, I would just like to point out that I am with the Canadian Union of Public Employees, and across Canada we

represent over 450,000 members, and therefore workers in various workforces. So the comments I make today, while specific to Manitoba, do reflect the concerns and the feelings of our members across Canada.

* (1110)

Enforcement of the occupational health and safety act is a vital element of a comprehensive approach to occupational health and safety. Employers are ultimately responsible for ensuring a safe and healthy workplace. Knowing that they will be held accountable and prosecuted for not maintaining a safe and healthy workplace will force employers to fulfill their responsibilities under the act. It also will provide a good reason for them to deal with worker committee members in good faith, that is the joint Workplace Safety and Health Committee members. The main focus should be on the issue of enforcement by the governments of the employers' responsibilities under the occupational health and safety act.

Enforcing versus facilitating. CUPE desires a clear and unequivocal enforcement role for the occupational health and safety inspectorate. The government body responsible for health and safety must devote and dedicate its resources toward high-level enforcement activity to enhance this role. This role must not be diluted by advisory and consultative functions directed at facilitating internal responsibility systems. Such mixing of roles only provides mixed messages about the seriousness of the inspectorate's enforcement role, and the experience of my members in this province has been that it is a facilitation role and is sometimes a hindrance role.

CUPE supports the IRS as a supplement to external enforcement but not as its substitute. It is CUPE's position that the enforcement system should drive the internal responsibility system. The internal responsibility system should not drive the enforcement system.

It is CUPE's conviction that a dedicated enforcement function based on clear policies can bring about much needed improvements and enhance the internal responsibility system. It is our view that a highly visible and enforcement-mandated inspectorate is a key factor for positive health and safety performance.

Basic Principles of an Effective Enforcement System:

1. The enforcement system must be designed and operated to give a clear message that violations of our health and safety laws and endangerment of workers will not be tolerated. The system must be based on two operating principles: The cost of violating the law will be greater than the cost of compliance. Potential violators must expect that there is a high probability of being caught and penalized when they violate, particularly of being caught. I think that becomes a key incentive to everyone involved in this.

2. The enforcement system must drive the legal framework of the IRS. The IRS must be enforced on the basis of the following operational elements: Zero tolerance for violations of the internal responsibility system; for example, where an employer sets up committees that are not legal committees. There is one employer that we have that has up to 80 nonlegal committees and one legal committee. That would be considered a violation. Orders must be written when the IRS is violated. Employers must be penalized when they deliberately violate the provisions of the IRS. Orders and penalties must be issued when employers fail to implement their own internal policies, programs and standards. Employers must be penalized for reprisals against workers who use their rights under existing occupational health and safety legislation.

Elements of an Effective Enforcement System:

1. The inspectorate must be highly visible. To this end, there must be a system of cyclical inspections. This will require that the inspectorate be staffed adequately to ensure that the enforcement policy can be properly administered. At a time when we are returning $15 million to employers in this province, it seems difficult to argue that we cannot afford to have an adequate staff, which would then, in effect, bring down the compensation rates, so I think in the long run we would be further ahead as workers and certainly as employers in this province.

2. The inspectorate must be clear about their role and given a clear mandate to enforce: The policy must be applied consistently. Managers of inspectorates must be held accountable and responsible for the consistent administration of enforcement policies. The policy

must be monitored frequently to ensure consistent overall and individual application. The minister responsible for occupational health and safety must direct that no exceptions to the policy will be tolerated.

3. The inspectorate must be mandated and supported to issue orders and penalties for all violations. All violations must be recorded when orders are written, so that the employer's compliance record is known. Certain violations must result in mandatory penalties. A schedule of violations that will automatically result in specific action must be developed and followed consistently. Repeat violations must result in higher penalties and mandatory sanctions. Penalties and sanctions must increase as violations increase. Penalties must reflect the seriousness of the violation, how long the violation has been occurring, the number of workers affected, whether an injury has occurred. Existing sanctions in Section 54, 55 of the act do allow for ongoing occurrences, although I am not aware that that has ever happened in this province in the history of The Health and Safety Act.

4. Enforcement tools must provide inspectors with the means to have an immediate impact. The minister must institute a speedy approach to bring violators to court. This can be achieved readily by mandating and preparing inspectors in the routine use of offence notices and summons.

5. Employer gross negligence that leads to injury or death must be dealt with under criminal law. To deliberately endanger is violence against a person and must be treated as an act of violence. This can also be instituted without legislative amendment. Such incidents should be handed over for police investigation and Crown prosecution, which is common in many jurisdictions around this world.

6. A penalty system that is speedy and not easily circumvented must be developed and instituted. This system would be driven by an administrative monetary penalty system that has no appeal to the courts, which I believe is part of the B.C. system. It uses a combination of penalty assessments that include ticketing, Workers Compensation Board assessments and a schedule of fines assessed by the inspectors. The system is an effective deterrent as well as a mechanism to provide prevention programs.

The system has the following advantages: It is immediate and it avoids expensive and time-consuming prosecutions. It allows for a penalty accumulation depending on the seriousness of the violation, length of time violations have occurred, past compliance record of employers. It provides penalty flexibility that is in the hands of those directly involved in health and safety enforcement. Its flexibility allows it to drive prevention programs since it can be devised to enforce deadlines and schedules so that the cost of a violation is greater than the cost of compliance. It has the additional advantage of keeping the monetary fines within the divisions coffers to promote better programs, hire additional staff and fund further regulatory development. I guess it would be sort of the thing where the bad actor pays and the good employers do not have to get saddled with the cost of someone who chooses to act in a manner which is not in compliance with the legislation.

In conclusion, the proposals of Bill 32 are an important step in supporting the enforcement of the safety and health act. However, it is CUPE's view that there is significant room for improvement in health and safety conditions in workplaces. These improvements can only be achieved by a comprehensive and balanced approach, and this approach includes providing for the specialized needs of the internal responsibility system through training, updating occupational health and safety legislation, providing for a strong and dedicated enforcement function. This approach will lend to the ability of Manitoba employers in meeting the objectives of the safety and health act, and those objectives are the prevention of illness and injury in workplaces and the provision of the highest degree of physical, mental and social well-being of workers while at work. Everything that an employer does in this province according to The Workplace Safety and Health Act shall be done in accordance with those objectives. I can assure you that in almost if not every workplace in this province, the vast majority, those objectives are not being met. The employer is not acting in accordance with those objectives, and the enforcement is doing nothing about it.

So the increase in the fines is a step, but there really is a need for a very sophisticated and ongoing enforcement program. Thank you.

Mr. Chairperson: Thank you, Mr. Shiaro. Are there any questions?

Mr. Reid: Thank you, Mr. Shiaro, for your presentation. You say moments ago that education appears not to be working, as the government has long touted that avenue of The Workplace Safety and Health Act. You indicate that prosecutions do not appear to be taking place even for the most serious offences of violations under the act. I take it then that you would make recommendation to this government to implement proposals similar to what the British Columbia government has in place which is the immediate consequences for any failure to protect the safety and health of workers under the occupational Workplace Safety and Health Act. Would that be your recommendation to this government?

Mr. Shiaro: Yes, and if I may expand on your question and relate directly to it, I have worked from coast to coast in this country in the area of health and safety, and I have dealt with employers from coast to coast. British Columbia ran into a situation where the employer was allowing their supervisors to send workers down into sewers to do inspections without the adequate protective equipment they needed, monitors, breathing apparatus and so on. The way we got the employer to comply was that the safety officer for the employer said, well, we have had a fatality, we have been through an inquest, we have some real problems, the minimum assessment by the Workers Compensation Board alone if we have one more infraction will be $50,000, assured. Within days the equipment was on order. No one went below ground until that equipment was in place.

* (1120)

In the City of Winnipeg my members fought for two years, two full years, to get the right to breathing apparatus when they went down and crawled through sewers on their hands and knees. That was after we fought for two years. I fought, and my co-workers at the sewage treatment plant, to get breathing apparatus while we stood waste deep in sewage for six weeks to three months at a time. The B.C. experience said to me there is an incentive there. It made sense to that employer. They were not going to take a chance because, without fail, the minimum they would get assessed was $50,000 up front. That did not talk about what the inspector would do, and that did not talk about ending up in the court system. That was strictly the WCB assessment and that employer ordered the equipment, because the equipment, I think, came to around between $20,000 and $30,000. So it was half the price and we got what we needed for our members.

Mr. Reid: So then there is a strong financial incentive for employers to take immediate action to ensure that there are safe workplaces. I have to ask you, too, because you raised the point with respect to rebates that have been given to employers by way of, I believe it is, some $45 million that went back to employers in one way or another from the workers compensation system just in the last year. So I take it from your presentation here today, you would recommend that instead of the government giving that money back to employers, and since the workers compensation system essentially funds the Workplace Safety and Health provisions and inspectors and operations that some of that money, at least, should have gone into providing for more inspectors for the province to utilize in inspecting the 40,000-plus worksites in the province, of which they only have about 40 inspectors to do that work now. Would that be your recommendation to put more inspectors into inspecting those worksites?

Mr. Shiaro: Yes, is the short answer, the obvious answer. The bit longer answer is, I think, workers have to have a wee bit more say into how these monies are spent, and how they are returned. I think you would have many–my members would argue, well, my employer has no accidents, we do not have illness, we do not have injuries, why are we paying an increase? We get into those discussions. On the other hand, if we said to workers, look, this is what is happening but if we had more inspectors, your experience could be common throughout that class of workplaces, I think my members also would say, that makes a lot of sense. Before we give the money back, maybe some of it should be going into having staff so we can have enough inspectors. When we go through the budget process, this government goes through the budget process, the question is, who is being cut? The question never is, how many more should we add? And yet at the same time, we are returning monies.

Perhaps we could argue that some of those monies should be returned. Perhaps that assessment rate should be reviewed. But the intent is to prevent, not to wait until the compensation claims mount to the point where we have to up the assessment.

I just dealt with an employer yesterday who is going to deal with chemicals in a school this way: I have had no reports of illness, therefore there is no problem. But the law does not talk about it. It talks about preventing illness. So if you have children in this particular school division, chances are they are going to have some ill-health effects, but unless you report them directly to employer's health and safety officer, nothing will happen. They probably will get a rebate. I do not know if they pay a compensation levy or not; I am not certain. I did not ask. I think that is a reverse way of going about it. We really do have to look at prevention.

Hon. David Newman (Minister of Energy and Mines): One thing that has not been focused on, I think, and I am heartened by the fact that all submissions support the increase in the penalty, and it was a unanimous recommendation from the advisory committee made up of labour and management as well. The consequence of the increased penalty in the Manitoba context, relative to B.C. or Ontario, given the number of very small employers we have here, is that the maximum penalty here is indeed a very significant deterrent, especially relative to Ontario or B.C. even. The audience that I think these submissions could most effectively be put to would be the judiciary, because under our system it is the judiciary that decides on the penalties. It also is the legal process that protects the people who are presumed innocent until proven guilty. British Columbia has appealable penalties, and it goes against the basic trend that the legal process is there to protect the innocent until proven guilty.

Mr. Sale's flippant comment, I must say, did cause me some concern because the reason we do not give tickets to alleged rapists or murderers is that we have an innocent-till-proven-guilty sort of approach and to trivialize it by suggesting that somehow fishing–

Mr. Chairperson: Excuse me. Point of order, Mr. Sale.

Mr. Newman: My point is made, thank you.

Point of Order

Mr. Sale: Mr. Chairperson, the member uses words that I never used. I compared the rights and safety of workers to the rights and safety of fish. I do not remember any rapes or murders that were the subject of workplace safety and health issue. So the member is neither using my words nor my intent. He is deliberately misleading those who are listening to believe that I said something I did not say.

Mr. Chairperson: Mr. Newman, on the same point of order.

Mr. Newman: The record will speak for itself.

Mr. Chairperson: There is no point of order. I would advise all members that the questions to the presenter are for points of clarification.

* * *

Mr. Chairperson: Mr. Shiaro, do you have a comment?

Mr. Shiaro: Yes. I was not certain if it was Mr. Newman who was putting forward a question or if he was trying to address the complexities in Manitoba of the master-servant relationship in workplaces, which he understands quite well, and henceforth the need for increased enforcement, which I believe he probably does support.

Mr. Chairperson: Thank you for your presentation today.

I would now call on Jackie Kuryk, and I will ask, do you have any presentations for the committee?

Ms. Jackie Kuryk (Private Citizen): No, I do not.

Mr. Chairperson: Okay, whenever you are ready, I will ask you to proceed.

Ms. Kuryk: I am here today to speak on behalf of my family. More importantly, I am here to speak on behalf of my brother Andrew whose voice can no longer be heard. This coming Monday, June 23, is the day three years ago that changed all our lives forever. Andrew

was killed in an industrial accident at his place of work, Canadian Corrosion Control. He was employed there as a summer student.

In absence of the use of safety standards, this company condoned the loading of 3,000 pound light posts onto a flatbed trailer by way of a forklift. This forklift had no securing device, and the mere jarring of this forklift caused the pole, which was not secured, to roll off the forklift and land on my brother who was standing on the trailer at the time and was not able to get out of the way.

Canadian Corrosion Control was a company that relied on on-the-job training. In the previous three years to the accident, this company was on record seven times for different stop-work orders, warnings, complaints to Workplace Safety and Health about the practices of this company. Two of these times involved either injury or near-miss injury to employees there. The eighth incident is the accident that took my brother's life.

This historically unsafe company was finally ordered to stop operation a couple of days after the accident until they came up with some safer practices. The company was eventually fined and went bankrupt, never to pay this fine, and the owners are left only to suffer the consequences that their consciences will serve them.

We are in agreement that punishment is a great way to make a point to those who break the law, but we would like to encourage a more proactive approach to enforcing The Workplace Safety and Health Act guidelines, because what has been painfully learned is the monetary charges can be too little and too late when we look at the fact that when people's lives are at stake, it is essential that safety is enforced sooner than hindsight, perhaps even some accountability on the part of the owners of unsafe companies.

Over the past year and a half, there was an inquest into this death of my brother, and it was initiated by our family because it seemed that the investigation that took place, and then the company finally going bankrupt, it was pushed under the carpet and never to be heard of again. Well, we were not about to sit down and let that happen. It was our goal that no one else should have to go through what my family has gone through.

At the end of the inquest, the Provincial Court judge recommended that things could have been done, or if they had been done, should have been done better to prevent a death like Andrew's from occurring again. He mentions formal training and guidelines for forklifts, security devices, official checks on hazardous loading operations and a few others, but what this all amounted to was that it was foreseeably a dangerous operation and if people had the skills and the knowledge to run this operation, it would not have happened. If knowledge and skills were enforced, accidents like the one that happened to Andrew should not happen and would not happen again.

* (1130)

This is a case that no matter what the maximum monetary penalty was, it would make no difference. If Canadian Corrosion Control was fined a million dollars, they still went bankrupt, the case was still ignored by Workplace Safety and Health and the precautionary measures that are currently in place and trying to be enforced are ineffective. It has and will be my family's intention that Andrew's death will not continue to be shuffled under the carpet. That is all I am going to say.

Mr. Chairperson: Thank you for your presentation.

Mr. Reid: Thank you very much, Ms. Kuryk, for coming here today to make this presentation, I am sure under very trying circumstances to you and your family. I am not sure if you are aware, but we have been attempting to raise this matter to bring about some what we would consider to be appropriate action with regard to Andrew's unfortunate and untimely death. I am not sure if you are aware or not, but Canadian Corrosion Control, from our research, is not bankrupt. Our records failed to show up anywhere–this company just simply ceased operation so, in fact, they are not bankrupt, and yet the government has chosen, through its Prosecutions branch in the Department of Justice, to stay the charges against this company.

It is my understanding, from asking questions of the Minister of Labour (Mr. Gilleshammer), that the

Department of Labour made recommendations to the Justice department, and I hoped that they named both the owners of the company and the company name in recommendations for prosecution, but the Justice department chose only to prosecute the company name, thereby allowing those that were ultimately responsible for the training in safe workplaces to escape any responsibility for the lack of that training.

Would you recommend to the government that there should be, in a case such as this that is so close to you, that action should be taken, considering Judge Minuk's report, which I have read and no doubt you have read, that the owners themselves should also be named alongside of the company names so that those responsible for such serious injuries or death can also be held accountable for their actions?

Ms. Kuryk: I think our stand as a family is that we are not out for revenge. We are just out to see that there is someone that says, you know, things went wrong and this should not happen again and what can be done and what can be put in place so nobody has to lose a brother, lose a friend, lose a son. I think that is what our approach is, not pointing fingers and not blaming, which probably should be done, but that is not our standpoint. We just want to see that things get put in place to prevent this from happening.

Mr. Reid: What actions then would you recommend that the government take to make sure that this never happens again?

Ms. Kuryk: Obviously, what is assumed to be in place that is working did not work. The warnings of this unsafe company did not work. It did not sent a message to them at all. They did not make their point that, you are doing things wrong and you need to fix things. What essentially happened is someone died, and they went, whew, let us get out of here, and that was the message they sent. It was not what the Workplace Safety and Health was saying to them, it is what happened to Andrew that finally sent the message to them, and that was really–why does that message have to be the only one that works?

Mr. Reid: So then, if I understand you correctly, you think that the current legislation that is in place, fine levels aside, that there are mechanisms or tools available to the government where they could have taken appropriate action to make sure that this never does happen again to another individual and they have chosen not to use those tools.

Ms. Kuryk: Yes, that is what we think.

Mr. Gary Kowalski (The Maples): Thank you very much for your presentation. I found your statement that you are not out for revenge, that seems to be consistent with many other families who I have met who have lost family members in workplace accidents. I do not know if I could handle it as well as you and your family have handled it. The other part that I find very gratifying in your presentation is your search for ways of preventing this from happening to any other family and saying that anything now is too little too late.

We heard one recommendation earlier from another presenter that in British Columbia the inspectors there, when they attend a worksite and they find dangerous conditions, they give like a ticket, like a cop gives a speeding ticket to remind people to slow down, and the inspector would give a ticket at a workplace if he found unsafe conditions.

Do you think if the company your brother had worked for had been issued a number of tickets over a period of time prior to that they might have instituted safer work practices to avoid further tickets? Do you think that sort of system might have prevented your brother's death?

Ms. Kuryk: I think that if the company had paid more respect to warnings that were offered them, and if the warnings that were given to them were made more serious, then, yes, something could have been prevented.

Mr. Chairperson: No further questions. I would thank you, Ms. Kuryk, for your presentation today.

Ms. Kuryk: Thank you.

Bill 39–The Labour-Sponsored Venture Capital Corporations Act

Mr. Chairperson: Bill 39, The Labour-Sponsored Venture Capital Corporations Act. Rob Hilliard. Do you have a handout for the committee.

Mr. Rob Hilliard (President, Manitoba Federation of Labour): I do not have a written brief. I do have an example of something I would like to briefly address later on to hand out to the committee and perhaps I could do that now.

Mr. Chairperson: I would ask you whenever you are ready to please make your presentation.

Mr. Hilliard: Mr. Chair, I apologize to the committee for not having a written brief, but as it turns out, two of my colleagues were up here earlier this morning, and we had three briefs to get prepared in a short period of time and this is the one that did not quite make it. However, the point I wish to address in Bill 39 is–there is really only one point and it is quite straightforward, and I do not think that the absence of a written brief will make that any more difficult. Before I proceed, however, I would like to point out to the committee that the Crocus Fund which is, at present, the only labour-sponsored venture capital fund in the province right now, is indeed a success story. It is not too often that the provincial government and the labour movement have been able to collaborate on something that has worked out well. This is one of them.

The Minister of Finance (Mr. Stefanson) has publicly acknowledged the success of the Crocus Fund. It has surpassed all of the performance criteria put before it. It has been extremely successful at raising capital within Manitoba from Manitobans and reinvesting that capital back into small and medium businesses. It has been, indeed, a success story.

Bill 39, it appears that the provincial government feels that it is wise to create more of these funds rather than perhaps providing other vehicles to make the Crocus Fund even more successful than it has been. That is a choice of government and that is fine. The issue, however, we would like to address and point out in Bill 39 is the definition of employee organization. It concerns us because it appears to open the door to some abuse. I will read the definition as contained in the bill: Employee organization means an organization of employees formed for the purposes which include the regulation of relations between employers and employees and includes a duly organized group or federation of such organizations. We have no difficulty with those words up to that point. It is the words that follow that give us some concern.

* (1140)

The words that follow state: And for this purpose, an organization may be composed of one employee.

This appears to us to be an invitation to perhaps set up the labour-sponsored venture capital fund of John Smith or Jane Doe or somebody else. For the most part, labour-sponsored venture capital funds in Canada have been very successful. They have achieved the social policy purposes the government set them up to do. However, there have been some problems with some funds, and those problems have existed almost exclusively in Ontario. There is one national fund that, unfortunately, has not got a very good track record, and I am not prepared to defend that fund at all, but Ontario is the place where most of the problems have arisen. They have arisen because primarily there is a very, very loose definition of employee organization or trade union or the organization that is the sponsoring organization for the fund.

There have been nationally 25 funds set up across the country. Twenty of them have sprung up in Ontario because of the loose definition of employee organization or labour-sponsored organization, and what we have seen happen in Ontario is that the social policy purposes of the labour-sponsored venture capital funds is being eroded to some degree through incentives for private gain. In other words, by having some organizations come forward that, in fact, are not genuine labour organizations and indeed do not express a genuine social policy objective, they have been able to use the tax incentives provided to these funds for more personal gain rather than to achieve the social policy purposes that were intended.

The solidarity fund in Quebec is the classic success story in Canada of these funds. They were the first one out of the gate. They have achieved huge success in Quebec, and they have sponsored a study recently that demonstrates that the tax losses that government provides in order to provide incentives for these funds to operate is more than made up or is made up in less than three years. Everything after that period of time is gravy.

We have permanent economic activity, permanent jobs created that continue to contribute to the economy of the province and generate revenue for the provincial government, so it really does not take very long for the tax incentives that our government provides to be made up and to be paid back in spades over a very short period of time. It is that definition that could open the door to some private abuses that would result in an unfortunate eroding of the social policy purposes of creating these funds.

This definition, by the way, when compared with all the legislation across the country is by far the loosest of all legislation anywhere in describing what is an employee organization for the purposes of sponsoring one of these funds.

The Ontario legislation is not adequate, we believe, and the track record clearly demonstrates that there have been problems there. This definition is, in fact, even worse than the Ontario one. We would suggest that the definitions contained in the federal legislation is the model to follow. I do not quite understand why it has not been used here. Perhaps it is just an oversight, but I will read to you that definition.

Under the federal act, it says: An eligible labour body means a trade union as defined in the Canada Labour Code, which I will refer to shortly, that represents employees in more than one province or an organization that is composed of two or more such unions; in other words, a federation of unions.

The Canada Labour Code defines trade union as follows. It means any organization of employees or any branch or local thereof, the purposes of which include the regulation of relations between employers and employees.

In fact, what is the true purpose of a trade union? If the definition in Bill 39 were to stop at that point, we would not have any difficulty with that definition. We would think that is great, and we are a little puzzled, frankly, why the bill contains language that takes the trouble to extend the definition to a point that it seems to invite even single individuals to set up a fund for perhaps private purposes.

That is the only point I wish to address with the bill. However, I do want to take advantage of the opportunity–I have passed around some information on the Quebec solidarity fund that demonstrates the advantages of economies of scale. As I indicated earlier, the solidarity fund was the first such labour-sponsored fund in the country. It has grown and invested so successfully in the province of Quebec, it is now branching out into new initiatives, and that is targeting specifically local economic development. The solidarity fund set up these local funds, and they call them "solides." Basically what they are is an investment from the solidarity fund itself in combination with local entrepreneurs, local governments and so on so, that they can provide a joint–it provides seed capital to develop economic initiatives locally that are controlled locally. The decisions are made locally, and they are used to lever additional investment into these local enterprises.

They have a very successful track record, as you can see from the documentation that I have handed around. In fact, on one of the pages, you will find that as of December 31, 1996, in 51 of these local economic development initiatives, there has been a total of 214 projects financed by these funds. The funds themselves have invested directly $5.9 million into the local enterprises. That money has levered an additional $50.3 million into these local areas. These local areas, by the way, are not strictly municipalities, but they can be loosely called counties, groups of municipalities, small regions in the province, and that investment has created 1,817 jobs locally and maintained those jobs.

These are some of the advantages of economies of scale, that when one fund is permitted to grow and branch out and make other initiatives beyond the original intention, there is an awful lot that can be gained in the province and in the local communities in that province. I merely provide that for your information. Thank you very much.

Mr. Chairperson: Thank you very much for your presentation.

Hon. James Downey (Minister of Industry, Trade and Tourism): If I understand Mr. Hilliard correctly, it was on page 5, the employee organization portion which he has made reference to. Seeing that we are a

conciliatory government, we do listen to the public, and in the continued co-operative spirit that Manitoba government and the labour movement find itself in, I think I can give positive consideration to the dropping of that part of the act. When we get to that part of it clause by clause, we will give it serious consideration, Mr. Hilliard.

Mr. Chairperson: Any other questions? Seeing none, thank you very much for your presentation today.

Bill 27–The Public Schools Amendment Act

Mr. Chairperson: We are now going to move to Bill 27, The Public Schools Amendment Act. I would call on Diane Beresford, and while you are coming up, I will ask if you have anything to hand out to the committee members. You do. I welcome you here today, and I would ask you to proceed.

Ms. Diane Beresford (Manitoba Teachers' Society): I have to first apologize for not being here earlier this morning. After phoning hourly yesterday to try and get a time and a day for Bill 27, finally last night late I received a call at my home to tell me that Bill 50, The Freedom of Information and Protection of Privacy Act, was being heard at ten o'clock this morning, and since we had only received a copy of that bill earlier in the week, I did not feel prepared to present on it. It was only this morning when I called the Legislature that I discovered that it was actually Bill 27 that was being considered this morning, which is why I was not here.

The Manitoba Teachers' Society welcomes the opportunity to present its views to this committee on behalf of its more than 15,000 members. There are several amendments on which we would like to comment.

First of all, subsection 52(2), the assignment of principal's duties to superintendent. We note that a sixth school has been added to this subsection. There were five and now there is another. The society favours a removal of this subsection entirely rather than an addition to it. There is a great need for educational leadership in our schools, and it is preferable that this be provided by a principal rather than a superintendent. I point out that "principal" comes from the phrase "principal teacher" or "head teacher."

The role of principal involves instituting and sustaining change as a visionary and a team leader. The principal works with teachers as peers and facilitates teachers being primary decision-makers in the school. Working together in a collegial way creates a positive learning environment for students. This promotes a flexible and adaptive organization.

* (1150)

So the society recommends that the government not expand subsection 52(2) and further recommends serious consideration be given to the deletion of subsection 52(2) which allows the assignment of principal's duties to a superintendent.

Secondly, subsection 174(2), which allows the authority for disposal of buses to devolve on the school division. The repeal of this section appears at first glance to be innocuous, but it is within a larger context of other changes to student transportation policy, and it is clear that responsibility for student busing is devolving more and more onto local school divisions and districts. The society is concerned that this devolution of responsibility is likely to result in varying standards of operation and safety among school divisions and districts.

This change in policy comes at a time when school bus fleets are aging significantly. In 1988, Manitoba Regulation 465 was amended to allow for the maximum age of a school bus to rise from 12 to 15.5 years. School divisions and districts are under significant financial constraint at the moment and will be under considerable pressure to allocate resources intended for capital expenditures elsewhere into operations, which may create potential delays in necessary maintenance for buses.

We believe it is critical that the province maintain a high standard of operations and safety. We do not believe that any chances should be taken with the safety of students. The society does not support the repeal of subsection 174(2) and urges government to review its student transportation policy in its entirety.

Sections 186.1 and 186.2 deletes a section in its entirety that for the most part can be deleted, but we would like to ask you to retain three definitions that are

key in ed finance. First of all, the definition of "budget," the definition of "full-time equivalent enrollment" and the definition of "special requirement" would be deleted by this particular section deletion. However, these are three definitions that occur nowhere else in the act and that remain valid and useful. So the society recommends that the definitions for "budget," "full-time equivalent enrollment" and "special requirement" be retained in The Public Schools Act as part of the definition section.

Subsection 258(2) deals with the compulsory school age, the age at which children must begin school. We recognize that the wording that has been proposed does not change the intent of the former subsection, but we want to take this opportunity to suggest that the compulsory school age should be in fact lowered to the age of six, which is in fact the normal age that students attend school. We believe it should be compulsory. There is much research to support that an early start in school helps children progress, and while six is not really an early start, enshrining it in the act as a compulsory age would certainly give an appropriate message that this government supports the early education of children. So we recommend that the compulsory school age be lowered to the age of six.

Finally, we have grave concerns about Section 259, the right to attend school. I would be willing to say that this is the section that is of most concern to the Teachers' Society.

Section 259 in the act confers a right on the citizens of Manitoba. It gives the right to attend school to the age of 21, and this right has been unfettered for many years. We believe strongly that this right should remain unfettered.

It is a very serious matter to reduce the rights of citizens. This is especially so when what is now a statutory right will be made subject to regulation. The society objects strongly to any right being diminished in this way, but we are particularly concerned when it affects a statutory right to public school education. Statutory rights should be altered only after thoughtful consideration and consultation through the legislative process, and they should not be subject to the exigencies of the day through regulation, which would be the result of this particular change to The Public Schools Act.

The addition of 259(1)(b) creates a situation in which the right to attend public school can be limited to when a diploma is received. This has implications for a student within the definition of 259(1)(a) who may be prevented from returning to school to improve employment opportunities. What happens now is students often qualify in a technical sense for a diploma, but they decide later that they may wish to go back and take further academic courses to enable them to enter university. They may decide to go back to take technical courses to fit them for a career. They may decide that decisions they took when they were 14 or 15 were not the best and need to be rethought and may wish to go back to school to earn other credits to help them in their careers. The act, as it is worded, implies that this would not be possible. This subsection could be used to limit access to school for any student.

We also worry that this might have grave implications for exceptional students. Exceptional students frequently attend public schools until the age of 21. This change to the act could enable the granting of a special diploma to an exceptional student after 12 years of schooling which would then send them out into the world at the age of 17 or 18. They would not be able, having been granted that diploma, unless regulation granted them that possibility, to continue at school until the age of 21 as many do now.

We strongly believe that subsection 259(1)(b) should be deleted. We urge the government to withdraw this section and retain the long-standing, unfettered right to attend school to the age of 21.

In conclusion, we request that these amendments be made to Bill 27.

Finally, I would like to point out that one of the highest unemployment groupings is young people from the ages of 18 to 25, and by instituting this last change, which would limit the right of students to go back to school and earn extra credits, we would simply be dumping a whole lot more young people into the workforce who may not have, through decisions made early in their high school careers, the kinds of qualifications that will enable them to either go on to

post-secondary education or to get a job in the workplace. Thank you.

Mr. Chairperson: Thank you, Ms. Beresford, for your presentation.

Hon. Linda McIntosh (Minister of Education and Training): I do not know what happened with the communications, but I am truly sorry that you got such short notice. We will find out what happened here and ensure that you are not put in that position again, because I know how hard it is. Been there, done that. I know it is difficult and appreciate the dilemma that put you in, so I apologize to you.

Just in terms of your presentation, a couple of things I would like to ask. Just for clarification, you talked about the changing in the way in which we are providing for busing, and I think you know there has been no reduction in funding for busing. In fact, there has been an increase, but your concern, if I am reading it correctly, is that school divisions will take the money for busing and even if they do need it for busing, use it for something else.

Ms. Beresford: That is one concern. I think in this time of constraint, there is enormous pressure on school boards to look for economies, and we are worried that that pressure may make them, for example, not retire buses when they ought to be retired, perhaps not provide the servicing that they need. Over the last few years, the maximum age that buses may be fielded has been steadily increasing, and we hear concerns from many secretary-treasurers and superintendents that they are worried about this. We are also worried that, the more the responsibility and the rules for busing are left flexible and left to the discretion of local school divisions in the time of restraint, this may be a corner that is cut and this worries us, obviously because of safety factors.

Mrs. McIntosh: I have a series of about three questions, if it is all right. Thank you for that clarification.

I want to go to the last point you made regarding Section 259. You had indicated a couple of things that I just want to ascertain that we are both moving from the same information in terms of drawing conclusions. You talked about some definitions coming out of the act and you talked about, I think it was 186.1(1)–it used to be in the act–with special requirement, et cetera. Those, I think you know, were only put in the act for those two years when there was a cap on the requirement. They were never in–are not longstanding provisions of the act. They were put in for a temporary period of time, I think it was two years, where the government had a cap on the requirement, and they had to include these definitions so they could be clear what it was they were defining, and that requirement–the cap has gone, and now the definitions are being removed as well because they are not needed for those requirements. They were never in before so they are not longstanding. They were temporary inclusions.

* (1200)

You have also indicated that Section 259, the right to attend school to the age of 21, has been unfettered for many years. I am not sure what you mean by unfettered, but I do know and I think you probably do know that this clarifies practice. Students have always had the right to attend school to get their diploma, their certificate, and if that takes them to the age of 21, they have always had that right. What we are saying now is, in addition to that, we are also going to grant funding for four courses beyond that, whatever it takes to graduate. We have some students taking 32 courses to graduate. Whatever it takes to graduate beyond that, they are also entitled to full funding for an additional four courses, and we have said students coming back to school at night will now also be funded, which they never were before. So, in that sense, I feel it is an expansion of their rights. They have not, and I am just wondering if you had been interpreting it differently. The amendment reinforces that right to attend school by clarifying. Before a statement of the law there was a right to attend school three years beyond the age of majority, but it was unclear. It has never been made clear. It just said you could attend school three years beyond the age of majority, and so we had to clarify when the years started and ended, but in terms of the right to attend, this is the practice that has been in school divisions and are there some school divisions you are aware of that have not had this for a practice?

Ms. Beresford: First of all, with regard to Sections 186.1 and 186.2, we recognize these definitions never

appeared in the act prior to the bill that capped the special requirement; however, we think they are useful definitions, because budget, full-time equivalent enrollment and special requirement are all terms used elsewhere in the act that probably should be defined somewhere in the act. So that is the reason we are suggesting they ought to be retained.

With regard to Section 259, the act, as it reads currently, gives the right to attend school to the age of 21, does not attach any conditions to it. We can only go by how the amendments are worded, and I do not have the amendments in front of me, but the wording change is: that a person have the right to attend school until they receive a diploma, and that is all it says.

The provisions for four credits beyond graduation that came as a recommendation from your committee on ed finance, the suggestion that there would be flexibility for students to go beyond qualifying for diploma, none of that appears in the act. It depends on regulations that the government of the day might care to make any Wednesday morning.

Our contention is that we do not want to see what is a right enshrined in legislation truncated or limited in the wording in the act with a reliance on regulation to make clear what that means, because, of course, this current government, whose intentions I am sure are honourable, may not always be in power, and a subsequent government, with the act that says the diploma is granted, the person loses the right to attend school, may decide to change those regulations that are proposed to allow the four extra credits to allow some freedom to go beyond that.

Our suggestion is the act should define quite clearly that people do have this right, and there should not be a reliance on regulation and ed finance policy to enable the further freedoms that you speak of.

Mr. Chairperson: Mrs. McIntosh, with a brief question.

Mrs. McIntosh: Okay, I will make it brief, and it will be my last question. I am just wondering if you are aware of any division that has not had the practice of interpreting the act the way we are now clarifying it. Our intention here is to provide clarity for an issue that has never been clear, and this in fact is the practice that divisions have taken.

Are you aware of divisions who have taken a different practice other than the one that we are now about to codify?

Ms. Beresford: Are you speaking of codifying it in the act or in regulations?

Mrs. McIntosh: Most divisions, because the act has not been clear, have taken the stand that students can come to school until they were 21, and then they have never been quite sure what 21, whether it meant the day they turned 21 or the day they complete being 21. They have also taken the interpretation that when you have finished high school, you have finished high school even if you are not 21.

That is what we are putting now for clarification in the act. Are you aware of divisions who have a practice that will allow students to come back to take two or three different graduating certificates?

Ms. Beresford: I am certainly aware of divisions that allow a person who has received their graduation diploma to go back and take other courses. My own division allows it, particularly, for example, if a student has taken nonuniversity preparation courses and wishes to go back to take university preparation courses. I know that other divisions such as St. James have allowed students to go back and take technical courses following their diploma. This is current practice in many divisions.

This act, by saying that once you have got your initial diploma, your right to attend school ends, would, on the face of it, not allow that. Now you would certainly be at liberty to make regs that would allow the four extra credits and so on, but our point is that this right that has been unfettered up to now should not now be limited within the act. Even though you intend to, in regulation, allow for courses beyond that, that does not take care of the long-term problem of subsequent governments, subsequent Education ministers and subsequent Premiers who may decide that the act should be read literally and boot people out as soon as they receive their diplomas, even if they are obviously

not necessarily fitted because of poor course choices for the workplace or post-secondary education.

Mr. Gary Kowalski (The Maples): I would like to get some expansion on your views on this Section 259. I am very concerned about that also from personal experience dealing with high school students in conflict with the law, high school students that a lot of times are not mature when they graduate yet, and after they receive that first graduation certificate and go in the workplace, they find that their marks, their knowledge does not allow them to be productive members of society. Often that results in their being in conflict with the law, sometimes even ending up in our correctional facilities at a cost to government in that.

On the other hand, I have seen many success stories where people who have got their Grade 12 diplomas and found that their marks were not sufficient to get them into the courses or the colleges or the training programs, so they went back and became very productive members of society. Some of them achieved very well in university academically, but at the time they graduated Grade 12 the first time–because the number of courses that allow you credit have been expanded. For example, in Maples Collegiate, next year they are allowing–their teacher adviser period, their home period–to get a credit next year towards their high school diploma.

So I question whether that person, when he finishes Grade 12, will be able to be productive in society. That allows that person, once they find out and mature, to come back. Do you see there being great costs to society outside the education system as a result of not allowing these students to come back to high school?

* (1210)

Ms. Beresford: Yes, I think that is a very good point, because we may be cutting adrift people who are not ready for life in the real world. We are always accused, teachers and schools, of being sort of an ivory tower. I think that in some respects that may be true, and some students who are 18 may need that extra year. They may have got a paper diploma with some credits on it; they may not necessarily be the credits they need for the next stage of life.

What is going to happen to those kids? Well, they might end up on unemployment if they have had a job for a time or on welfare, or they may end up still living at home but not having enough to do and consequently getting into trouble. All of those things cost society money in other areas.

So I recognize there is some cost attached to allowing people to go back to school. I think those costs are probably more than offset, and this is not in any scientific manner, in savings we would make through criminal justice, savings made through social assistance, savings made through unemployment insurance and a variety of other areas.

Mr. Chairperson: Mr. Kowalski, with a brief question.

Mr. Kowalski: The suggestion is that those students still may be allowed to go back to the individual schools and divisions, but do you think schools and school divisions, if there is any concern that they will receive funding for that student, would allow a student to come back?

Ms. Beresford: I know that the intent of the minister is to, as far as I know, allow for four extra credits to be earned following the diploma, which I think is a worthy aim. However, that has to be accomplished through regulation. My point, our point is that we would like to see–instead of having a limitation in the act and a reliance on regulation to expand on that limitation, we would prefer to see the act remain as it is, which is unfettered.

Ms. Jean Friesen (Wolseley): Thank you for your presentation. I wanted to ask about the compulsory school age but the earlier part. You are recommending that the compulsory school age be lowered to the age of six. I wondered if you could give me some information on just roughly what proportion of students in Manitoba do begin school at the age of six and how many begin school at the age of seven, whether or not there are school divisions in which it is not possible to enter at the age of six and finally, what are the other provincial standards. Are there other provinces where the school age is six or lower?

Ms. Beresford: I hope I can remember all your questions. First of all, on numbers, I cannot give you a breakdown of numbers. I would suggest that the vast majority of children begin school at the age of six. It is

the sort of regular age that you start kindergarten, and most people do. Our concern more is with the message, to have on the books an archaic law that says the compulsory age is seven when many other jurisdictions, addressing a subsequent question, have lowered the age to six and in some cases even five. If you remember the report on the commission in Ontario, there was a suggestion there that junior kindergarten and in fact even younger than that should be enshrined in The Public Schools Act, because the research is unequivocal that earlier entry into school results in better progress, particularly with at-risk children. The sooner you can get them into the system, the better. Did I miss a question?

Ms. Friesen: You missed the middle one, which was are there school divisions in Manitoba where it is not possible to begin at the age of six.

Ms. Beresford: I do not think so, no. I am sure that most allow the beginning at age six. In the case of Winnipeg 1 and others, there is a nursery program as well.

Mr. Chairperson: Thank you for your presentation to the committee today.

Ms. Beresford: Thank you for waiting for me.

Mr. Chairperson: We appreciate it, and sorry for the inconvenience.

I will now canvass the room to see if there are any persons wishing to speak to the bills that are referred to the committee this morning. Seeing none, is it the wish of the committee to proceed with the clause-by-clause consideration of the bills or blocks of clauses?

Hon. James Downey (Minister of Industry, Trade and Tourism): Blocks of clauses would be appropriate, I believe.

Mr. Chairperson: Agreed?

An Honourable Member: Not in all bills, no.

Mr. Chairperson: We will do blocks of clauses in the bills that are agreeable, and the ones that are not, we will go clause by clause. How is that? Thank you.

Bill 11–The Northern Affairs Amendment Act

Mr. Chairperson: If there is agreement to start just in the order of the numbers that are brought forward, we will start with Bill 11. I would ask if the minister has an opening statement.

Hon. David Newman (Minister of Northern Affairs): No opening statement to make.

Mr. Chairperson: Does the critic from the official opposition have an opening statement?

Mr. Daryl Reid (Transcona): No.

Mr. Chairperson: Seeing none, we thank both for their briefness. During the consideration of a bill, the preamble and the title are postponed until all other clauses have been considered in their proper order.

Clauses 1, 2, 3 and 4–pass; Clauses 5, 6–pass; Clauses 7, 8, 9, 10(1), 10(2) and 11–pass; Clauses 12(1), 12(2), 12(3), 13 and 14–pass; preamble–pass; title–pass. Bill be reported.

Bill 15–The Government Essential Services Amendment Act

Mr. Chairperson: That bring us to Bill 15. I would ask the minister if he has an opening statement.

Hon. Harold Gilleshammer (Minister of Labour): No, Sir.

Mr. Chairperson: Seeing none, does the official critic from the official opposition have an opening statement?

Mr. Daryl Reid (Transcona): Mr. Chairperson, yesterday we had the opportunity to add our comments about Bill 15 from our perspective and the impact that we saw it was going to have upon people who were employed in areas that the government is now bringing under the essential services agreement. We know full well that it was the Manitoba Health Organizations that was essentially the sponsor of this amendment under Bill 15 at this time because they had made, through their presentation that they had made last fall for Bill 17 when the government introduced the essential services agreement for the first time.

We listened to the presentations that were here this morning, and we note that they in many ways supported the arguments that we had put forward on second reading of this bill that this legislation was going to again skew the hand in favour of the employer with respect to negotiations, and that, since the government is in many cases the employer, what they are doing is tipping the scales or the balance towards their own negotiated position.

We thought that in the sense of fairness there would have been some balance that would be thought of and that we would have had the opportunity to have the voluntary essential services agreement through negotiation instead of one that is being imposed because, through this legislation, as has been pointed out by the presenters here this morning, there is now no impetus in place here to encourage employers, including the government, to negotiate in good faith towards those essential services agreements because essentially the employer can take steps to totally let that process fail, and then knowing full well that the legislation would kick in and become the determining factor on who is and who is not required to work under essential services and has been pointed out here. That could include anywhere between 70 and 90 percent of the employees in any particular function, in fact, in some cases maybe as many as 100 percent of the employees.

So the government has full and total power under the previous Bill 17, essential services agreement, and this bill brings in other functions, including health care. As we saw during the strikes or the lockouts in this province involving health care sector workers, and as I pointed out in second reading of this bill, health care workers have acted in a very, very responsible manner in ensuring that those that require those services have those services maintained. So we applaud their responsibility in that regard, and that is why we say there is with that responsibility a factor, I believe a willingness to negotiate a voluntary essential services agreement instead of having one imposed on them as this legislation will do and as Bill 17 did.

* (1220)

So we still encourage the government to undertake negotiating these voluntary essential services agreements instead of holding the big hammer over the heads of these employees as we know it will do.

Mr. Chairperson: I thank the member for your opening statements. During the consideration of a bill the preamble and the title are postponed until all other clauses have been considered in their proper order.

Clauses 1, 2 and 3–pass; Clause 4–pass; Clauses 4.1(1), 4.1(2), 4.1(3), 4.1(4), 4.1(5) and 4.1(6)–pardon me, Clause 5 only; make it simple–Clause 5–pass; Clauses 6, 7 and 8(1)–pass; Clauses 8(2), 9, 10, 11, 12 and 13–pass; Clauses 14 and 15–pass; preamble–pass; title–pass.

Shall the bill be reported?

Some Honourable Members: No.

Some Honourable Members: Yes.

Voice Vote

Mr. Chairperson: All those in favour of reporting, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: It is the opinion of the Chair that the Yeas have it.

Formal Vote

Mr. Reid: Recorded vote, Mr. Chairperson.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6; Nays 4.

Mr. Chairperson: The bill shall be reported.

Bill 16–The Council on Post-Secondary Education Amendment Act

Mr. Chairperson: The next bill to come forward is Bill 16.

Ms. Jean Friesen (Wolseley): Mr. Chairman, It is a very short bill, and I am prepared to go in blocks of clauses. But I do have quite a number of questions beforehand, so if the minister is agreeable, perhaps we could get those on the record first, rather than at the time of clause by clause.

Mr. Chairperson: I do not see any problem with that.

An Honourable Member: Agreement of the committee.

Mr. Chairperson: Agreement of the committee. Thank you. [interjection] The minister has no opening statement, and neither does the official opposition critic, but has some questions. So I will start.

Ms. Friesen: Mr. Chairman, I indicated to the minister when I spoke on this in the House that I had some concerns about the bill. One is that the minister made reference to six colleges in her speech, but the bill does not make reference to any particular colleges. It is very much of a blanket statement of the government's intentions. So I wanted to ask the minister why she mentioned those particular institutions. What was the purpose of that? Then I would like to follow that up asking the minister for some indication of the place of each of those six institutions: CMBC, the William and Catherine Booth Bible College, Concord, Menno Simons, Providence and Steinbach. I am interested in knowing which of those are affiliated, which are approved teaching centres, which are associated colleges, because the general impression the minister left–she did not mention each one specifically–but the general impression was that each of these was affiliated in some way with a degree-granting institution, and I wanted to have on the record which degree institution and in what way they are affiliated.

Hon. Linda McIntosh (Minister of Education and Training): Mr. Chairman, I hope I am not leaving out one of the answers, but if I am, the member, I think, can remind me if I have left something out.

Taking them in reverse, we have Providence College affiliated with the University of Manitoba; Menno Simons, with the University of Winnipeg; the William and Catherine Booth Bible College, with the University of Winnipeg; CMBC, with the University of Manitoba; the Steinbach Bible College is a teaching centre affiliated with the University of Manitoba; and Concord College is affiliated with the University of Winnipeg. These are all incorporated. They all have private members' bills. They are all religious colleges affiliated with the universities. At present, those are the only six we are including, but the member had asked, is it possible to include others or–I am paraphrasing but that would be–and I suppose that, if we have another college such as this come into existence that has college or university affiliation and it made application, the act could be amended to include it if it seemed appropriate. But we do not have any plans to do that at the present time. These are the only six that we feel are in this category.

Ms. Friesen: I think the minister might mean regulation could do it. The minister actually said the act could be amended.

Mrs. McIntosh: I am sorry. Yes, the member is correct.

Ms. Friesen: The answer was exactly what I was looking for. The second part of this is that at the moment these six do receive funding through other government sources, not through the post-secondary education council, so it does not indicate any change in–we cannot talk about the level of the grant, but it does not indicate any change in the granting procedure. Now, at the moment, those colleges receive funding for academic courses not for religious courses. That is my assumption. The second question I want to ask from that is: Are those academic courses open to all? What are the eligibility admission requirements of people at the religious colleges, and is there any way that is restricted on religious bases?

Mrs. McIntosh: You are right in the first. The funding the colleges receive is for the academics, not for the religious courses. Their funding is also very small. They receive, amongst all the colleges, I think it is only $400,000, $481,000 for all of them together. It works out to about $500 a student, which is far less. It has been one of the things that they have brought to our attention which has not been addressed and I think is something they would like eventually to see addressed, although we have not indicated concurrence with that and that is, they will offer–and we have discussed it

before so I will not prolong it–the same course with the same professor and the same textbooks. We have one professor who goes back and forth between Concord and the University of Manitoba teaching the same course. Same professor, same course, same texts. Students on the campus at Manitoba are funded to thousands of dollars and the students at Concord to about 500. While they get funding, it is not very much and it is only for the academics. The member is correct on that.

She asked: Are there criteria for admission? I know the basic standard for admission would be the high school, because they are post-secondary and they are university or college courses. They have to have all the prerequisites that would be required of other post-secondary institutions for the academic qualifications. Now whether there is restricted admittance to, for example, at the Mennonite college, do you have to be Mennonite? I do not believe so. In fact, I know many students go there who are not Mennonite. The Catherine Booth Bible College, many students go there who are not Salvation Army. I have attended their graduations and they are not restricting themselves to members of their own denominational faith. I am not sure about the Canadian Nazarene–the Canadian Nazarene College is not there anymore. I believe they are open to people of all denominations and faith, but they would be operating in a Christian atmosphere with these colleges since they are all Christian-based.

* (1230)

Ms. Friesen: Yes, I know the Mennonite colleges have a wide representation of students. My concern is that they are all Christian-based and whether indeed they have any right to reject students who are not Christian.

Mrs. McIntosh: I suppose–I was going to say I suppose it is not likely they would have people wanting to come who were anti-Christian, so to speak, if they want to be educated in a Christian atmosphere. I am not aware of any statement or rule that would have them reject non-Christians. My strong sense is the opposite. They welcome all people to be nurtured and taught in a Christian atmosphere, so from what I have seen–and I am sorry I am not answering this as technically as the member would like because I am not aware, but I am not sure if they have criteria for admission on the basis of, you must be receptive to Christian principles if you attend here; therefore, if you are not going to be receptive to being taught in a Christian atmosphere, we will reject you.

I do not believe they have that, although they do have an indication when you go to, say, Concord, for example, that there will be prayers. There will be religious references all surrounding them. I suppose if people are disobedient to the rules of the school, like in any school, they could be expelled. That happens at the University of Manitoba as well.

Ms. Friesen: I was looking for a statement of principle really from the minister. I think I understood the minister to say that, as she understands it, these are open institutions for admission, and one would assume that the Human Rights Code also would come into play at some point as well.

I would like to ask the minister about the University of Winnipeg, the University of Manitoba and Brandon University. What I am looking for is some guidance, perhaps from Legislative Counsel or others on the actual standing of those universities. The reason for this is that, as I have said in speaking on this bill, there appears to be two types of institutions which are being created through this. A set of institutions, the universities and colleges, who are to be accountable in a wide variety of ways for planning purposes, for evaluation, for review, for program overlap, all the things that were in the post-secondary education bill as amended. Here we have a second group of colleges, initially six but possibly others, who are to be accountable in a different way.

So I am looking for some definition of the universities in particular. Let us leave the colleges aside for a minute there. They are a different kind of creation. At their creation, the universities were funded by public endowments and private endowments. They are degree-granting institutions. They have their own acts. Not all of them, but the University of Manitoba does. Brandon University and University of Winnipeg had religious foundations in the beginning, and I believe that the University of Winnipeg still has United Church appointees on their board. I do not know whether Brandon still has any connection, formal connection with a particular church.

The University of Manitoba has three religious colleges within it, funded in slightly different ways. Again, the theological courses are not funded but the academic courses are at St. Paul's, St. John's and St. Andrew's. So I am looking for some sense from the government of how they view the universities. Are they hybrid institutions, private and public? Two peas, maybe not three peas? Or are they public institutions as they appear to be defined in the post-secondary education council bill?

Mrs. McIntosh: I do not know if this answer would assist the member in terms of what we are intending here. We do have all of these different types–St. John's College, which is where I attended, clearly a denominational college, clearly an Anglican college, clearly its purpose was, prime purpose was to train people for the priesthood, et cetera. This role is somewhat altered, but it is fully funded, part of the University of Manitoba. It started off as a campus off the campus grounds. It, for all intents and purposes, operates very much like Catherine Booth Bible College in that it is, you know, accepted–in fact, perhaps St. John's is more pointedly denominational than these other bible colleges which tend to be more nondenominational, and yet it is part of the university, and these have always stood aside.

What our goal is with the council is to try to bring some kind of co-ordination between and amongst all these institutions because they do have linkages. So, by bringing them under the one umbrella, we are able to say, for starters, these all have things in common, and they can co-ordinate and work together to be of better benefit to students. As the intent of bringing them together is that–now it may be, as time goes on, we are able to better define, because I think what you were hoping for or were looking for would be a definition of what is a university, what is a college. Just to complete here, then I will see.

This partnershipping or this coming together and sharing as much as we can for the betterment of students is meant primarily for the articulation of courses, et cetera, for the moving back and forth between and amongst institutions by students in an easier way.

You will have people from colleges getting their degrees from the university, et cetera. We see that continuing and may be building where appropriate. And you are quite right, the University of Winnipeg still must have 10 United Church members on its board. So it is very definitely still affiliated with the United Church because they have more appointees than government does there, given that two of ours are pledged to be the students–right?–and theirs are all United Church people. So they still have those affiliations, and yet they are fully funded. As time goes on, perhaps we can get a better co-ordination. We do not want to take away historical linkages that institutions have had, but there are those linkages may alter over time.

* (1240)

Ms. Friesen: I wanted to comment on the two points in the bill, and then I think we would be ready to move to vote. The first one I think is in the way of–well, I guess they are both in the way of questions. The minister's concern is for linking for articulation, and yet the additional colleges are exempted from program, from duplication criteria, from overlap, from planning. They are more accountable, and I recognize that, than the minister's original amendment of last year, and I recognize that is a step that has been taken, but if the goal is articulation and prevention of overlap, why would the new colleges be exempted from that?

Mrs. McIntosh: I think there are several reasons. One, of course, is that there is a considerable difference in the amount of funding that flows, you know, several thousand versus $500. But the main reason I think is, the six bible colleges that are coming under the council, if they have to, if they decide they want to bring in a masters of business administration would still have to come to the council and ask approval to have that, the same as the others would, too. But if they come and ask for a masters degree in divinity in Mennonite denominational whatever, they would not come to us to ask because we would not fund that, and since that is a large part of what they do in terms of being a religious-based facility, they are not likely to be coming forward with very many, but they still would have to come forward if they wanted a masters in business administration, to the council, as would the others.

Ms. Friesen: Mr. Chairman, does that apply–and the minister gave the example of a degree–to programs as defined in the post-secondary education act?

Mrs. McIntosh: Mr. Chairman, I think the brief answer to that is that if they come forward asking for new programs, the council is under no obligation to fund them for those programs, whereas the others, if it was not redundant or anything, they would be.

Ms. Friesen: Mr. Chairman, on the first section of the act where the cabinet may determine or Lieutenant-Governor-in-Council may determine grants to post-secondary institutions, is there any intention there to designate institutions which are not degree-granting institutions or diploma-granting institutions?

Mrs. McIntosh: No, Mr. Chairman.

Ms. Friesen: Thank you, Mr. Chairman.

Mr. Chairperson: During the consideration of a bill, the preamble and the title are postponed until all other clauses have been considered in their proper order.

Clauses 1-2–pass; Clause 3–pass; preamble–pass; title–pass. Bill be reported.

Bill 27–The Public Schools Amendment Act

Mr. Chairperson: We are now moving to Bill 27, and I will ask if the minister has an opening statement.

Hon. Linda McIntosh (Minister of Education and Training): No, I do not, Mr. Chairman.

Mr. Chairperson: Does the critic from the opposition have an opening statement?

Ms. Jean Friesen (Wolseley): No, Mr. Chairman, but if we might proceed in the same way with general questions first and then go clause by clause more quickly.

Mr. Chairperson: I think that is agreeable to all. I will now ask for questions.

Ms. Friesen: Mr. Chairman, I wanted to ask the minister about the–I think the two contentious areas of this bill are the ones that deal with compulsory school age and that which deals with buses. I wanted to ask the minister whether in light of having listened to the Manitoba Teachers' Society representation as well as the current questions, I think, which are surrounding school bus safety, whether the minister intends to proceed with this section of the act and whether or not there is some merit at this point, considerable merit, in delaying this section.

Mrs. McIntosh: We believe very strongly that this particular change is one that will greatly benefit school divisions. We have talked to many people involved in these areas. We know that school divisions have complained about our purchasing buses and have said, could you give us the money instead? In complying with that, we believe we are enabling school divisions to better meet their transportation needs as they see fit, being the local decision makers. There is no reduction in funding whatsoever. The amount of money that a bus costs is the amount of money the school division is given. Further than that, as well, we also have indicated that boards can set up reserve accounts to bank monies for rental, lease or purchase of buses. That gives them increased flexibility.

I think perhaps there is a concern or a misunderstanding thinking that school divisions will absent themselves from their responsibility to provide safe busing, and I appreciate what the president said and that they might feel pressured to divert money from busing to other areas and yet they have to continue to meet all of the safety requirements. They have to continue the Department of Highways rules. They have to continue the twice annual inspections and rules, and in order to protect them from an inability to budget easily over the long term, we are going to be allowing them to bank monies. So, they should be in a much better position than they ever were, especially if they can bank monies rather than just not receive a new bus in any given year. We really feel that this is an improvement over the existing, and the concerns that have been expressed are based upon an assumption that is not warranted.

Ms. Friesen: I understand what the minister is saying in terms of flexibility, but my concern is for the timing of this particular section and of the increasing financial pressures that many school divisions find themselves under and the questions which are there in the public's mind about school bus safety. So I think it is an issue of timing and one that I think has the opportunity to be reconsidered.

I wanted to draw to the minister's attention–I am sure she has seen it–the article that was published in the Free Press yesterday by the principal of the University of Winnipeg Collegiate, which detailed in a way that I do not think I have ever seen before in the Free Press anyway, the coroner's report on school bus safety in the province of Quebec and the impact that has had in fact on divisions and on safety. Now, without knowing necessarily where they started from, it is not clear where his improvements took them, but certainly in the prevention of deaths and in safety, it seems to have been very, very effective. That kind of investigative reporting and that kind of investigation into school bus safety, it seems to me, may be the kind of thing that many Manitobans are looking for now, so my concern I think I will leave it there.

The section dealing with the right to school, right to attend school, I wanted to ask the minister about two things. I think I already know the answer, but I think we need to put it on the record. There are two concerns here. One is that the minister may be able, in fact is enabled under this legislation, to define a diploma in such a way that it will force some students to leave before the age of 21, because they will have acquired a diploma. That affects two groups of people, those students who may want to come back and whom the minister has said may have up to four credits.

* (1250)

My first concern is that that is not in legislation or it is not formalized in any other government document, although I believe the minister has written a letter to all school boards and trustees. She may want to table that letter as an indication of what the government policy is or is intended to be in the regulations.

The second group of students whom it affects are those with special needs, and maybe we should leave that discussion for a second part. Would the minister like to put some form of information on the record about what her intent is in defining a diploma and how different that is from what exists at the moment?

Mrs. McIntosh: Yes, I do have the letter I have sent to the field, and I will be pleased to table it–although I have doodled on this, so I will get a clean copy for tabling. Also, it is in our funding booklet that was sent out this year, so it has been well publicized and well accepted, I might add, by most of the people who had asked for clarification on this issue.

Basically, this does not change what people have been experiencing in the field. Students right now will graduate normally around the ages of 18 or 19, somewhere around there. School divisions will determine the number of credits required for graduating purposes and many students will graduate with–there are a variety of credits that can be allowed under school divisions. We will stipulate a minimum of a certain number of credits for graduation. Most school divisions will add some to that. So they will graduate with whatever number of credits their division allows them to take and that can be determined by the division. The division could decide it would be 34 credits, if they want, that is up to the school division. I think, first of all, it is a fallacy to assume that all schools and school divisions would just stick to the minimum required by the department, when many have more credits required to graduate. Secondly, once graduated, if a student has graduated under the age of 21 and goes on to some other area, they may discover that they may want to go on, for example, to university and take a particular course of studies and discover that they do not have a certain prerequisite.

Research out of Ontario shows that students who returned to complete their high school or gain extra credits for a specific course of studies seldom, if ever, need up to four credits, so they will usually come back for one or two. If they have gone out into the world and they have begun work, the example that the president used, and discover that they have trained themselves wrongly or are not prepared for what they would like to do, then they would come back to school as adults, as they would probably by that point be 21 or over.

What we are saying now–now, this is in regulation, but it has been sent out–it is our intent that they could take credits now that we will fund, that we never did fund before, an extra four credits beyond that. Or, if they are coming back at night, we will fund them even if they are over 21 for those courses at night school which never happened before, so I think it is a greatly improved ability to gain extra credits without cost. Now, we also know that school divisions right now set

fees for those students who will come back at night or so on. By having it in regulation, if we discover that maybe we do need to make it six, we can do that without having to reopen the act, but I do not think we are changing the experiences of the field. We are reflecting now what normally happens in the field because it was not clear. Most people would graduate, get their diploma, graduate. They might come back for a course or two. Some people would take up to the age 21 to graduate, and then they are stuck. Now they know.

Ms. Friesen: I am interested that the minister made reference to the Ontario research. My understanding from some of the technical schools in Manitoba is that four credits are not enough; that anybody who was coming back would need at least eight credits to get to the level of technical expertise that would take them onwards. Has the minister had any representation to that effect? She mentioned the possibility of six.

Mrs. McIntosh: I am assuming the member is talking about someone to come back and get an actual second diploma; someone who has graduated with a diploma in university admission, for example, that wants to come back and take vocational. I have not personally had individual students–it is usually the other way around where they are taking vocational, and then they decide they want to go to college in which case they only need a couple of courses. But we do also have community colleges that will often be the choice of people who have graduated with the university–yes, university, and they want to go back and take vocational–and they most often tend to gravitate towards the community colleges to get their vocational for a variety of reasons. One is that they are into an age group that they have become comfortable with if they have left school and find that they are wanting to do something else.

My deputy has got something here that I do not know if it is applicable to this, but we are able to change. Right now we think four is the number. We are able to change that if we get a lot of requests or a lot of information that leads us to believe that it is needed. But, basically, I guess, the principle that is being addressed is that students should have the right to 15 years totally free education. They should be able to go without paying tuition for 15 years to acquire a public school education. The purpose of doing that, the purpose of going to school for 15 years without paying a tuition fee is to acquire a high school graduation diploma. So, if that is achieved prior to the 15 years or prior to a set age, which used to be said three years past the age of majority, but with the age of majority changing, we felt it was defined at 21. So they have the right to attain a high school diploma, and they have the right to work until they are age 21 to achieve that without paying a tuition. Beyond that, then, they become adults, and adults in programs in the past have not been funded. They never have been.

So what we are saying now is that beyond that 15 years we will fund adults coming back at night when they were not before if they are taking courses leading to high school diplomas, you know, not courses for recreation but courses that are part of a certificate. But a full second diploma, some vocational schools have been saying they would like to be able to provide a full second diploma, in other words, change the system that has been in place for–well, ever since Canada was started–to say you can get more than one high school diploma.

We look at that. We look at the impact of that on the colleges or on the universities, and we know there are other institutions such as Red River Community College, Assiniboine Community College, et cetera, that can provide vocational courses for adults. So do we repeat the free high school education? How many times do we do that? Now some would say–the member for St. James (Ms. Mihychuk) said the other day, unlimited–that for an unlimited period of time, people should be able to go to high school and get diploma after diploma after diploma and take all the courses that are available for the rest of their lives. We could all do that, you know, that all of us should be able to do that.

* (1300)

We think there has to be some point at which as an adult you begin to assume responsibility for your own education. I do not think the taxpayers would see it as fair or reasonable to do as the member for St. James has suggested and go to school and just keep taking courses forever at taxpayers' expense. So there has to be a point beyond which the adult assumes some responsibility.

Ms. Friesen: I think it would give some comfort to people who are concerned about this if there was some indication in the act–and I recognize that we are going to have a political difference of opinion over this–of the way in which a minister is going to define a diploma. That seems to be the limiting factor or what many people are fearing is a limiting factor, not just for the kinds of cases which we have been discussing but for additionally people with special needs. That is the second area I wanted to come to out of this, and that is that it is my assumption–and this is after discussion with the minister's staff, and she kindly provided a briefing on this yesterday–that there may well be the intention of defining a special needs diploma, and I am now adding my own comments. That may well define a more limited form of public education for students with special needs, that a modified diploma, if we can call it that for now, may, in fact, limit students to less time in school than they have at the moment.

A second part of that is my concern that vocational education for young adults with student needs is limited. I think it is one concern I am sure that the special needs review will hear, and that goes beyond the Grade 12 or age of 21. My understanding from discussions with the minister's staff was that such as there is any formal indication of vocational training, it does not begin until age 22 and that that derives from a 1988 memo of understanding.

So I am looking from the minister for some indication of the formal status of special needs students, her intentions with regard to a modified diploma and are we creating literally a year's gap for those young people by this legislation.

Mrs. McIntosh: Sorry, just for clarification. The member said something about vocational schools and not being able to start till 22. I did not quite catch it.

Ms. Friesen: I meant vocational training. I do not know what I said, but–

Mrs. McIntosh: Sorry. Vocational–

Ms. Friesen: Vocational rehabilitation.

Mrs. McIntosh: Okay. Thank you. I thank the member for the clarification and for the question. The issue of special needs people, once they hit the age of 22, is currently under discussion with the Department of Family Services and the Department of Education. As a preliminary first step, we have transferred $150,000 from my department over to Family Services specifically for the students who are finishing school at age 22 with special needs. We are working on further collaboration between the two departments and indirectly through the Children and Youth Secretariat, although the two departments are working directly on this. We are talking to other people involved in the field such as those at St. Amant Centre and so on and so forth.

We have some very detailed discussions that started taking place between me and Mrs. Mitchelson about 10 or 11 months ago specifically in detail on this topic, but I think discussions have been going on prior to that with staff. In terms of putting a modified diploma in place, we are looking at having a special-ed diploma, but as to how many credits it would require or its specific make-up, we are not at that stage yet. A number of things that we have underway as tentative direction, we will be waiting for a full indication of a couple of other initiatives that we have underway: special-needs review, the outcome of the project I have just mentioned I have got going with Mrs. Mitchelson on adults over the age of 22, who finish their public schooling but are not going on to university, obviously, because they are special-needs people.

Your other question was about entrenching in the act as opposed to putting it in regulation. I think our regulations will address the concern the member has. I understand her additional concern is that because they are regulations, they can be easily changed. That is one of the reasons we would like to have them in regulation, at least initially, to try to get a handle on–is four the right number, should it be three, should it be five?

This will give us the flexibility to be able to respond fairly quickly to what is being said in the field. We know almost every time we have a presentation from MAST or MTS or MASS or MAUS or any of those groups come forward and they will say, we have a concern, we would like to see a change made here and here. We say, you realize that would require legislative amendment, so we have to have it to the House by such

and such a date. They say, well, you mean, it is going to take a year. We say, yes, unfortunately, it is going to take a year. They usually then get pretty frustrated with us and they tend to think we are making it up, because they say it should not take a year but they recognize the process.

This will give us the ability to say, you are right, we will check with our colleagues; if it is a go, we could flex the regulation for you in a matter of weeks or months as opposed to a year. If in time we hit upon the magic number that seems to be working, then it could be codified.

Many of the things we are doing here today are codifying practice, are codifying the thing that has been happening in the field, after having been tested and seen to be working for many years is then not as troublesome to legislate it. That is our reasoning, and it may be that the member is concerned that it could be abused if–you know what I mean by it could be taken advantage of, just as the buses by school divisions, this by governments. We are confident that that will not happen, and I think the changes we are making are for the benefit of the areas.

Ms. Friesen: I recognize any government's desire for flexibility, but I think the nature of this bill is such that we would have preferred to have seen some codification of principle of what a high school diploma was and of the intent and nature of a modified diploma. We will have to agree to disagree on that.

I have one last set of questions dealing with the compulsory school age of six. I assume that the president of the Teachers' Society was right in that there is in every division in Manitoba the opportunity to go to school at six. Why, then, has the government begun at the age of seven in this legislation?

* (1310)

Mrs. McIntosh: I think it is probably just as simple as the fact that we were looking at the end date. We had divisions asking for clarification on what does 21 mean. A lot of reasons they were asking for that were because they were getting queries from parents–particularly now that we have so many mainstream students–saying, does 21 mean the day you turn 21, does it mean the day you finish being 21, like, what does it mean? Most divisions have been interpreting to mean that you can stay in school until you are 21, and 21, you can stay in school till June of the year in which you turn 21.

That, of course, is the interpretation that we have taken, but some divisions were being challenged by parents who would say, well, I have a special needs student that I want to keep in school–because of the very question the member asks–we do not know where the student will go after, and she is happy in school, et cetera, and 21 really means till the end of your 21st natal year, I guess–I do not know what the word would be–so we have said, okay, we will clarify that for you. We mean you can stay in school till the end of June in the year in which you turn 21, and that was our focus; we were not really looking at the beginning.

The member today raises the point about six-year-olds coming to school, and it is an interesting point because they do have the right to attend at age six. They will be funded if they attend at age six, but they are not compelled to attend until they are age seven. We did not go through any of the front part because it has never posed a problem in terms of clarification for the field or that type of thing. It was the age 21 that we were focused on. So I mean it is something we can explore, but right now there already is the right to attend at age six and be funded, the right to attend and be funded, and all divisions do it.

So it is maybe something that could be codified, but it is not necessary, the right at six, the compulsion at seven. Some parents, depending upon when the child's birthday is, a child that has a birthday on January 2, for example, may wish to have some other preschool experience other than kindergarten. I would need to think about it a bit more before we would change it impulsively because we have not thought of this as a problem.

Mr. Chairperson: As previously discussed, the preamble and title are postponed until all other clauses have been considered. Clauses 1 and 2–pass; Clauses 3, 4, 5, 6, 7–pass; Clauses 8 and 9.

Ms. Friesen: Mr. Chairman, you are running a little too fast for me here. I would like to be able to register

a vote against the section dealing with busing, as I indicated, and that is, subsection 1(7)(4.2). That is the repeal of that so that would be in Section 3 in the bill.

Mr. Chairperson: Is there leave to go back to Clause 3? [agreed] Shall Clause 3 pass?

Ms. Friesen: It is Clause 4.

Mr. Chairperson: Clause 3 is accordingly passed. Shall Clause 4 pass?

Some Honourable Members: Yes.

Ms. Friesen: No.

Voice Vote

Mr. Chairperson: All those in favour, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: It is the Chair's opinion that the Yeas have it.

Mr. Sale: On division.

Mr. Chairperson: On division.

Clause 4–pass; Clause 5–pass; Clause 6–pass; Clause 7–pass; Clause 8.

Ms. Friesen: Leave to go back to Clause 7.

Mr. Chairperson: Leave to go back to Clause 7.

Ms. Friesen: 2-5-9-1.

Mr. Chairperson: Shall Clause 7 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: It is the opinion of the Chair that the Yeas have it.

Ms. Friesen: On division.

Mr. Chairperson: On division.

Clause 7–pass; Clause 8–pass; Clause 9–pass; preamble–pass; title–pass. Bill be reported.

Bill 32–The Workplace Safety and Health Amendment Act (2)

Mr. Chairperson: Calling Bill 32. Does the minister have an opening statement?

Hon. Harold Gilleshammer (Minister of Labour): No.

Mr. Chairperson: Thank you. Does the critic have an opening statement?

Mr. Daryl Reid (Transcona): Mr. Chairperson, I have a couple of amendments that I will be proposing here this afternoon, so I hope that when we are going through clause by clause, we do not do page by page as seems to have been the practice here, so I might have the opportunity to–[interjection] I know, but there seems to be a practice here that we are jumping in large blocks of clauses instead of one at a time.

Mr. Chairperson: Just for the record, we did clarify that at the start we would go page by page unless requested. As noted, you are requesting that, so we will do it by clause.

As previously stated, the preamble and the title are postponed until all other clauses have been approved in their proper order.

Clause 1–pass; Clause 2.

Mr. Reid: Mr. Chairperson, I move

THAT subsection 2(1) of the Bill be amended

(a) in subclause (a)(i), by striking out "$150,000." and substituting "$300,000."; and

(b) in subclause (b)(i), by striking out "$300,000." and substituting "$500,000.".

Il est proposé que le paragraphe 2(1) soit amendé:

a) dans le sous-alinéa a)(i), par substitution, à "150 000$", de "300 000$";

b) dans le sous-alinéa b)(i), par substitution, à "300 000$", de "500 000$".

Mr. Chairperson: I would advise the committee that the proposed motion is in order. The question will be, shall Clause 2 as amended pass?

Mr. Reid: I think standard practice is to allow some debate or explanation of the amendment.

Mr. Chairperson: By all means.

Mr. Reid: Mr. Chairperson, in reviewing the legislation of various jurisdictions throughout Canada and some that are under review currently are looking to increase their limits, what this proposes to do under the minister's legislation is to only have the maximum level of fines increased to $150,000, where other jurisdictions in Canada, including the province of Saskatchewan, have fine limitations of $300,000 for a serious offence, whether it be a first or subsequent offence.

* (1320)

It seems only appropriate that, if we are going to keep step and to recognize the seriousness of the offences that are occurring, and having listened to the presentations that were made here this morning wherein the presenters themselves indicated that while this government's proposal is a first step, they would like to see fines at a higher level–that is why I am proposing that we amend the current legislation from the $150,000 first offence to $300,000, and that for second and subsequent offences we have that fine level set at half a million dollars. This also would allow the courts and the Prosecutions branch of the Department of Justice to consider the seriousness of violations under The Workplace Safety and Health Act, something that from my experience has not been happening to this point in time. That is why I have indicated through this particular motion that we would like to see the level of fines increase from what the minister proposes in the legislation and, in keeping with what other jurisdictions in Canada have in place and are proposing and what presenters have said here this morning, to keep us in line with other jurisdictions and to recognize the seriousness with which offences should be judged.

From my understanding, the fine level gives that indication to the courts in this province with which the Legislature views offences under The Workplace Safety and Health Act, and by only setting the limits at $150,000 for a first offence does not send that strong enough message.

Motion presented.

Mr. Chairperson: Shall Clause 2(1) as amended pass?

Some Honourable Members: No.

Some Honourable Members: Yea.

Voice Vote

Mr. Chairperson: All those in favour of the motion, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: Those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: It is the opinion of the Chair that the Nays have it.

Formal Vote

Mr. Reid: A recorded vote, Mr. Chairperson.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 5.

Mr. Chairperson: The amendment is defeated.

Clause 2(1)–pass; Clause 2(2).

Mr. Reid: Mr. Chairperson, I move that the following be added after Section 2 of the bill, and I hope this is the appropriate place for my motion. I move

THAT the following be added after section 2 of the Bill:

2.1 The following is added after section 59:

Annual report by minister
60(1) The minister shall cause to be prepared a "Workplace Safety and Health Report" annually containing the following information:

(a) a description of all investigations conducted under the Act during the year;

(b) all persons, corporations or other entities who were the subject of an investigation under the Act;

(c) the date and location of each investigation;

(d) the action taken by the investigating officer pursuant to the investigation;

(e) a description of the offence committed, if any;

(f) the disposition of each offence.

Tabling of report
60(2) The minister shall, if the Legislature is in session, table the report in the Legislature forthwith, and if the Legislature is not then in session, release the report to the members of the Legislature and to the public within six weeks of the receipt of the report by the minister.

[French version]

Il est proposé d'ajouter, après l'article 2 du projet de loi, ce qui suit:

2.1 Il est ajouté, après l'article 59, ce qui suit:

Rapport annuel du ministre
***60(1)** Le ministre fait établir annuellement un rapport sur la sécurité et l'hygiène du travail; ce rapport contient les renseignements suivants;*

a) une mention de toutes les investigations menées sous le régime de la présente loi au cours de l'année;

b) une indication des personnes, des corporations et des autres entités qui ont fait l'objet d'une investigation sous le régime de la présente loi;

c) la date et le lieu de chaque investigation;

d) les mesures prises par l'auteur de l'investigation relativement à celle-ci;

e) une mention de l'infraction commise, s'il y a lieu;

f) la décision prise à l'égard de chaque infraction.

Dépôt du raport
***60(2)** Le ministre dépose le rapport devant l'Assemblée législative immédiatement ou, si elle ne siège pas, le met à la disposition des députés à l'Assemblée et du public dans les six semaines suivant la date à laquelle il le reçoit.*

Mr. Chairperson: Thank you. I have been advised that the amendment proposed by Mr. Reid is out of order, because it is beyond the scope of the bill and therefore cannot be considered by the committee.

Mr. Reid: Mr. Chairperson, can you advise then, is this being ruled out of order because we are dealing with the penalty phase of the act? Are we not considering the whole Workplace Safety and Health Act itself, and can you provide some explanation why it has been ruled out of order?

Mr. Chairperson: I have been advised that the reason for it being out of scope is that it is talking about a report which is not included in the original bill.

Mr. Reid: I do not follow that, Mr. Chairperson. This is not an onerous request. There are many annual reports that the government undertakes, including the

Minister of Labour (Mr. Gilleshammer), and I do not understand why this cannot be included as one of the pieces of information that the government would include under its reports to the Legislature so that members of the public and members of the Legislature might have the opportunity to see first-hand what activities are being undertaken by the Workplace Safety and Health Branch. I, myself, have put in a request to the department, Workplace Safety and Health Branch, for information in this regard and to this point in time have not received that information. In fact, the government and the department do not freely supply that information. So it would seem to me to be a reasonable request that we have this information included. So I do not understand why you are ruling this particular motion out of order.

Mr. Chairperson: I certainly have been advised that the ruling is correct, and you do have the ability to ask for leave of the committee to accept the amendment.

Mr. Tim Sale (Crescentwood): Mr. Chairperson, I believe there is another alternative and that is that the government introduce this amendment. It seems like a reasonable request. I think that if the government wishes to introduce it, we could, by unanimous consent–[interjection] Mr. Chairperson, do I have the floor or does someone else have the floor?

Mr. Chairperson: I would suggest, Mr. Sale, that you have the floor.

Mr. Sale: Thank you. Mr. Chairperson, I believe that by unanimous consent, if the government thinks this is something that would be helpful, it could introduce and the committee could consider this amendment and it does seem like a sensible request, given both the government's and the opposition's and the public's concern about workplace safety and health.

Mr. Chairperson: Is there leave to have the amendment proposed?

Some Honourable Members: Yes.

Some Honourable Members: No.

Mr. Chairperson: I have ruled it out of order, and I have asked for leave, and I am under the opinion that there is no leave for this amendment.

Mr. Reid: Mr. Chairperson, last fall when I sat in this committee room, there were amendments that were brought in by the government with respect to a piece of legislation here that were clearly out of scope, and this committee allowed those amendments to that piece of legislation to go through. It was not dealing with a labour bill at the time. It was one of the other government bills. So there is a precedent in this committee for allowing this type of amendment to go through, whether it is in the scope of the bill or not. So the government has already taken that step by its actions last fall. So I do not see clearly why we cannot allow this amendment to proceed here today.

Mr. Chairperson: I have asked for leave of the committee to bring this forward, even though I recognize it is out of scope. We do not have leave of the committee to do that. So, therefore, I understand that there is no more discussion on it.

Mr. Reid: Mr. Chairperson, then I challenge your ruling.

Voice Vote

Mr. Chairperson: All those in favour of the ruling of the Chair, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Chairperson: It is the opinion of the Chair that the Yeas have it.

Formal Vote

Mr. Reid: Mr. Chairperson, a recorded vote.

*A **COUNT-OUT VOTE** was taken, the result being as follows: Yeas 5, Nays 4.*

Mr. Chairperson: The ruling of the Chair has been sustained.

Clause 2(2)–pass; Clause 3–pass; preamble–pass; title–pass. Bill be reported.

Bill 39–The Labour-Sponsored Venture Capital Corporations Act

Mr. Chairperson: Okay, let us keep moving, and we will move onto Bill 39. We would ask the minister if he has an opening statement.

* (1330)

Hon. James Downey (Minister of Industry, Trade and Tourism): Mr. Chairman, if I did not have to be in Virden by four o'clock, I would do that–and Brandon by two and Portage by one–I would do an opening statement, but, otherwise, I just commend this bill to the Legislature. It is in the best interests of the people of Manitoba. My comments on the legislation previously still hold.

Mr. Chairperson: Does the critic from the official opposition have an opening statement?

Mr. Tim Sale (Crescentwood): Well, Mr. Chairperson, I would like to express my concern for the minister's safety because if he intends to be in Brandon by two o'clock, we have some serious problems on our hands or he is going to have some serious problems on his hands.

An Honourable Member: Flying above the ground.

Mr. Sale: Well, he had been flying. I suspect he might have some problems. No, Mr. Chairperson, I think we can go directly.

Mr. Chairperson: Thank you. In consideration of the bill, the preamble and the title and the table of contents are postponed until all other clauses have been considered in their proper order. Is it the will of committee to do it in the blocks or do you want to do it clause by clause?

Mr. Downey: Mr. Chairman, I would be prepared to do it in blocks, except I do want to give committee notice. I do have an amendment on page 5, the employee organization which I will be introducing. So if we could proceed to there and then do the amendment and then go on to blocks after that.

Mr. Chairperson: Shall Clause 1(1) pass?

Mr. Downey: Mr. Chairman, I would like to move

THAT the definition "employee organization" in subsection 1(1) be amended by striking out everything after "such organizations".

[French version]

Il est proposé que la définition de "association de salaries ", énoncée au paragraphe 1(1), soit amendée par suppression de la dernière phrase.

Mr. Chairperson: Amendment–pass. Shall Clause 1(1) as amended pass?

Mr. Sale: Mr. Chairperson, I would just like to thank the minister for accepting that amendment. We had amendments prepared to give effect to the same thing that he has done and so I am pleased with that, and I think that this will serve both the government and the investors and the workers of Manitoba better to be very clear about what comprises the labour union and that it, obviously, is not open to the rent-a-union activities that happened in Ontario, unfortunately, and I think to everybody's regret, because I am sure that was not the intent in Ontario and I know that is not the intent here. So I am pleased this amendment has been made.

Mr. Chairperson: Thank you.

Clause 1(1) as amended–pass.

Mr. Sale: Mr. Chairperson, I am sorry, 1(1) covers a number of pages, and I do have an amendment on page 6.

Mr. Chairperson: There is leave of the committee to go back?

An Honourable Member: Leave.

Mr. Chairperson: Thank you.

Mr. Sale: Mr. Chairperson, I move

THAT subsection 1(1) be amended in the definition "specified active business"

(a) in subclause (a)(i), by striking out "50%" and substituting "75%"; and

(b) in subclause (a)(ii), by striking out "a prescribed percentage" and substituting "50%".

[French version]

Il est proposé que le paragraphe 1(1) soit amendé, dans l'alinéa a) de la définition de "entreprise active":

a) par substitution, à "50%", de "75%";

b) par substitution, à "le pourcentage réglementaire", de "50%".

Mr. Chairperson: On the proposed motion of Mr. Sale to amend Clause 1(1), with respect to both English and French text, shall the motion pass?

Some Honourable Members: No.

Mr. Sale: Again, Mr. Chairperson, I think it is generally a practice to allow the presenter to at least speak to his motion before it is defeated, assuming it will be passed.

The issue here is the range of tax credits which are being granted by Manitoba in return for some benefit to Manitobans. I mean, clearly, when the province extends a tax credit it does so for some perceived benefit. The requirements of the act as proposed are extremely–well, let us say undefined in regard to the benefit for Manitoba. To take a case in point, there could be a company located here from a head office perspective but with virtually all of its operations in other parts of Canada and very little employment here but substantial employment in other parts of Canada or in other parts of the world. An investment by a labour-sponsored fund which is presumably then going to attract tax credits of substantial proportions for investors would not have a whole lot of benefit in Manitoba for Manitobans who are workers or who are expecting to see some benefit back from their investment.

The purpose of the amendment is to make it clear that at least 50 percent of the employment in any such company would be in Manitoba and three-quarters of it would be in Canada. The goal of tax credits, presumably, is to encourage the development of the local economy. So that is the purpose of the amendment.

It is important to note that it does not suggest that under (b) that the services are necessarily delivered in Canada or Manitoba. The current proposal is 50 percent. We are not concerned, for example, to use one of the minister's favourite examples, that a call centre may be calling entirely into the United States. Its employment is here. If the minister wishes to extend tax credits via this mechanism, we should at least have the benefit of the employment.

Mr. Downey: Mr. Chairman, I would only make a brief comment to it and that is that he does recognize that there would be some benefits by having the head office here, and I appreciate that. I think in the overall picture that it would be to the advantage of Manitoba to leave it as it currently is, and we will be recommending voting down the amendment.

Mr. Chairperson: Shall the motion pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

Mr. Chairperson: In my opinion, the motion is defeated.

Mr. Sale: Yeas and Nays.

Voice Vote

Mr. Chairperson: All those in favour of the motion passing, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it. The motion has been defeated.

Clause 1(1)–pass; Clause 1(2)–pass; Clauses 2(1), 2(2) and 3(1)–pass; Clauses 3(2), 3(3) and 3(4)–pass. Shall Clause 4 pass?

An Honourable Member: No.

Mr. Sale: I move

THAT clause 4(c) be amended by striking out "$25,000." and substituting $2,000,000.".

[French version]

Il est proposé d'amender l'alinéa 4c) par substitution, à "25 000 $", de "2 000 000 $ ".

Mr. Chairperson: Is there any debate on this motion?

Mr. Sale: I would just say briefly, Mr. Chairperson, the amount required to set up business is extremely small. Twenty-five thousand dollars is a very small shareholder's equity in the proposed kind of investment funds. I just remind the members that the government of Manitoba, the current government, extended to Crocus an initial capitalization of some $2 million. The Crocus did not make its first investments until it had over $7 million in subscribed capital, so having a start-up with only $25,000, I think, puts us in a situation where there is more potential risk, and I do not think that is what the government intends. I do not think we should support very small start-up requirements for something that we want to be successful. So the intent of this amendment is to increase the threshold, but also to thereby increase the likelihood of stability and success of any new fund that would start up.

Mr. Downey: Mr. Chairman, I appreciate the member's concern although, if he looks at the particular part of the bill, the minister does have or may have the opportunity to deregister a company if in fact there is a concern, so there is still an ability to govern the activities within this area. If it appears in the best interests of the operations or the development of a fund that the $25,000 is not deemed enough by the department through recommendation to the minister, it can, in fact, be denied. So we do have the capability of governing it. So that is why I do not think there is any need to put this in the legislation.

Mr. Chairperson: On the proposed motion of Mr. Sale to amend Clause 4, with respect to both the English and French texts, shall the motion pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Mr. Chairperson: The opinion of the Chair is that the motion has been defeated.

* (1340)

Mr. Sale: Yeas and Nays, Mr. Chairperson.

Voice Vote

Mr. Chairperson: All those in favour of the motion, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: It is the opinion of the Chair that the Nays have it.

Mr. Sale: On division.

Mr. Chairperson: On division.

Clause 4–pass; Clause 5(1)–pass; Clauses 5(2), 5(3) and 5(4)–pass; Clauses 5(5), 5(6) and 6–pass; Clauses 7(1), 7(2) and 7(3)-pass; Clauses 7(4), 7(5), 8–pass; Clauses 9(1), 9(2)–pass; Clauses 10(1), 10(2) and 10(3)–pass; Clauses 11, 12(1) and 12(2)–pass; Clauses 12(3), 12(4), 12(5), 13(1) and 13(2)–pass; Clauses 14(1), 14(2), 14(3) and 14(4)–pass; Clauses 14(5), 14(6), 15(1) and 15(2)–pass; Clauses 16(1) and 16(2)–pass; Clauses 17 and 18(1)–pass; Clause 18(2)–pass; Clauses 19 and 20–pass; preamble–pass; table of contents–pass; title–pass. Bill be reported.

The hour now being 1:45 p.m., committee rise.

COMMITTEE ROSE AT: 1:45 p.m.