First Session - Thirty-Seventh Legislature

of the

Legislative Assembly of Manitoba

Standing Committee on Industrial Relations

Chairperson
Mr. Daryl Reid
Constituency of Transcona

Vol. L No. 5 - 6:30 p.m., Tuesday, August 15, 2000

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Seventh Legislature

Member	Constituency	Political Affiliation
AGLUGUB, Cris	The Maples	N.D.P.
ALLAN, Nancy	St. Vital	N.D.P.
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ASPER, Linda	Riel	N.D.P.
BARRETT, Becky, Hon.	Inkster	N.D.P.
CALDWELL, Drew, Hon.	Brandon East	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave, Hon.	Kildonan	N.D.P.
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DACQUAY, Louise	Seine River	P.C.
DERKACH, Leonard	Russell	P.C.
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DOER, Gary, Hon.	Concordia	N.D.P.
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FILMON, Gary	Tuxedo	P.C.
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GERRARD, Jon, Hon.	River Heights	Lib.
GILLESHAMMER, Harold	Minnedosa	P.C.
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HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LATHLIN, Oscar, Hon.	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
LEMIEUX, Ron, Hon.	La Verendrye	N.D.P.
LOEWEN, John	Fort Whyte	P.C.
MACKINTOSH, Gord, Hon.	St. Johns	N.D.P.
MAGUIRE, Larry	Arthur-Virden	P.C.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McGIFFORD, Diane, Hon.	Lord Roberts	N.D.P.
MIHYCHUK, MaryAnn, Hon.	Minto	N.D.P.
MITCHELSON, Bonnie	River East	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
PENNER, Jack	Emerson	P.C.
PENNER, Jim	Steinbach	P.C.
PITURA, Frank	Morris	P.C.
PRAZNIK, Darren	Lac du Bonnet	P.C.
REID, Daryl	Transcona	N.D.P.
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ROBINSON, Eric, Hon.	Rupertsland	N.D.P.
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SALE, Tim, Hon.	Fort Rouge	N.D.P.
SANTOS, Conrad	Wellington	N.D.P.
SCHELLENBERG, Harry	Rossmere	N.D.P.
SCHULER, Ron	Springfield	P.C.
SELINGER, Greg, Hon.	St. Boniface	N.D.P.
SMITH, Joy	Fort Garry	P.C.
SMITH, Scott	Brandon West	N.D.P.
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STRUTHERS, Stan	Dauphin-Roblin	N.D.P.
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WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS

Tuesday, August 15, 2000

TIME – 6:30 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Daryl Reid (Transcona)

VICE-CHAIRPERSON – Mr. Scott Smith (Brandon West)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Ms. Barrett, Hon. Ms. Mihychuk, Hon. Mr. Sale

Messrs. Enns, Loewen, Nevakshonoff, Reid, Rondeau, Schuler, Smith, Mrs. Smith

APPEARING:

Mr. Marcel Laurendeau, MLA for St. Norbert
Mrs. Bonnie Mitchelson, Interim Leader of the Official Opposition
Mr. Leonard Derkach, MLA for Russell
Mr. Larry Maguire, MLA for Arthur-Virden

WITNESSES:

Mr. Chris Christensen, President, South Eastern Manitoba Labour Council
Mr. Grant Ogonowski, Private Citizen
Mr. Roland Boisvert, President, Chambre de commerce francophone de Saint-Boniface
Mr. Ron Hambly, Executive Vice-President, Winnipeg Construction Association
Mr. George Floresco, President, Canadian Union of Postal Workers, Winnipeg Local
Mr. David Condon, Canadian Union of Postal Workers, Prairie Region
Mr. Brian Short, International Association of Machinists and Aerospace Workers
Mr. Grant Mitchell, Private Citizen
Mr. George Fraser, Executive Director, Manitoba Home Builders' Association
Ms. Maureen Hancharyk, Manitoba Nurses' Union
Mr. James Hogaboam, President, Delivery Drivers Alliance of Manitoba
Mr. Kenneth Emberley, Citizens for Democracy and Less Poverty
Ms. Darlene Dziewit, Private Citizen
Ms. Julie Sheeska, Private Citizen
Ms. Joy Ducharme, Private Citizen
Ms. Alice Ennis, Private Citizen
Ms. Kelly Gaspur, Private Citizen
Mr. Colin Trigwell, Private Citizen
Mr. Larry McIntosh, Private Citizen
Mr. Graham Starmer, Coalition of Manitoba Businesses
Mr. Gerry Roxas, Communications Energy and Paper Workers Union of Canada, Local 830
Mr. Dale Paterson, Canadian Auto Workers
Ms. Maria Soares, Union of Needletrades, Industrial and Textile Employees, Local 459
Mr. Neal Curry, Westlands Plastics Ltd.
Mr. Bob Dolyniuk, Manitoba Truckers Association
Ms. Lydia Kubrakovic, Canadian Federation of Students
Mr. Krishna Lalbiharie, Canadian Federation of Students
Mr. Todd Scarth, Director, Canadian Centre for Policy Alternatives-Manitoba
Mr. Rod Giesbrecht, Private Citizen
Mr. Albert Cerilli, President, Manitoba Federation of Union Retirees
Mr. Peter Olfert, President, Manitoba Government Employees' Union
Mr. Robert D. Ziegler, Private Citizen
Mr. John Godard, Private Citizen
Mr. Mario Javier, Private Citizen
Ms. Margot Lavoie (Manitoba Oblates-Justice and Peace Committee)
Mr. Thomas Novak (Manitoba Oblates-Justice and Peace Committee)
Mr. David Newman (Private Citizen)

WRITTEN SUBMISSIONS:

Ms. Ilene Lecker, Private Citizen
Mr. George Bergen, Private Citizen
United Steel Workers of America
Ms. Joyce Reynolds, Canadian Restaurant and Foodservices Association
Mr. Bob Stevens, Manitoba Restaurant Association
Mr. David Martin, Manitoba Building and Construction Trades Council
Mr. Ron Teeple, The Brandon & District Labour Council
Mr. Grant Mitchell, Private Citizen

MATTERS UNDER DISCUSSION:

Bill 18 – The Labour Relations Amendment Act

Bill 44 – The Labour Relations Amendment Act (2)

* * *

Mr. Chairperson: Good evening, ladies and gentlemen. Will the Standing Committee on Industrial Relations please come to order. This evening the Committee will resume consideration of the following bills: Bill 18, The Labour Relations Amendment Act; Bill 44, The Labour Relations Amendment Act (2).

At a previous sitting this committee came to an agreement on the following points: We agreed to hear public presentations before consideration of the bills. We agreed to hear presentations on Bill 18 before presentations on Bill 44. We agreed to hear out-of-town presenters before in-town presenters. For absent presenters we agreed to call names once before dropping them to the bottom of the list, and then to call names again at subsequent meetings considering these bills before dropping them from the list.

A motion was passed setting 15-minute time limits for presentations and a 5-minute time limit for questioning. We agreed to leave presentations open on both Bills 18 and 44, and I will now read the names of the remaining persons who have registered to make public presentations this evening.

I guess first I should ask, if there are any individuals here that wish to make presentation on Bill 18, please indicate with the Clerk at the back of the Chamber, and then we will give you opportunity to make your presentation this evening.

With respect to Bill 44, we have listed Mr. Edward Zink, Chris Christensen, Bruce Buckley, Brian Etkin, Grant Ogonowski, Ron Hambly or Alfred Schlieer, George Floresco and John Friesen, Cindy McCallum and David Condon, Brian Short, George Fraser, Maureen Hancharyk, James Hogaboam, Kenneth Emberley, Darlene Dziewit, Julie Sheeska, Donna Favell, Joy Ducharme, Alice Ennis, Kelly Gaspur, Colin Trigwell, Larry McIntosh, Graham Starmer, Gerry Roxas, Dale Paterson, Jerry Woods, George Bergen, Maria Soares, Neal Curry, Bob Dolyniuk, Bob Stephens, Lydia Kubrakovich, Jim Murray, Todd Scarth, John Mann, Rod Giesbrecht, Buffy Burrell, Albert Cerilli, Richard Chale, David Martin, Ron Teeple, Peter Olfert, Grant Mitchell, Robert Ziegler, John Godard, Lou Harris, Mario Javier, Thomas Novak, Herb Schultz, Doug Stephen, Roland Boisvert.

If there are any other individuals wishing to make a presentation here this evening and their names were not read out, please indicate to the Clerk at the back of the room here this evening. Those are the persons who are registered to speak this evening. We have no more presenters registered to speak to Bill 18. Are there any other persons in attendance, as we have indicated, who wish to make a presentation on Bill 18? Please indicate to the Clerk at the back of the room.

Seeing that there are no other members who appear to be interested in speaking to Bill 18, is the Committee ready to conclude the public presentations on Bill 18 and proceed with the hearings of the remainder of the presentations on Bill 44? *[Agreed]*

I would like to remind presenters that 20 copies are required of any written version of presentations. If you require assistance with photocopying, please see the Clerk of this committee. As a courtesy to persons waiting to

make presentations, did the Committee wish to indicate how late it is willing to sit this evening?

Mr. Ron Schuler (Springfield): I think midnight is a reasonable time. Most people do have jobs in the morning to go to. I think it is respectful of those individuals that have to get up tomorrow morning that we would put a time limit of midnight on it.

Mr. Scott Smith (Brandon West): I would like to suggest that we sit until the presenters that have come tonight to present are completed and that everyone is heard.

Mr. John Loewen (Fort Whyte): Out of respect for the people who are presenting to us tonight, as my colleague from Springfield has mentioned, there are a great many people here who have put a lot of time and effort and thought into their presentation. Most of them do have day jobs to go to tomorrow. I think out of respect for them, we should sit until midnight, and then allow those that are not heard by midnight, who want to come back or, for that matter, who are not heard by ten or eleven o'clock, to come back tomorrow morning. I do not see why we are in any great rush to pressure people into making presentations at two, three, four or five o'clock in the morning. We have got a lot of presenters. I think to be fair to them we should sit until midnight. If there are others that would prefer to give their presentation in the morning or to come back tomorrow at 6:30, then I do not think they would be asking too much of this committee to deal with it on that basis.

Hon. Becky Barrett (Minister of Labour): I would recommend that we do as we have done in the past, which is sit until midnight and assess the situation at midnight. We did that last night. We did that in Bill 44 and have done that in the past.

Mr. Schuler: Sorry, Mr. Chairman, I am new to the process, so I forgot to read my motion into the record. I move that we end committee sitting at 12 midnight out of courtesy to the presenters.

* (18:40)

Motion presented.

Mr. Chairperson: We have a motion on the floor.

Hon. MaryAnn Mihychuk (Minister of Industry, Trade and Mines): Just on the motion on the floor, I think that you need to consider the fact that people have made arrangements to present tonight. Having been a presenter in other situations at other times, sometimes it is up to the people whether they would like to stay on and present their submission, if it is 12 or 12:30. I mean, let us have some consideration so that people do not have to come back on another day. I think that this committee needs to have some flexibility. I think we do what the Minister has recommended; that we be considerate to the audience. If we can get the job done tonight, I think that that would be beneficial. There have been people sitting here through yesterday, this morning, and now again. Their time is precious. I think we should try to be as expedient as possible. If people wish to present after midnight, I do not think we should cut them off.

Mr. Schuler: Just a clarification then to members opposite. If they are saying that we would sit and listen to anybody who wanted to present tonight, and then reconvene again, tomorrow, to listen to those who cannot, certainly that is something we would consider entertaining. Because how do we know who did not want to present tonight, if at three in the morning, they have already left? So, if the other side is recommending that we listen to whoever wants to speak tonight, we would agree to that as long as the Committee is reconvened again tomorrow for those who cannot stay. We live in a kind of society where individuals do have to get home; who have families to attend to. Often, the babysitter meter is running. They have to get home to take the babysitter home. Tomorrow they have to get to work. So I think it is reasonable then to hold over. We would be willing to let anybody who wanted to present today go ahead and reconvene tomorrow and let anybody else who could not stay for the night proceed tomorrow.

Hon. Tim Sale (Minister of Family Services and Housing): Mr. Chairperson, I believe the motion is probably not helpful to the number of people who have taken time now twice in a row

to come. I believe that the Minister's suggestion is the appropriate one, that at midnight we take a look at what we have and what people would like to do, and that we reassess it at that time. I think that has been a very consistent approach that has been taken on other similar bills, and I do not think it is fair to ask people to keep coming night after night to see what we are doing.

I guess I would just make one other comment to all of us on both sides. We can waste a lot of presenters' time by talking about this issue. I do not think we want to do that. I believe we should come to a conclusion on this, Mr. Chair.

Mr. Chairperson: Mr. Loewen, did you have your hand up?

Mr. Loewen: Well, just one further comment. I have some concern, because I have been through a number of committees, and in particular one that involved a number of people at this table. Sure enough, at twelve o'clock, instead of allowing people to carry over to another day, the members on the opposite side used their majority numbers on the Committee to end public presentations at a time when all the presenters had not yet had a chance to speak and some had gone home due to the lateness of the hour. So I am comfortable sitting here after twelve, as long as people want to present, as long as we have the agreement that tomorrow morning or at some point tomorrow, maybe 6:30 or in the morning, this committee will reconvene and it will be open to public presentations. That is all we are asking for is to make sure that individuals who, for whatever reason, cannot stay tonight have the opportunity to present in the morning.

Mr. Marcel Laurendeau (St. Norbert): Mr. Loewen has stated basically what I wanted to say. If the Minister is prepared to put on the record that she will not close debate tonight after midnight, some people might choose to go home at a reasonable hour the way they have in the past couple of nights, and if the Minister is prepared to put on the record that she is willing to not close the public presentations this evening, I am sure that we can make sure that we hear everybody that wants to be heard this evening, and myself and the House leader can negotiate to have another committee established for tomorrow night.

Mr. Sale: These discussions tend to drag on. I think there is no right answer often in regard to these issues, because each time we give the indication that people travel here for a hearing they give up an evening, and then they wind up not being heard. I think that is very impolite, basically, to people who would want to be heard. I believe that it is always in our interests to be willing to accommodate those who have taken the time and made the effort to develop a presentation.

We see here many bills, many presentations of a very high quality. I really do not think that it is appropriate to shut things down at a pre-conceived time, particularly when people may not have the ability to come back at the next hearing of the Committee, for whatever reason. We feel that we have had a great deal of time on this bill. We have had a great deal of good input and, of course, people who are not able to present at previous committees on which all of us have sat, the approach to that problem has been to be willing to receive people's presentations and read them into the record as received. That way the presentations that people have worked very hard to develop are received by the Committee. They are part of the record. They get filed in the legislative papers, and they are available for the Minister and for the House to review.

I certainly do not have any problem with agreeing to that approach for those who have presentations ready tonight but are not able to stay or are not able to come back. The idea of receiving those presentations at the committee table and agreeing that they will become part of the record is something that other committees have done. I would appeal to the Opposition House Leader (Mr. Laurendeau) to hear his views in terms of whether the Committee would always be willing, as it has been in the past, to receive the presentations from groups who are not able to stay and put them in the record and allow them to be part of the record, even if the presenter was not able to make a presentation. I think we have always agreed to that, and I would hope we would do that, which might be one of the ways we could accommodate people who are

not able to return another time. I think we should come to a conclusion on this issue just as quickly as we can. I hope that the Opposition House Leader (Mr. Laurendeau) would indicate his agreement that, if there are people who want to table their presentation without being able to present in the meeting tonight, he would agree that should happen.

Mr. Chairperson: Is the Committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: The question before the Committee is as follows: That we end the committee sitting at 12 midnight out of consideration for the presenters. The motion is in order.

Shall the motion before the Committee pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: Those in favour, please indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: Those opposed, please indicate by saying nay.

Some Honourable Members: Nay.

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

Formal Vote

Mr. Loewen: A recorded vote, please.

Mr. Chairperson: A recorded vote has been called.

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

Mr. Chairperson: The motion is accordingly defeated.

* * *

* (18:50)

Mr. Smith: Mr. Chair, I would like to move a motion. I would move that the Committee sit until all presentations are completed.

Motion presented.

Mr. Chairperson: The motion is in order.

Mr. Loewen: I must put on record my disappointment that the government side is using their majority on this committee, as they are well aware that they have more voting members on this committee than the Opposition, and I am very disappointed that they are going to be forcing people who have come to this committee with the best of intentions to stay here late into the evening or early into the morning to give their presentations and possibly not be able to do them justice due to the lateness of the hour. Again I just want to record that I do not understand what the big rush is to jam this through, but having said that, we will proceed with the vote.

Some Honourable Members: Question.

Mr. Chairperson: The question has been called. Is the Committee ready for the question? The question before the Committee is that the Committee sits until all presentations are completed.

Is it the pleasure of the Committee to adopt the motion?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of the motion, please indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please indicate by saying nay.

Some Honourable Members: Nay.

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

Formal Vote

Mr. Schuler: We would like to call for a recorded vote, please.

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

Mr. Chairperson: The motion is accordingly passed.

* * *

Mr. Chairperson: For the information of members of the Committee, we have received a request to the Committee to hear a French presentation this evening from Mr. Roland Boisvert, No. 50 on the presenters' list. Due for the need for translation staff to be in attendance for this presentation, is it the will of the Committee to move Mr. Boisvert to the head in the presentation order so that the translation staff are not required to remain for the entire evening? *[Agreed]*

For the information of members of the Committee, translation staff have requested that the presentation occur somewhere around 7:30 p.m. Is it the will of the Committee to allow that to occur? *[Agreed]*

Before the translation staff departs, we will canvass the room to ensure that no other French presentations have been requested.

Also for the information of members of the Committee, we have received a presentation, and I have been advised that Ilene Lecker is unable to attend the committee meetings. Ms. Lecker has asked that her brief be distributed to the Committee and considered as a written submission. Does the Committee grant its consent for this written submission to appear in the committee transcripts for this meeting? *[Agreed]* It also has been distributed to members of the Committee as well.

Mr. Loewen: Mr. Chair, I do not seem to have a copy of that report, so if we could have some more copies. Thank you.

Bill 44–The Labour Relations Amendment Act (2)

Mr. Chairperson: I will now call on presenters as we have indicated earlier for Bill 44. The first name appearing on the list is Edward Zink. Is Edward Zink in the audience here this evening?

Floor Comment: Mr. Chair, I indicated earlier on that he will not be making any presentation. He had a death in the family. He is in British Columbia, and you can strike him off the list completely.

Mr. Chairperson: Thank you, sir. As a matter of process, we have to call the names, and we will strike the name from the list. Thank you for that information.

The next name we have on the list is Chris Christensen. Is Mr. Christensen in the audience here this evening? Please come forward, sir. Do you have a written presentation?

Mr. Chris Christensen (President, South Eastern Manitoba Labour Council): I have five copies. You will need to make more. Should I proceed before you get your copies?

Mr. Chairperson: If it is the will of the Committee. Is it all right if the presenter proceeds before all of the written presentations have been distributed? *[Agreed]* Okay, Mr. Christensen, please proceed.

Mr. Christensen: It is an honour and a pleasure to be here. I missed the proceedings up till now. I came for the rules last night and could not stay, so I hope that what I have to say is not redundant. I know you people have a lot to do. I am sure you have heard many of these things before, and you will hear more after. I am going to try and be a little bit different in what I say.

My background, first of all, I work in Pine Falls at the paper mill. I have been there 27 1/2 years. The previous 10 years, I was president of the Paper Workers Local 9 of those 10 years. I am currently past president. I am currently also president of the South Eastern Manitoba Labour Council, which is the body that takes care of the unionized workers within a region, which kind

of mirrors what used to be Provencher before the electoral boundary changes.

At the outset, I want to state for the record that I support the current actions of the Government aimed at restoring to labour unions things that were taken away by the previous government. A number of those things we found as workers were insulting and downright disrespectful. They were a nuisance, particularly the reporting of financials which was quite a red herring in that unions being democratic report their financials to their membership regularly and their members have access to those things on request if they want them. From what I understand, there have been no requests since this legislation was enacted so it was a waste of everyone's time.

In any case, that is not to say that I totally agree with the legislation. I am disappointed that there is no legislation to prohibit striker replacement. I think that is something that is necessary. We have the scenario in the United States, for example, where they have right-to-work states, and it is a true union-busting strategy to have scabs working when people are on strike or locked out. From what I know of members from my union who are in the United States, it is quite a test on union workers to maintain their status in that scenario, and I strongly urge this committee to add such a provision to Bill 44.

So, having said that, I support in general terms the legislation. I give my qualified support for it. I want to just tell you a little bit more about myself. Prior to being a union president, prior to being a shop steward, I used to believe that unions were a necessary evil. For many years I carried a union card simply because it was job protection. I am one of those who thought that unions are really just a political thing that really have no use other than to control people, and that was based on a previous point of view, based on a previous religious viewpoint.

* (19:00)

I entered into work here in Pine Falls, and previously I worked in British Columbia for Safeway, and being in the union was just something you had to do. It was not really something you wanted to be involved in. I mention that because I know there is a certain segment of society, because of a religious bent, think that unions are bad things. They think in principle, they are wrong. What I have seen and experienced over my working lifetime has caused me to re-evaluate organized labour. I have come to see that, despite certain significant philosophical flaws, in my opinion, that union organizations have and that the political arm of labour has, particularly within the context of democracy, I want to phrase my remarks.

Unionized workers have the best potential and maybe the only organized form of opposition to the cruelty and injustice of unbridled capitalism. I believe at this time in my life that non-participation by workers within a union framework is nothing less than an abdication of democratic responsibility. Now again, just to address that issue, and I do not know if you have had that addressed here from a religious point of view, those who think that unions are, shall we say, part of the world and you know Christians are no part of that well, I think that is a misapplication of scripture.

If I might just cite Romans 13, the Apostle Paul made it very clear that God allows man to form the kinds of governments he does, and he does not say, well, you can have this kind of government but not that kind of government. Democracy is the type of government that has evolved in our area, which means we are the government. If we do not participate in government, we are abdicating. It is that simple. It is actually an obligation I would say scripturally to anyone who makes that argument that we should be involved in our government.

Unions are a form of government. They are granted licence by the various jurisdictional powers in what is called the democratic or free world, and they have the ability to collect the tax. They administer things. They provide services, just as governments do, municipal, provincial, federal. So there is nothing wrong with that as I see it from that perspective, but I do not want to base my comments simply on that. That is just my background and my world view and my historical frame of reference.

On the other hand, history does record very clearly the suffering and oppression of working

people around the world right up to this very day where there is no access to free trade unionism, where there is murder and tyranny in places like Columbia for people who do organize workers. If capitalism had its day, unfettered by unionism, we would see the same things happening here, and we did see them here before there was unionized work.

We could say that capitalism's version of the golden rule is he who has the gold rules, and that is the kicker. Since money is the thing that seems to make the world go round and everybody is chasing the dollar or the peso or whatever it happens to be, then there is a disparity. There is not an equality. Those who have the gold rule, and they do not necessarily rule fairly, kindly or humanely.

The question of fair and equitable distribution of the profit made by workers in service to their employers underlies the whole debate here today, because that is what good financial economy is all about. It is not good to say that while the corporations are making profits head over heels the workers are barely subsisting. That is not a good economy. That is a bad economy.

The anti-union business lobby that is attacking Bill 44 alleges that individual democratic rights are being threatened. Now this is kind of strange. In reading the articles in the paper, pro and con, I find, you know, I have the CLC constitution here, I have my own union constitution, and I think it is generally true that in every constitution we find exhortations to fight for social justice, for democratic rights and principles. So here we are. Capitalism is telling us that we are undemocratic. We are saying, no, we support democracy. Perhaps what we should do is define the debate. What is democracy? Perhaps Mr. Schuler and his group can tell us what they believe democracy really is. Maybe we should have a separate committee meeting to debate that and define what it is we are arguing about. If we both believe in democracy, both groups, why are we arguing?

Defining the debate. What is democracy and how does it work? What is the historical basis of our democracy? Is it ancient Greek Athenian style where you have direct self-government; the citizens actually participated in the resolutions of their municipal business? Or is it by parliamentary style representation? Is it majority rule of 50 percent plus 1 from the total group or 50 percent plus 1 of those who show up? After all, the world is run by those who show up. So if that is what we are doing here is defining the debate, then perhaps we can move on to look at the status of unions in law. For those who do not know this, again, some of these things are basic, and I am sure it is just refreshing people's memories about many of these things, although it appears that there is some degree of ignorance about what is actually the truth here.

What is the status of unions in law? Well, going way back to the common-law system of England, which is still part of our system, we still have some common law, but in any case that which has been legislated into existence based on the common law recognizes that unions are voluntary non-profit entities, and they are categorized along with religious organizations. They are in the same category. I would analogize and say that for business to tell workers how to organize and how to conduct their internal business is like atheists telling believers what to believe and how to act. There is a self-interest there. It is obviously a negative interest. Why should they interfere?

Relative to civil rights within a free and democratic society, which according to the preamble of our Charter of Rights and Freedoms is founded upon principles that recognize the supremacy of God and the rule of law, there is freedom of association. That is a fundamental democratic freedom that we enjoy. It should be illegal, an unfair labour practice, for any company to interfere with union organizing activity. End of discussion.

It is not management's place to try to negatively influence such activity. Now, when it is said that that is not what management does, I can give a specific case that I know of directly where, within the last couple of years, a new company that came into this province, Louisiana-Pacific, had an organizing drive by IWA. You may have a presentation, maybe you have already had it, from someone from IWA. They can tell you. We have relatives that work–I mean we are in the forestry business, so we

know what went on there. When the organizing drive was announced, management called each worker, one by one, into their offices and what do you think they told them? Well, to put it succinctly, there was no successful organizing drive at that time.

They just delayed the inevitable, however. It was unionized. But management had no right to do that. That is what they want to do, and I will deal with my own situations so you can get a better idea of what happens, not only in an organization that is anti-union but one that claims to be pro-union and that treats unions with respect.

Media bias. Again, I will get into that situation with what we are hearing in the press. It is really too bad that unions and the MFL have to buy time in the papers to get the true story across from their perspective. I do not have to preach to the converted here. Those of us in labour know that you cannot get equal time in the press. You cannot, and I can speak from personal experience as to what happened in the community of Pine Falls. The story should have been told. We had an investigative journalist team come in and do a story. That story never aired. To this date it has never aired. Why? Media bias, in my opinion. You have all heard the story that in Pine Falls the employees bought the mill. The press still relates the fact that we are all millionaires. Well, I can attest we are not. Some are, the management people became very, obscenely rich from what they invested, whereas we did all right, but it was certainly no glory story such as is related in the press. But there is a lot more about that story. One day I hope the story is told truthfully. I challenge the media to tell the truth, to report fairly and clear up some of this bias, and perhaps we will not have these kinds of arguments.

Actually, in conclusion, I just want to say that I think perhaps we are showing a little bit too much respect to this shrill outburst from business. I think the public generally recognizes that they have gone overboard and they are wailing for nothing. I have a lot more I could say but that is my time. Do you have any questions?

Mr. Chairperson: Thank you very much, Mr. Christensen.

Hon. Becky Barrett (Minister of Labour): Thank you very much for your presentation this evening, and you definitely do bring a different perspective to this whole issue we are looking at. I for one found it very interesting, and you have given me some food for thought about historical perspectives and the juxtaposition of the religious view of this whole issue, so I thank you very much for your presentation.

* (19:10)

Mr. Ron Schuler (Springfield): Mr. Christensen, thank you for coming out and making this presentation. We have heard quite a few already, and I expect we will be hearing a lot more, and I think I can probably speak for our side that this has truly been a unique presentation unto its own. You have brought a lot of different perspectives to the Committee, and we appreciate that very much, and certainly, when we start going into the line by line, the various perspectives will be considered. So thank you very much.

Mr. Chairperson: No other questions? Thank you very much, Mr. Christensen, for your presentation here this evening.

The next name on the list is Bruce Buckley. Is Mr. Buckley in the audience this evening? Mr. Bruce Buckley. No, he is not here. His name will then be dropped from the list. The next name on the list is Brian Etkin. I hope I have pronounced that right. Is Mr. Etkin in the audience here this evening? Brian Etkin. Mr. Etkin is not here this evening. His name will be dropped to the end of the list. It is the first time having been called, I believe. The next name I have on the list is Grant Ogonowski.

Mr. Ogonowski, do you have a written presentation, sir? Good evening. Please proceed whenever you are ready.

Mr. Grant Ogonowski (Private Citizen): For those who know me in this room, they know I am not famous for brevity at all, so two positive things have happened recently. One is I have just returned from vacation and quickly jotted down some ideas on paper. The second thing is I probably would do well to just simply read them. Otherwise, if I start getting animated, much like

my friend, Mr. Christophe, here, we could be here till 3 a.m. in the morning.

I am pleased to be able to participate in these most important democratic proceedings and offer my opinions regarding the proposed changes under Bill 44. Since 1974, by way of introduction, I have been working in the field of labour relations, both in a line-staff position and eventually in a managerial position. Through that time, I have observed a number of legislative changes. I would like to, right off the top, congratulate this government for what I consider to be a sincere attempt to rebalance the Manitoba labour relations environment.

Bill 44, in my opinion, unlike the previous administration's legislative amendments, cannot be characterized as anti-labour, but neither can they be characterized, in my view, as anti-business. Changes in labour legislation under the previous administration were anti-labour in nature, were highly political, I think created a horrifying imbalance between the rights of working men and women in this province and employers. While I see this bill attempting to address the imbalance, regrettably, I see it not going far enough to correct it.

First I would like to start with the financial and compensation statements and the union dues for political purposes. That section, it is impossible to believe that it was ever enacted, but there are certain circumstances which I guess existed that made it very possible, and it was unfortunate. To impose specific requirements for employees' organizations and not place that same requirement on employers, I daresay it creates an imbalance of the worst nature, and I am happy that this politically motivated attempt to imply that unions are less honest in their finances than business is finally being repealed.

The fact is that unions and any other businesses are audited yearly at fiscal year-end, and those statements are made available on request for any members interested, and generally passed out on a regular basis at conventions to all convention delegates and any observers there. This proposed amendment simply returns the situation to what it was prior to the changes. Further, in 76(1), 76(2) and 76(3)–I have just copied that at the back of the brief for your reference–requiring a union to consult with each employee was nothing more than an attempt to remove the freedom of speech from employee organizations.

First of all, that requirement was almost impossible to administer, in light of the fact that the same administration refused to provide addresses of hundreds of its employees, standing on confidentiality and the strictest interpretation of 76(1)(a), (b) and (c), particularly (c) where the requirement is that–I made an error there. It should be, there is a requirement in 76(2), I believe, that information provided to unions must be the amount of dues provided, the employee's name, their employee number and the date for which the money is transmitted.

We lived in a situation not long ago where the previous administration actually hired people all over this province, refusing to provide the union with the addresses of those people. Now, how in the name of God is a union supposed to administer this section of the law when they cannot even communicate with the employees to whom they are supposed to be communicating under law to ask them whether or not we have permission to use any portion of their dues for some political purpose, and I dare say, who was going to interpret what was a political purpose and what was not? So we found ourselves, under the previous administration, not having access to a number of members and not being able to ask them and even comply with this ludicrous section.

I certainly consider this amendment to be purely political retribution for the '95 election where unions concerned with the decline in public services voiced their members' opinion through television and printed media. Following the great "We'll save the Jets" illusion and the subsequent re-election, the unions paid the price for the loss of freedom of speech by imposition of impossible conditions on them. While it was okay for the Chamber of Commerce and other business organizations to use its money to support its champions and its causes for all intents and purposes, the same right was taken from the employees' organizations.

On certifications and votes, the previous repeal of the automatic certification in my view

was again just another plank in the previous administration's strategy to discredit employee organizations. The implication was that unless employees were being coerced, they would not otherwise join unions. In 26 years in this field, I have never had to do much more than answer the phone and respond to requests by employees to organize them. I am not really sure why business is afraid of the automatic certifications. Small businesses, which our society and our economy need, are not the most likely to be organized, unless the employer is seen by his employees to be ruthless in some aspect or another. Even larger businesses practising fairness in all aspects of relationships with its employees escape unionization. There is some truth to the old adage that unions are born from discontent and, in fact, we are invited generally to help equalize the relationship in some very untenable situations. If fear pervades the workplace, it is because the employer makes the workplace fearful. Unions are called upon, an organization drive takes place, and potential members make application to join the union.

A simple majority should suffice for an automatic certification. It was prior, 55 percent, to the previous administration's first amendment to 65 percent, and then following the retribution act of 1996, those are my own words, the retribution act of 1996, mandatory expensive redundant votes were called for again. The suggestion was that unions must be coercing employees, otherwise, why were unions continuing to be successful, contrary to all attempts to break them?

* (19:20)

The previous administration made a very important amendment to 6(3) of The Manitoba Labour Relations Act, no longer preventing an employer from interfering with an employee's right to organize by communicating to an employee during the employee's campaign. I am a little disappointed that that has not been repealed at this point in time. 6(3)(f) was couched in terms of legitimacy. The legitimacy was wonderful words that included: "a statement of fact or an opinion reasonably held with respect to the employer's business," and the emphasis is mine on reasonable. Once that door was opened, the employers then required time to approach the employees in a final mechanism to measure its success and a vote was implemented. We have heard over and over again at these hearings the problem with the time span for votes and the damage that can be done. I can cite you from personal experience people who have lost their jobs, a prominent car dealership in this city that simply interrogated every one of its members under the guise of reasonableness for the business. Four people were terminated. They ended up with settlements eventually after applications were made to the Labour Board. Several others requested that their application cards be returned to them simply because the employer had that opportunity to intimidate the living hell out of them.

There are currently only five jurisdictions in Canada, Manitoba being one, that do not recognize the right of automatic certification based on a majority of employees applying. In my experience, if 65 percent signed application cards, it is most certain that an expensive vote process will inevitably produce the same results. Therefore, I can only conclude that the real issue with opposition to this amendment is the one last kick at the cat to intimidate and dissuade employees to a possible vote. I congratulate this government in bringing sanity back to labour relations on this issue.

Ratification votes and last offers. Votes ought to be conducted by signed members only. I refer to the shortcomings of 76(1)(c) where no address is required for each employee by the employer. An employee is hired; dues are collected, if the employer determines the employee is in the bargaining unit, and we have found hidden employees in those areas, and are submitted to the union. A new name appears on submissions, but no address of the new employee. Where does the union send the new employee a card to be signed? For small workplaces, it is not necessarily a major problem, but, for example, for multi-office work locations or multi-locations throughout the province, it is a major problem. For government it was a major problem.

When the home-care program or Highways Department hired employees and sent their dues in, they were not required by law to provide any more information than 76(1)(c) called for. Were

they employed in Brandon, Winnipeg, Dauphin, and Ashern, who knew? Calls to the departments resulted in a declaration that addresses were confidential. They then became rand contributors, themselves not realizing that they were not members. How does one provide non-union members, rand members, with an opportunity to vote if one cannot send them a ballot? Rand contributors take notice at ratification time if they have not received a ballot which other co-workers have. They contact the union, ask questions why they are not being allowed to vote. Following an explanation of the fact that they are rand, they generally request an application card. You may think that you are a union member because dues are being deducted, but you are not.

I resented the previous administration's interference in employees' rights of freedom of association by denying that union the opportunity to communicate with each new employee under the guise of confidentiality.

To ensure that everyone has freedom of choice of association, voting by members only encourages rand contributors to contact the union at ratification time and find out why they have been left off the mailing lists in a backhanded way that ensures choice. I cannot send a ballot or a copy of an agreement to someone whose address I do not have.

Last offer votes. Emphatically, only the employees with their elected union representatives should determine which offer, if any, they will vote on; no employer initiation, no ministerial initiation, employees and duly elected representatives only.

I commend the Government on this step in terms of settlement during work stoppages. I commend the Government on this step towards balancing the playing field and collective bargaining. I am of the view that this is a step but falls short of where the province should be. This section may be seen by businesses as somewhat of a blow but only to those who wish to use the forced strike or lockout to union bust. I believe firmly that this amendment may in fact be helpful to both unions and employers who unwittingly negotiate themselves into a situation they never wanted in the first place.

It clearly may have the effect of bringing closure to bad and inflammatory decisions made by either party in a heated moment. Clearly one cannot argue this creates an imbalance for the employees, when all the advantages in the greatest majority of strikes and lockouts currently rest with the employer. To finely balance the relationship, this legislation should be accompanied by anti-scab legislation, which I am greatly disappointed this government did not propose.

I conclude with final-offer selection because, while this government should be commended for some of its amendments, I regret that they have not seen fit to re-establish FOS. FOS in legislation simply focusses both parties to a collective agreement to be reasonable in their position for fear of losing their position in its entirety. Easily researchable stats of this legislation speak for itself.

As long as one party or the other has the economic means, gains which severely undermine the collective process may be played to the benefit of only the one playing them. The simple threat of FOS has proven to have a most positive effect on bargaining relations. Some believe strikes and lockouts are an archaic way of resolving disputes. If that is so, then FOS has a rightful place in dispute solving. In any event, FOS ought to be available as an alternative dispute-solving mechanism. Until there is FOS and anti-scab legislation, the balance remains in the favour of the companies, corporations and governments.

In conclusion, I wish to thank this committee for listening and commend the Government for its attempts to bring balance back to Manitoba's labour relations, although without other needed legislation I fear this falls short of its mark. After so many years of retribution against employees for which Manitobans will continue to feel the negative effects for some time, this legislation has an air of freshness about it, an air of fairness and decency towards salary and hourly paid, indeed all Manitoba employees, and I will relish it until further common-sense legislation is passed. Thank you.

Mr. Chairperson: Thank you very much, Mr. Ogonowski.

Ms. Barrett: Thank you for your presentation. Just a comment. If those were a few notes dashed off, I would like to see what a fully thought-out presentation would be. You have done a very good job in putting down many of the issues that have been raised by people in consultations prior to the hearings and in the hearings, so I appreciate your having taken the time to come and make the presentation.

Mr. Ogonowski: Thank you.

Mr. Schuler: Grant, excellent presentation. We certainly appreciated your comments.

I have two questions and I will ask them both because one basically follows the other, and that has to do with Bill 44. Have you been given any indication by the current government that Bill 44 is in fact the first step in labour legislative changes? My next question is: If Bill 44 was the final step in labour amendments in the foreseeable future, the next four years, could you live with the changes in Bill 44?

Mr. Ogonowski: The answer to your first question is no. I am certainly hopeful that this is not the end of the line because this does not correct the imbalance created. The answer to your second question is I will happily breath in fresh air anytime it comes my way, but I am not satisfied with the end result of Bill 44. I would like to see Bill 44 go much further.

Mr. Chairperson: Thank you very much, Mr. Ogonowski, for your presentation this evening. The next presenter we have on the list is Ron Hambly. One second please.

Mr. Marcel Laurendeau (St. Norbert): I just had to take an opportunity to go back to the office after the government members moved the motion of closure on us this evening just to gather my thoughts.

I notice that there were some of the presenters that were not here this evening. I am prepared, at this time, to ask one of my colleagues to move a motion that the Clerk's office would phone the presenters listed to inform them that their democratic rights have been taken away from them this evening and that if they do not present this evening, they will not have an opportunity to put forward their remarks.

* (19:30)

We have been calling committees for different days, and we have not moved any motions of closure as of yet in this session. I thought everything had been moving along quite well without closure and everything was on track for a nice smooth landing, as we might say. Now that closure has been invoked, I would ask the Member for Fort Garry (Mrs. Smith) if she would move a motion that the Clerk's office be directed to make the calls to inform the public that they should come out and have their voices heard this evening.

Mrs. Joy Smith (Fort Garry): I move

THAT the Clerks now phone all presenters to inform them that the Government members invoked closure, forcing the presenters to speak tonight or in the wee small hours of the early morning or they will lose their democratic right to speak.

Mr. Chairperson: Is the motion in writing, please? The motion is in order.

Ms. Barrett: First of all, I would like to inform the members of the Committee and the members of the public who are here this evening that this not an invocation of closure, in the technical sense. Secondly, and more importantly I think, unlike most other committees in this government and in former governments, we have actually, in this committee, given three separate days. People were called and they were given two days' notice prior to the committee hearings, which I might add is something that is new in this Legislature in my term. In past years, in the former government, it was sometimes the same day that people were called to make presentation to public committees.

So, No. 1, the people on the list of presenters had at least two days' notice before the calling of the Committee. As a matter of fact, I think it was at the end of last week. Secondly, they had three specific times that were scheduled for the committee hearings: last night at 6:30; this morning at 10; and this evening at 6:30. People

have had ample opportunity to make arrangements. Most of the people who are on the list to present have presented, understand the committee structure and recognize that we actually have given more advance notice and longer advance notice of the committee hearings. It is not unusual at all.

Remember the sale of MTS, Bill 26, Bill 72, many bills in the former government went to the wee small hours of the morning. I would suggest that this is merely an attempt to disturb and upset the committee process and that we are not abrogating anyone's rights at all. As a matter of fact, we have extended them.

Mr. Harry Enns (Lakeside): Mr. Chairman, I am somewhat amused that the Minister chooses to always hark back to saying how the former government conducted their business and that all they are trying to do is do the same, just carry on with how the former government conducted their business. What are we doing with Bill 44 then, if former government legislation is all right, or the way we conducted the committee hearings is all right? When it suits this government to use the former government's example, that is the case they put forward. Surely you should not be conducting yourselves on the performance of the former government. We are led to believe that this is a New Democratic Government. You are doing things differently. Let us do them better.

Hon. Tim Sale (Minister of Family Services and Housing): I think that probably for all of those who are here in attendance, as well as for the members of the Opposition, I believe that the intention here is a reasonable intention. I think they need to understand that the Clerk's office phoned yesterday through the list, they phoned this morning through the list, they phoned this afternoon through the list. So there have been very strenuous attempts to notify. I think we have also already agreed that if someone is not able to present we would be glad to receive their presentation and enter it into the record. That has been our historical practice.

I also want to bring to the attention of members opposite that in 1996 the previous government went through 50 presenters and closed presentations on their bill in 1996, in spite of various objections, and the Committee went to 2:19 a.m. on that particular occasion. So I understand their concern, but I think it is important to underline that the Clerk has done a very reasonable, commendable job notifying all presenters. I believe the Committee has already made a decision in this regard, and I believe it is also consistent with Manitoba practice. Certainly, it is consistent with the previous government's practice that in 1996, on the labour bill, on this same issue, the Government gave notice, I believe in a reasonable manner, to all presenters, and at that time made a decision that it was time to move through the hearings, and they did so. So I think we should get on with the hearings, rather than taking more people's time sitting listening to debate of committee.

Mrs. Bonnie Mitchelson (Interim Leader of the Official Opposition): I know, it suits this government to look back to what we did when we were in government and justify their actions based on that. I would like them to consider the legislative agenda and the way we presented our legislative agenda when we were in government. We traditionally came in with a Throne Speech in the fall and introduced legislation, took a break, came back in the spring with a budget. That legislation was tabled. Members of the Opposition had an opportunity to take the legislation out to the general public for some consultation and some feedback on how people would respond or react. They had the opportunity for consultation. We did not bring legislation in in the middle of the summer hoping that people would not have an opportunity to look at it and that legislation would be rammed through and passed in the heat of the summer when this government thought that no one would be watching and no one would be caring what is going on.

Well, I want to indicate to this government that, as a result of those tactics and that arrogant attitude of this government, we have a business community today that has taken significant offence not only to what is included in the legislation but the manner in which this government has brought legislation in. This is unprecedented. It is unheard of. So if this government wants to take lessons from what happened in the past, maybe they should look back at what they have done this year and the wedge that they have placed in between labour

and business as a result of the tactics that they have used. This is an arrogant government that in its first session in the Legislature has upset a portion of our community and invoked closure tonight, again, in the middle of the summer when they are hoping that they can ram this legislation through before people get back from their holidays and back into a routine and see what this government has done to the economic climate in our province as a result of this kind of legislation and the manner in which they have presented it.

I ask that the arrogant attitude that is being displayed tonight be seen for what it is. Closure is closure. Make no mistake. Those of you who have been waiting patiently to make your presentations, this is invoking closure by a government, and the Committee and the public of Manitoba need to know that.

* (19:40)

Mr. John Loewen (Fort Whyte): I just want to correct a couple of errors, I think, that the Minister made. I think she should be well aware that everyone was given 48 hours' notice, and it was done at the agreement of the House leaders. It is not her that should be trying to take credit for that. She knows full well that the House leaders agreed last week that we would not hold these committee hearings until after the Premiers' Conference, something that all three parties agreed to, so she is right.

I should also like to note for the record that I have also been to committees called by this government that were called late on Thursday for Monday morning where there was no notification. In fact, the Association of Manitoba Municipalities missed an opportunity to present at that committee because they were not notified in time, particularly during the summer when people are away, and they were not accommodated. As a matter of fact, the Government used their majority at the table to shut down presentations, to not allow the Association of Manitoba Municipalities to come in Tuesday and give their presentation, even though they knew full well the Committee was going to meet on Tuesday morning.

There is no doubt that this government, in my mind, is invoking closure. I cannot speak to all the history of the Legislature because I am a new member and I was not here, but, quite frankly, I do not care. The issue to me is: Are we treating these presenters in a respectful way? Quite obviously we are not. Anybody who was here yesterday came here last night–and the room was jammed full. People were certainly led to believe–and we struck an agreement last night that the Committee would sit until twelve o'clock and that for people who could not stay that late, it would be agreed that they would be heard the next day. We managed to get through about 20 or 25 presentations last night and this morning. Certainly anybody who was here last night would probably have the same understanding that there are a number of presenters here tonight that we would not get through, and that they would have an opportunity to make their presentation to this committee at some time the following day.

I appreciate the fact that the clerks have phoned everybody. I do not believe the clerks would have phoned and said: By the way, tonight is your last opportunity to make a presentation, but this government decided to invoke that type of closure. So we have people who are not here who have taken the time and effort to register, have made presentations, and this government is not even going to have the common courtesy to have someone phone them and tell them if they really want to come down and make their presentation that this government has decided that tonight is their last opportunity. I think that is extremely regrettable. It is extremely selfish of this government, and their attitude is extremely arrogant.

My message to them would be that if you truly want to have a consultation, as the Premier (Mr. Doer) mentioned in the House today, then you will not be afraid to open up that consultation one more day. I mean it should be six or eight months, as we have heard from a number of the presenters, but there is no harm in opening it up one more day to allow presenters to make their positions heard.

Mr. Leonard Derkach (Russell): Over the course of debate on this bill and others in the House we have heard from ministers that in the debate on second reading and in committee the public of Manitoba would be given ample

opportunity to make presentations before this committee. This was the Government's way of consulting with Manitobans.

On Bill 42, when the trustees began their presentations, they had no knowledge that in fact they would be limited to 10 or 15 minutes in their presentation. As a matter of fact, they were even closed down in terms of being able to present their entire presentation.

Mr. Chair, this is invoking closure on Manitobans to express their views on this bill, whichever side they choose to present on. I think the motion that was put forward by the Member for Fort Garry (Mrs. Smith) is a reasonable one, where it is asking because this decision was made on this particular evening that we would not sit again as a committee to consider presentations on this bill until we have gone through all presentations, that indeed it would be in order for the Clerk's office to place those calls to individuals who are not here. It is not going to take a lot of time, but indeed at least then members of the public will know in fact that this is the last day, that closure has been invoked and that indeed they have to get down here tonight or else they will not be heard by this government.

Mrs. Smith: I think everything has been said. Thank you, Mr. Chair. The fact of the matter is closure was invoked really with Bill 42 and we went to the wee hours of the morning. It is mandatory that this does not happen again. Thank you.

Some Honourable Members: Question.

Mr. Chairperson: The question is being called. It has been moved by Mrs. Smith

THAT the Clerk now phone all presenters to inform them that government members invoke closure, forcing them to speak tonight or in the wee hours of the morning or they will lose their democratic right to speak.

The motion is in order. Is the Committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: The question before the Committee is as follows–do you want me to read the motion again?

Some Honourable Members: Dispense.

Mr. Chairperson: Dispense.

Shall the motion pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

Voice Vote

Mr. Chairperson: All those in favour of the motion, please indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please indicate by saying nay.

Some Honourable Members: Nay.

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

Formal Vote

Mr. Schuler: Recorded vote, please, Mr. Chairman.

Mr. Chairperson: A recorded vote has been called.

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

Mr. Chairperson: The motion is accordingly defeated.

* * *

Mr. Chairperson: As had been previously agreed, and, hopefully, with the consent of Mr. Hambly, the Committee had previously agreed to hear Mr. Roland Boisvert. We ask that Mr. Boisvert please come forward to make his presentation, if he is in the audience this evening.

Good evening, Mr. Boisvert. Do you have a written presentation for the Committee?

Mr. Roland Boisvert (President, Chambre de commerce francophone de Saint-Boniface): Yes, right here.

Mr. Chairperson: Whenever you are ready, Mr. Boisvert, please proceed.

Mr. Boisvert: Alors je représente la Chambre de commerce francophone de Saint-Boniface. D'abord, nous sommes de l'avis que le gouvernement du Manitoba, dirigé par le Nouveau Parti Démocratique--et j'insiste surtout sur le mot "Démocratique"–a la responsabilité d'assurer le plus haut standard de démocratie. Pour ce faire on doit donc autant que possible assurer un vote à bulletin secret, et surtout sur une question si importante autant pour les employés que pour les employeurs.

Si la loi présente assure que les employeurs n'intimident aucunement les employés intéressés à se syndiquer, sûrement on devrait s'assurer de la même chose de la part des chefs des syndicats.

Deuxièmement, nous croyons que l'arbitrage obligatoire après 60 jours risque d'augmenter le temps de grève plutôt que d'éviter les périodes de grève coûteuses pour les employés autant que pour les employeurs. Pourquoi faire des compromis difficiles quand on peut plutôt attendre qu'une tierce partie le fasse? De plus, si on veut faciliter l'accès à l'arbitrage obligatoire aux employés, en toute justice, il faudrait aussi le faire pour l'employeur.

Troisièmement, après avoir siégé pendant six ans personnellement à titre de commissaire à la Commission des droits de la personne, si un employeur, selon cette loi, doit s'assurer que ses employés ne soient pas brimés dans leur personne ou leurs responsabilités par d'autres employés, sûrement les employés doivent être tenus responsables de leurs actions en tout temps, et encore plus en temps de grève où les esprits risquent de s'échauffer. D'ailleurs, Le Code des droits de la personne ne prévaudrait-elle pas sur le projet de loi présent?

Finalement, Monsieur le président, notre province jouit présentement d'une belle croissance économique, et il est important de le soutenir autant pour les employeurs que pour les employés. Et ici je pense à nos jeunes et à nos moins jeunes, qui peuvent finalement trouver toutes sortes d'opportunités d'emploi sans avoir à quitter notre belle province. Je vous remercie.

[Translation]

I am representing the Chambre de commerce francophone de Saint-Boniface. Firstly, it is our opinion that the Government of Manitoba, under the New Democratic Party–and I particularly emphasize the word "Democratic"–has the responsibility to ensure the highest standards of democracy. In order to do so, we must, as far as possible, ensure voting by secret ballot, especially on an issue that is of such importance both for employees and employers.

If the current act ensures that employers do not in any way intimidate employees who are interested in unionizing, the surely we should ensure the same thing on the part of union leaders.

Secondly, we believe that compulsory arbitration after 60 days may make strikes last longer rather than avoiding strike periods that are costly both to employees and employers. Why make difficult compromises when you can wait for a third party to make them instead?

Moreover, if the intent is to facilitate access to compulsory arbitration for employees, in all fairness the same should be done for employers.

Thirdly, having sat for six years on the Human Rights Commission, I believe that if, under this act, an employer must ensure that his or her employees are not subjected to any harassment by other employees, either as regards their person or their responsibilities, then surely employees must also be held accountable for their actions at all times, and still more so during a strike when tempers may rise. Would the Human Rights Code not prevail over this bill anyway?

Finally, our province is currently enjoying excellent economic growth which it is important to maintain, for the sake of both employers and employees. Here I am thinking of our young and

not-so-young people who finally can access all sorts of job opportunities without having to leave our beautiful province. Thank you.

* (19:50)

Mr. Chairperson: Thank you very much, Monsieur Boisvert.

Ms. Barrett: Merci. That is pretty much the extent of my French, I am afraid to say, but I appreciate your having taken the time to come out this evening and make your presentation. The issues that you have raised very succinctly have been raised by, as you know, other presenters. We are discussing these issues and appreciate your having shared your concerns with us tonight.

Mr. Boisvert: Thank you for having taken time.

Mr. Schuler: I will keep my comments as brief as your presentation. Thank you very much. We certainly appreciate you highlighting the three key areas, areas that we have continuously heard.

Just for the record, are you calling for the withdrawal of the Bill?

Mr. Boisvert: Yes, we are. Yes, we do want it recalled.

Hon. MaryAnn Mihychuk (Minister of Industry, Trade and Mines): I would like to ask if you are familiar with the other clauses where there was agreement in the Bill, the other seven clauses where there was agreement from both the management and labour side through the management review committee. In such a case, do you still feel that those clauses should be withdrawn and not enacted upon?

Mr. Boisvert: I would go back to my presentation, saying that our main concern is the secret vote. We really believe in the secret vote. This is the main concern now. I am not familiar with the last previous bills that you have passed, but the secret votes and the way of arbitration are certainly what we are after, and we believe strongly in it.

Mr. Laurendeau: Monsieur Boisvert, pouvez-vous me dire pour quelle raison les 60 jours, quelles sortes de problèmes se posent avec les organisations?

[Translation]

Mr. Boisvert, can you tell me what the reason is for the 60 days, what sort of problems occur with organizations?

Mr. Boisvert: Je crois que si on établit 60 jours pour les employés, très bien, mais pourquoi pas pour l'employeur? C'est ça notre point. Nous croyons beaucoup quand même à la justice. Ce qui est bien pour l'un devrait quand même être bien pour l'autre.

[Translation]

I think that if we set 60 days for the employees, fine, but why not for the employer? That is our point. We really believe strongly in justice. What is good for the one should also be good for the other.

Mr. Laurendeau: Pensez-vous que si c'était la même affaire pour les employés que pour les employeurs, ça prendrait soin des employeurs–

[Translation]

Do you think that if it were the same thing for employees and employers, this would take care of employers–

[English]

–takes away their rights?

Mr. Boisvert: Bien, je crois que oui. Moi-même, je suis un employeur. J'ai parti une compagnie personnellement, et je n'ai jamais vu un temps où mes employés n'ont pas eu tous les droits qu'ils devraient recevoir. Je pense qu'ils ont toujours été bien traités. Je pense que beaucoup, beaucoup de petites entreprises traitent bien leurs employés. Sûrement qu'il y en a, probablement dans quelques instances où peût-être qu'il y a eu des problèmes, mais je pense qu'en général les employés sont bien traités. Je ne connais pas beaucoup d'employeurs qui se seraient permis de faire autrement.

[Translation]

Well, I believe so. I am an employer myself. I started a company personally, and I have never seen a time when my employees did not have all the rights that they should receive. I think that they have always been treated well. I think that many, many small businesses treat their employees well. Of course there are some, probably in certain instances where perhaps there have been problems, but I think that in general employees are treated well. I do not know many employers who would have allowed themselves to do otherwise.

Mr. Loewen: I will defer to Mr. Laurendeau, if he has one.

Mr. Laurendeau: Monsieur Boisvert, sur la question d'avoir la capacité de voter sur la–comment on le dit en français?

[Translation]

Mr. Boisvert, on the matter of being able to vote on the–how do you say it in French?

Mr. Boisvert: Sur le vote secret?

[Translation]

On the secret ballot?

Mr. Laurendeau: Pour quelle raison pensez-vous que la ministre veut changer ça? Je lui ai demandé ça à la Chambre, et elle ne m'a rien dit. Avez-vous entendu une raison pour laquelle elle veut changer ça?

[Translation]

Why do you think the Minister wants to change that? I asked her that in the House and she said nothing. Have you heard a reason why she wants to change that?

Mr. Boisvert: Pourquoi est-ce que la ministre voudrait le changer, je ne peux pas répondre, mais je peux dire que s'il n'y a pas un vote secret dans les temps critiques, sûrement qu'il va y avoir du monde qui vont se faire intimider, et ensuite quand on vote les mains ouvertes, est-ce qu'on vote toujours comme on aimerait vraiment voter? C'est peût-être ça le plus gros point.

[Translation]

As to why the Minister would like to change it, I cannot answer, but I can say that if there is not a secret ballot at critical moments, surely there will be people who will be intimidated, and then when you vote openly, do you always vote as you really would like to? That is perhaps the biggest point.

Mr. Loewen: Thank you very much for your presentation, Mr. Boisvert. Just a quick question, we have heard from a number of labour leaders that they feel that we were part of this legislation in an antiworker, anti-union business climate. Speaking on behalf of the Chambre de commerce francophone de Saint-Boniface, would you concur with those statements?

Mr. Boisvert: What was your question again? Do you want to clarify it?

Mr. Loewen: I am asking if you would agree with a number of the labour leaders we have heard from in this committee who are of the belief that presently in Manitoba we have a business climate that is antiworker, anti-union.

Mr. Boisvert: No, I do not believe so. There may be the odd case where there is unfairness, and this is going to be in every industry, but as a rule, as the majority, I do not believe so, no.

Mr. Loewen: Just a comment, because you mentioned that you feel there are a number of small businesses that treat their employees very well and where there is no need for a union. Just for your information, I happened to work with a company that employed over a thousand people for 25 years, was president and CEO. We were never afraid of a union. The fact of the matter was our employees never wanted a union. So there are large businesses that do not require unions as well.

Mr. Boisvert: That is correct, yes. I can only agree with Mr. Loewen. I agree that a lot of businesses do not require unions. I would say that some of them maybe do require some, but as

a rule, all of my experiences, the people I have dealt with never really required them.

Mr. Chairperson: Merci beaucoup, Monsieur Boisvert.

[Translation]

Thank you very much, Mr. Boisvert.

Mr. Boisvert: Bienvenue.

[Translation]

You are welcome.

Mr. Chairperson: I would like at this time with the indulgence of the committee members to canvass the audience to see if there are other presenters who wish to present in French this evening. If there are, please come forward.

Seeing that there are no other presenters, we will resume with the members of the list that are indicated. The next member on the list is Mr. Ron Hambly. Will Mr. Hambly please come forward.

Thank you very much, sir, for your indulgence. Do you have a written presentation for the Committee?

Mr. Ron Hambly (Executive Vice-President, Winnipeg Construction Association): Yes.

Mr. Chairperson: Please proceed when you are ready, sir.

Mr. Hambly: Good evening, Mr. Chairman, ladies and gentlemen. My name is Ron Hambly. I am the Executive Vice-President of the Winnipeg Construction Association. We had registered Mr. Schlieer, Alfred Schlieer, the President of PCL, to be here tonight. Unfortunately, he is out of town and sends his regrets.

I am here today on behalf of the Winnipeg Construction Association, the oldest and the largest commercial construction association in the province. We represent approximately 325 companies of all sizes engaged in various capacities in the industrial, commercial and institutional construction industry in the province. Our members are responsible for probably 75 percent of the commercial work that takes place in Manitoba every year.

Our association has had a very long history, a very positive history of working with governments, both national and provincial, on behalf of the construction industry. We have participated or have been consulted in matters related to education, apprenticeship, skills shortage, industrial wages and workers compensation. We are actively involved in workplace safety in Manitoba through the Manitoba Building Contractors Safety Program.

The Winnipeg Construction Association is proud to have both unionized and non-unionized contractors as its members. Some of our unionized firms operate in both environments as they are signatory to certain trade union agreements and use non-union subcontractors for other components of the same projects. We have endeavoured, in our association, to create an atmosphere that encourages both types of firms and recognizes that individual firms have the right to make choices in this regard.

Construction work, by its very nature, is short-term employment. Construction trades and labour move from project to project, from company to company throughout the year. A carpenter or an electrician may have a union card, sign a union card and be working on one project, and three months later may be employed on another project, a non-union project, and two months later be on another union project along the way. This may seem unusual in the traditional sense of employment, but it is the way the construction industry in our province operates.

Minimum wages in this industry are established in The Construction Industry Wages Act. They are competitive regardless of whether a company is unionized or not. Given today's labour shortages, wages are very competitive. Wages range today from a low of over $16 an hour for unskilled labour to over $24 an hour for skilled tradespeople.

* (20:00)

Now I offer these observations to provide a foundation today for our comments which we are bringing forward to Bill 44, and particularly in the light of the negative remarks we have heard in the media directed at groups opposing such amendments. Our association–I would like to make this clear–is not anti-union, nor do we desire to exploit our workers.

Over the past three months, we have been following the development of this legislation. We have been actively participating in the Manitoba Employers Council of the Winnipeg Chamber of Commerce. This group submitted a position paper last night on Bill 44, and once again we endorse the views expressed in that document. In addition, one of our associates who presented this afternoon is serving on the Labour Management Review Committee, and we recognize the hard work of that group. While our views have been articulated through these bodies, we want to take this opportunity to further comment on these amendments to ensure that the specific concerns of our members have been fairly represented.

In a letter to the Premier (Mr. Doer) and the Minister of Labour (Ms. Barrett) in July, we indicated that our association has three principal objections to the proposed amendments. Picket line violence is the first one. We object to the proposal to allow reinstatement of an employee following strike-related violence. This provision, as we have heard many times in the last two days, was enacted as a direct result of a violent picket line incident, and we do not see why the Government should weaken the Act and in effect condone this behaviour. We are very encouraged by reports of late that this amendment may be withdrawn or modified.

In terms of certification votes and the automatic certification issue, it is our belief that a democratic vote free of pressure and intimidation is still the best way to decide issues in today's society, and we believe that the current provision in the existing legislation, whereby a secret ballot vote is called if more than 40 percent of the union sign a union card, continues to be the best solution. There has been a suggestion that during the period in which a vote is being arranged and the employer has time to intimidate employees, the remedy for this, as we have heard again today, as it currently exists, is the filing of an unfair labour practice action and the potential for automatic certification of the employer. If this remedy is inadequate, and we have heard some discussion of that today, it is inadequate to deal with intimidation from either side, then deal with that particular issue and leave the secret ballot process in place.

We have not heard or seen that the current legislation impacts on a union's ability to certify companies. Our question is, if that is the case, why are we proposing these amendments?

The third item, the settlement of collective agreement by arbitration after 60 days. We are very concerned with both the substance of this proposed amendment and the lack of consultation that preceded it. The Labour Management Review Committee, at the eleventh hour, was asked to consider ways and means of alleviating protracted strikes. Associations such as ours, even though we are participating in the process, did not have the opportunity to discuss possible alternatives with our members, and as such our representative at LMRC could not represent us in this respect. In the absence of this discussion, we have now been presented with an amendment that can impose a collective agreement after 60 days of a strike or lockout, subjecting the process to arbitration.

In our view, this action would severely limit the employers' and employees' ability to engage in free and collective bargaining. By allowing the employees the opportunity to veto the process, the proposed amendments upset the labour and management balance entirely. More to the point, and as I just said, we have not seen an unusual number of work days lost to long strikes and do not really understand the need for this amendment. We are encouraged to see some changes in this one as well.

In summary, and I would like to keep my remarks brief, I would like to reiterate that our industry has enjoyed a particularly good construction season in the last two years. The amount of public sector work, schools, health care facilities, et cetera, has been significant, but the real growth area that we have seen in the last year has been in the area of the private sector.

We have also seen relative labour peace and we would not like to see this change.

The proposed amendments, if they proceed, could well precipitate a change in the investment and labour climate in the province of Manitoba. We wanted to ensure that the views of our industry are heard in this process that our concerns are not based on fear or the desire to press work on people in Manitoba. We are encouraged, as I said, with reports to see that some of these concerns are being addressed through amendments, and we encourage your work in this regard. On behalf of the Winnipeg Construction Association, thank you very much.

Mr. Chairperson: Thank you very much, Mr. Hambly.

Ms. Barrett: Thank you for your presentation. A couple of things. One, we have announced that the employee vote to begin the alternate dispute resolution mechanism will be amended so that we will address that issue. I believe that we have heard a number of views of the construction industry and other industries in the province, and I look forward, as I have in the past, to having good constructive meetings with you and your association as we deal with other elements of labour legislation and issues that come about, such as The Construction Industry Wages Act. So thanks again for making your presentation tonight.

Mr. Loewen: Thank you very much, Mr. Hambly, for your presentation. I just go to page 3 of your presentation because it is at odds with statements that the Minister has made in the House. Time and time again under questioning she has indicated that she sent every single element of Bill 44 to the Labour Management Review Committee and that they had the opportunity to go through their process and come back with their recommendations, indicating in come cases they reached consensus and others they did not. What you are saying is that this issue was not even presented as a foregone conclusion but more or less at the eleventh hour as a fishing expedition into receiving opinions. Is that correct?

Mr. Hambly: The Manitoba Employers Council, through the Labour Management Review Committee, our members were able to see 11 amendments and we had some good discussion on them. We support the Labour Management Review Committee's review of that and their recommendations for, I believe, seven, in concurrence with seven of them.

The issue with regard to the arbitration 60-day clause was not proposed initially and was floated quite late in the process. We never did get a chance to see that one and share it with our members. I think some of the comments we have heard lately are that perhaps there is a flaw in the process. In that respect, if there is the opportunity to leave that one aside for the time being and come back to it, review it a little more, we would be happy to see that, but that is the case, yes.

Mr. Chairperson: Mrs. Smith.

Mrs. Smith: I will defer to Mr. Loewen.

Mr. Loewen: Mr. Hambly, the Minister has also indicated that she is going to be willing, although we have not seen it, to look at an amendment to the 60-day clause to take away the veto by employees, but I believe that would leave it up to either the employer or the union to demand and receive arbitration. Does that go far enough to satisfy your association?

Mr. Hambly: Well, I think that is the issue. I cannot say that, because our members have not seen that. It may very well go far enough.

Mr. Loewen: We have also heard from a number of labour leaders that they believe since 1996 there has been an anti-union, anti-worker climate in this province. Could you share with us your experience in terms of the Construction Association with regard to labour management relations?

Mr. Hambly: As I said in my presentation, Mr. Chairman, we have enjoyed a period of relative labour peace in a very stable construction industry in the past few years and certainly hope it continues.

Mrs. Smith: Thank you for your presentation. I find this very worrisome when in your presentation you said: The Labour Management

Review Committee, at the eleventh hour, was asked by the Minister to consider ways and means of alleviating protracted strikes. Associations like ours did not have the opportunity to discuss possible alternatives.

The connotation here is the consultation process was indeed very flawed. In the House, day after day, the Minister said that every single element was sent to the Labour Management Review Committee and that there was complete collaboration. In view of the fact that you have said this tonight in your presentation, would you be amenable to encourage the Minister to shelf Bill 44 and take more time for consultation and collaboration before pushing this bill through?

Mr. Hambly: As I have said, I think we would be prepared to entertain that that particular amendment be removed and dealt with at a later time. We have indicated, and through the Manitoba Employers Council in their proposal last night, that we endorse seven of the recommendations in Bill 44. We are willing to see that proceed. However, we have not had significant discussion on this last particular issue. Our members have not seen it. We have not discussed it. We do not have a formal position on it, and that is the way it stands. We would be happy to review it further, as I understand some of the members of the Committee had a chance to do.

* (20:10)

Mr. Chairperson: Thank you very much for your presentation this evening, Mr. Hambly. Time has expired for questions.

The next presenters we have on the list are George Floresco and John Friesen. Are they in the audience here this evening? Please come forward. Do you have a written presentation, sir?

Mr. George Floresco (President, Canadian Union of Postal Workers, Winnipeg Local): Yes, I do.

Mr. Chairperson: Which of the gentlemen are you?

Mr. Floresco: George Floresco.

Mr. Chairperson: George Floresco. Thank you. Please proceed whenever you are ready, Mr. Floresco.

Mr. Floresco: I would like to thank you first for the opportunity to speak and be here. I am the local president of the Canadian Union of Postal Workers, Winnipeg Local. We represent approximately 1500 employees at Canada Post in Winnipeg, Selkirk, Morden, Winkler, Altona and Steinbach. We also represent a group of warehouse workers and drivers who work for a private company based in Winnipeg, and through one of other locals in Winnipeg we also represent same-day couriers in Winnipeg who work for a multinational corporation.

We are appearing here today to support these changes to The Manitoba Labour Act, although we believe these changes do not go far enough to ensure workers' rights within this province. I would just like to add, too, that our members fall under the federal labour law, federal jurisdiction, but we believe it is important that we participate in this process. We actually hope that in the very near future we are going to be representing workers who fall under the provincial labour law.

In the beginning of The Manitoba Labour Relations Act, it reads: "WHEREAS it is in the public interest of the Province of Manitoba to further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining between employers and unions as the freely designated representatives of employees."

One can certainly read that this is an encouragement for workers to join unions so that they can be represented through collective bargaining, similar to the federal act and most provincial acts. We believe this is an approach that Canadians want in general, that there be representation in the workplace. Workers need that representation in the workplace just as they do in the outside world. If they are accused of wrong doing under criminal law, they have the right to legal counsel. But in the workplace, if you are accused of doing something wrong, you can be released, terminated, discharged, and you have no right to representation necessarily if

there is no union in the workplace. I will get into that further on.

The Minister of Labour (Ms. Barrett) has stated that these proposed amendments are designed to achieve greater balance in labour relations. Some members of the business community are suggesting that the amendments are an attack on the democratic rights of workers and will give unions too much power in the collective bargaining process. Frankly, we believe both are mistaken.

We believe on the issue of automatic certification of 65 percent that that issue has been blown out of proportion, and that is based on what actually happens out there in the workplace or outside of the workplace when people sign union cards. We say: Is it not signing a union membership card much more of a declaration of support than a ballot? I say that based on a worker and an employee having to sit down and sign a card and put their name to it carries far more weight in their minds than simply marking an X or a check mark on a ballot in private and putting it into a box so that they, frankly, will never be identified as whether they support a union or not. For them to sign that card in the presence of someone else is a very dramatic statement for them to make, and I believe at least two-thirds of employees in a workplace sign that card. I think it is time to get on with the process of them dealing with their issues as opposed to going to the Labour Board and having to go through the formality, and, yes, I believe it is a formality in most cases of having a vote. It eliminates the unnecessary expense as well, and, as I said, in most cases, the vote is there and the workers will support the union.

But, in our view, automatic certification with a simple majority should suffice. This is the standard set by the federal government and half the provinces have lower levels of certification than the proposed amendment. I just want to make a comment too because I get the impression from listening to some people that it is simply a matter of taking membership cards, plunking them down in front of the Labour Board and saying: Here we have the right amount, trust us. They count them. It is far more complex than that. The names are scrutinized; the list of employees is scrutinized; and the Labour Board has to ensure everything is correct. It is a tedious process at times, but it is a very fair process to ensure that those who have signed the cards are eligible, qualified and fall within the scope of the bargaining unit. I think that is really important to recognize: It is not just a simple matter of counting; it is also reviewing who has actually signed a card.

Some business representatives are suggesting that unions use intimidation and coercion to get workers to sign membership cards. It is ridiculous. It has no basis in reality in Manitoba that I am aware of. Union organizers, they use coercion like going to the workplace and sign up members? Well, it is a good chance you are going to get that tossed out and you lose the certification. But, if an employer does not follow the Act, there is not a great chance that they will be penalized with automatic certification. This is a very unequal situation that has not been addressed, and it does happen. Employers know there is essentially no penalty if they intimidate workers, threaten to move their operations or even fire organizers. Many organizing drives have been defeated in such illegal ways, and if the employers knew there was some consequence to their action perhaps they would reconsider what they were doing.

Now, on the issue of the 60 days, and I know there are amendments and I do not want to dwell on this too long, but I think that the proposal to have binding arbitration after 60 days is not going to make much difference in most cases. Business representatives are claiming that this gives the union no incentive to bargain in good faith, and, frankly, I do not know of any workers who want to go out on the street and lose pay for 60 days simply to hope that they will get binding arbitration that will give them something better than they have already.

Unions are aware of the record of arbitrated settlements, and, in most cases generally, arbitrators' settlements are not beneficial for workers. I do not know where this myth has come out that binding arbitration always goes in favour of the union or the workers, and I have seen it in print in the past couple, three weeks that binding arbitration is the panacea for workers. Well, if it is such a great thing, why are

we not all in binding arbitration? The reality is because binding arbitration is not necessarily a guarantee that either party is going to get what they like. The employer, the representatives of the workers, the union, know best what is good for their workplace, and they should be allowed to negotiate. As I have said, in some cases there may be a need for this type of arbitration, but I do not think that is a major issue here.

If the Government is really looking for real change to positively help workers in labour disputes then it should put anti-scab legislation forward. Québec enacted legislation to deal with this in 1978. Since that time, there has been a marked improvement in the collective bargaining climate, as well as a dramatic drop in tension and violence during labour disputes. Ontario and British Columbia passed similar legislation, although the Ontario legislation has since been repealed. It should be noted that the Québec government has seen a decline in both the number and length of disputes since the legislation was enacted. In this beginning to the new millennium, we should not need to defend our jobs on the picket lines because scabs are being used.

I would like to touch on another area though that I have not heard much about. What we see as workers is a real need for a change to the Manitoba labour act in the areas of unjust dismissal. To our knowledge, only two provinces are left with this antiquated notion that you can be terminated for anything the employer chooses as long as you receive two weeks notice. Now there are a few areas where that is not the case. Under the Manitoba human rights legislation and the health and safety legislation, workers can access that in those cases or in the case, ironically, under the labour act, if there is a certification drive going on.

An employer can terminate a worker, and if they give him the two weeks notice, the employee has no recourse other than through litigation on the amount of severance pay they get to contest their discharge, their release from the workplace. As I say, Manitoba and Alberta are the only two places where that exists. I think that has to be addressed by this government, and something should be put into the labour act that allows workers redress in unorganized workplaces to try and deal with this issue of unjust dismissal.

The Government should also be looking at ways to give more employees the right to combat employers taking advantage of workers through independent contractor schemes or private consultant or contract work, all of which are used to bypass collective bargaining. Now, on that issue, that goes into a whole new area. I do not want to dwell on that too much, but I want to say that more and more we have seen employers try to use this, that people are independent contractors so they do not have the obligation to negotiate under the collective bargaining process. I think that in the future that has to be addressed, because there are many employees who are working in Winnipeg, in Manitoba, who are being classified as independent contractors and in reality they are not. The law has to be addressed and revised to deal with that issue.

* (20:20)

Almost two years ago, CUPW established the Workers Organizing Resource Centre as a facility to assist the employed and the unemployed, to facilitate the advocacy work of other organizations and, if workers so wish to organize them, into unions. Now the time spent at this centre has really opened the eyes of the volunteer advocates that work there. They deal with up to 150 complaints every month dealing with issues from employment standards, the labour act, workers compensation benefits, employment insurance, to health and safety issues, human rights and social assistance.

I have been told that in the Centre there is a saying that a worker is only two weeks away from social assistance if they lose their job, because in reality there are many circumstances where workers, if they are released, terminated, fired and they have recourse to no other coverage, two weeks later that is all they have is social assistance. Those issues have to be dealt with to provide a safety net, and I think the labour law has to be reviewed in that matter.

What we have seen through this centre in the past two years is that work is really changing. In the past if we were to organize large groups of

workers, they would all have to be in the same work location. They had common interests. There was contact all the time. Now with homework and contract work not being done on site, it has made organizing workers much harder. We admit that. With the advent of more casual and part-time work, not only does it make it harder to organize workers, it also changes the workers relationship to that job. We say that because now workers may have two, three or even four jobs to make their livelihood. This means no one job is the primary source of income and the relationship to the workplace is observed as casual or transient. Determining the question of status for these employees is a very cost- and time-consuming process, and I think that also has to be addressed at a future date.

Unions are at a great disadvantage in organizing, to begin with, whereas the employer certainly has a large advantage with the rules as they stand and with the fact that they basically control the paycheque of the employees. That has a tremendous influence on employees.

Business spokespersons are talking about democracy. Do business organizations have a 65% or 50% rule in making decisions, speaking on behalf of their members, or spending money? Maybe some do, but I would guess that in many circumstances organizations must move quickly. Democracy in the workplace has become a rallying point to many who oppose this legislation. It is not likely going to be expanded into wages, benefits, and working conditions in unorganized workplaces. Frankly, I do not see democracy in the workplace allowing employees and non-unionized workplaces voting for their boss or voting on their wages. In those workplaces, those conditions are set unilaterally by the employer.

Through the years, the labour laws have changed to accommodate employers. Workers have given up a lot in those years. During what is supposed to be the most prosperous period in Canadian history, workers' standards of living have dropped, and the erosion of social programs has escalated. It is ironic that, as we have reached the end of the 20th century, at a time when technical-scientific achievements are truly momentous and Canadian society should have the means to meet the needs of all of its citizens, we are seeing declines in standards in social and labour programs.

The tone of the arguments from certain business representatives on this issue would indicate that they are interested in increasing the level of confrontation in labour relations in this province. They appear to be demanding the right to starve out the workers and crush the unions. If their intention is to increase the level of confrontation and violence at picket lines, then this is certainly the way to go, and I hope it is not. It appears that the only logic to some of the attacks by the business organizations is to make it very clear to workers that, despite the change in government, it is still business which will set the agenda.

The Government should not back down on the face of these concerted attacks on relatively minor issues. There is much more that needs to be accomplished in the future. We think it would have been wiser for the Government to conduct wide-scale hearings on the state of labour relations in Manitoba and the benefits to society from the increasing level of organization of workers. We think that these amendments do little to help workers in any practical sense and provide no rallying point to organized support for the Government's initiatives among workers. However, now that this bill has been introduced, it should simply be passed, and we should get on with some of the more important problems in this province. I thank you very much.

Mr. Chairperson: Thank you very much, Mr. Floresco.

Ms. Mihychuk: I just wanted to thank the presenter for coming out and providing his perspective and that of his union, and open the floor for questions.

Mr. Loewen: Mr. Floresco, an interesting presentation, and certainly illuminating to me. I mean, I was always under the impression that The Labour Act was in place to create a relatively level playing field for both the employers and the employees. Under that scenario, if there were a group of employees that wanted to form a union and voted to do so, they would have the right to do that; and, if there was a group of employees that did not want a union,

then they would have the right to vote and do that as well.

Certainly, and I quote from your report, that it is obvious that you and your cohorts see The Labour Act as being an encouragement for workers to join unions so that they can be represented through collective bargaining. There is no doubt that you are sincere in that belief, and that gives me a better understanding of why you and your associates are here arguing for the clauses that you are.

Just by way of fact I think it is a little bit ludicrous for anyone to come to this committee and suggest that is only employers that interfere with the rights of people to organize collectively. I think for anybody to say that there is never a case where there is intimidation by unions is extremely naive. I think we should all agree that from time to time there are unions that go over the bounds, as there are employers that go over the bounds.

In all cases there are laws in place, and hopefully those laws will be applied. In fact, for factual context you state that there has never been a drive that signed up more than 65 percent that lost a secret vote.

We heard from the Minister in the House today that, yes, in fact in the last few years there have been five. We have a letter on record tonight from an Ilene Lecker, who is indicating a situation where 60 percent of the union cards were signed. In fact, on the vote only 56, or less than 30 percent of the people, I believe, probably less than 20 percent of the people, actually voted for the union in a secret ballot. Her contention is that there was intimidation but there are laws to take place of that.

Anyway, just so you know in future that factually you are wrong. I do not really have a question by way of a statement. If you actually believe that there is a large contingent of employers out there that are demanding the right to starve out their workers and crush unions, welcome to the year 2000.

Mr. Floresco: On the last comment, I believe there are certain representatives in the business community who are taking a very hard line. I certainly am not saying that all employers are out there to starve their workers, but I believe that they are taking a hard line. The quote used in there perhaps is a quote to highlight the issue, but I really believe that we need to move forward and look at workers' rights and work in the community to enhance some of the rights, because there are some workers, especially in the lower paying jobs and unorganized workplaces, who have a really rough time of it. When they do lose their job they do not have recourse, with the exceptions I mentioned, to contest it. Going through the courts to decide what your severance pay is, well, that is tough too.

I think there has to be more looked at than simply the amendments that you are considering under Bill 44. On the issue of coercion, I think the far largest number of problems come from the employers' side. While I am going to recognize that in some cases, too, there may be some overzealous union organizers, but those issues will be dealt with. So I will leave it at that.

Mr. Sale: I have a question and a comment. I wonder, Mr. Floresco, if you would agree that Ilene Lecker's letter, which I would be glad to share with you, is actually a letter about the intimidation of workers by the employer. I just read what she said, that if over 60 percent of union cards were signed from approximately 220 employees and only 56 people voted for the union in a secret ballot, then 76 people were obviously scared and intimidated from management at the time of the vote. She is talking about a company called Marusa Marketing, which is a phone centre. She makes the point that 30 to 49 people were temporarily laid off days before the certification vote because of lack of work. They were told to come back and vote. When they returned to vote they were told by management they could only vote during certain hours and so forth. Would you agree that that seems to be in fact a letter about intimidation and not a letter about what the Member for Fort Whyte (Mr. Loewen) was implying?

Mr. Floresco: Obviously, I have not seen the letter. I appreciate a copy later, but it sounds to me like it is one of the classic examples of intimidation by employers or trying to deal with the way voting is done. I really believe that in

situations where there is a vote that there should not be any attempts at vote rigging.

Mr. Chairperson: Thank you very much, Mr. Floresco. Time has expired for questions.

* (20:30)

Mr. Floresco: I need to clarify one statement made by a speaker earlier this morning who claimed he was with Canada Post at one time. He made reference to the strikes being over 60 days at Canada Post. He was incorrect, and I wanted to bring that up in my presentation. There have never been strikes over 60 days at Canada Post. I think that was a bit inflammatory too. So thank you very much.

Mr. Chairperson: Thank you very much, Mr. Floresco.

Point of Order

Mr. Loewen: I have noticed that three times tonight Mr. Hilliard's phone has gone off interrupting these procedures. I wonder if you would be kind enough to ask everybody who is in the room if they would have the courtesy for the Committee and for the presenters to turn off their cellular phones. If they vibrate that would be fine. If they are ringing if they could turn them off it would be appreciated.

Mr. Chairperson: Thank you very much, Mr. Loewen, for drawing that to the attention of committee members and for members of the public who are with us here this evening. We would appreciate your indulgence in turning off your cell phones, if you will please. Also, based on the point of order that you raised, Mr. Loewen, while it is a point, it is not a point of order, so we will thank you for bringing that to our attention.

* * *

Mr. Chairperson: The next presenter on our list here this evening is Cindy McCallum or a David Condon. Do you have a written presentation, sir?

Mr. David Condon (Canadian Union of Postal Workers, Prairie Region): Yes, I do.

Mr. Chairperson: You may proceed when you are ready.

Mr. Condon: I do not know if I will be referring quite as much to my written presentation, because I also represent the Canadian Union of Postal Workers. I am the Education and Organization Officer for the Prairie Region representing approximately 8000 members in Alberta, Saskatchewan, Manitoba and the Northwest Territories. Certainly you may well understand that the brief that I am presenting is very similar to George Floresco's.

I can also assure you that I guess I am every bit as naive as Mr. Floresco in terms of how I view organizing and the intimidation tactics of employers. One of the jobs that I have as an educational officer is conducting education seminars, and one of the seminars that we do is union organizing. I could assure you that we make sure that one of the things we tell our organizers is there cannot be, first of all, under the law, any bullying and intimidation tactics in asking somebody to sign a union card.

Secondly, it would be ridiculous to do so. Why would you want to force somebody into signing a card knowing that what the law says is that they can go to the Labour Board and ask for that card to be withdrawn, and that you may jeopardize the whole union drive simply by doing that. The biggest reason we find in organizing that people do not want to sign a union card is because they are scared they are going to get fired by their boss. That is the No. 1 reason.

To say that people who have signed a union card then have to go to something in a secret ballot because somehow this is going to restore democracy when they have already cast a ballot and done so in a safe manner I also think is a weird view of democracy.

I think it is one of the fundamental mistakes, because I am going to reiterate what Mr. Floresco said in that our union also believes that the proposed changes to the Act do not go far enough. I think one of the mistakes that has been made here is perhaps in deciding that you do not want to go too far and make people too angry. I might say that if you could even conceive that

you would have got a more shrill response from the business community if you had introduced anti-scab legislation, I doubt whether you can conceive that it could have been any louder.

I think it was a mistake because now those of us who support organized labour and those of us who are in the labour movement have to listen to people in the business community and people in the Opposition defending free collective bargaining and defending the right to strike and lockout. It is absurd to me when we should be saying we are the ones who certainly--I can say that I support that statement by the business community because I also, and our union, support the right to strike and lockout, but you could have fixed the legislation I believe quite easily. You do not need the binding arbitration and you do not need the back-to-work protocol. What you need is anti-scab legislation because that will fix both of those problems, if workers have the right to withdraw their labour and force the employer, without the risk of having scabs take their jobs away, then that will settle both those questions.

It has been interesting for me to sit here and listen to some of the things that have been said. Last night, we heard a Mr. Green speak, and he was giving people a lesson, I suppose, in what he said, labour law in his experience. He gave, I think, what was a very libertarian view of how we see things. It would be great if there was already a level playing field. There is not. Workers have had to scrap throughout history to get everything that they have had. They have never been handed anything by government. They have never been handed anything by an employer.

You know, it was not that long ago, 130 years ago, that it was a seditious conspiracy in this country to belong to a trade union. You could be deported or hanged for belonging to a trade union. Workers joined unions anyway. They knew it was in their best interests, and they fought back, but it was still illegal to go on strike. They went on strike anyway.

So the Department of Labour was established a hundred years ago and any of the laws that have subsequently come into effect have been actually to control workers, to make sure that worker resistance is quelled. I think Mr. Green would do well to remember the great general strike in this city where the Committee of 1000 who basically represent the same people who were screaming at this government about the outrageousness of this bill, it was the business community and the wealthy who brought in the army and had people killed and a riot ensued. So we would do well to remember that part of the history too. We can go a little bit further back.

Somebody referred to the Master and Servant Act and the fact that common law is based on the Master and Servant Act, and it is true. It has been said that while people do have the freedom to seek what employment they will the minute they walk through that door they give up any other freedoms that they have. The only thing we can do is, by organizing and bargaining collectively to have the rules of engagement, if you will, in terms of the working relationship set, the workers can gain anything.

One of the particular things is in health and safety laws, and quite frankly everybody knows that the basic employment standards and the basic health and safety laws that are in effect just simply do not go far enough. It is usually one of the reasons that workers want to organize. They want to make sure when they go home at the end of the day they are not crippled, they are not maimed.

I remember listening to Professor Harry Glasbeek, who was a professor of labour law in this country when he spoke. He is a very staunch defender, I guess, of health and safety legislation and the need for better ones. This could be applied to many other clauses in a collective agreement, but he says: If you have a health and safety clause in your contract, it is not named properly. A health and safety clause should be called diminishment on the right of the boss to maim and kill you. That is what it is all about is the fact that workers die in this country, workers get maimed in this country and all we can do is organize and try and make our job safer and force the boss to make the workplace safer.

I also found it interesting to listen to some in the business community talk about again the right to strike, the right to lock out. The only

reason the employers want the right to lock out or force workers on the picket line to strike is because they can use scabs and they want to do it to bust the union. That is the reason they want to do it. The Canadian Federation of Independent Business was actually one of the more vocal groups in 1997 when the Canadian Union of Postal Workers took strike action, and one of the more vocal groups and rabid in terms of saying we had to be legislated back to work. What happens to the right to strike when a government steps in and legislates workers back to work?

So I do not really believe all the rhetoric that is coming out of the business community and out of the Opposition in terms of trying to defend the right to strike and the right to lock out and that it is a fundamental freedom. I also do not believe that they are so worried about the secret ballot vote in terms of organizing, because what they really want is one more kick at getting the union out and intimidating the workers to not vote for the union. That is what they really want. I think if we really believed in democracy and if we really believed as everybody seems to be saying that unions are a good thing and collective bargaining is a good thing, why do we not institute something that said every work place is unionized and if the workers do not want the union then they can vote them out. Maybe that is what we should do.

* (20:40)

I also think there is something else that needs to be addressed and has not been addressed–I will finish with this–is also, in terms of time limits and regulations that the labour boards operate under, because quite frankly we all know, anybody here who has been in a union, if an employer wants an injunction when a picket line is set up, it is done tomorrow. Sometimes it is done yesterday. Yet, when workers go to the Labour Board to have something done, it can take weeks and months.

A case in point is one certification that we had in this province where the Labour Board turned it down. It was not a matter of a vote. There had been a vote, because we were under the old legislation that the vote was mandatory. The ballot box was sealed. But there was the determination that was referred to as whether they were dependent contractors or independent contractors. The fact that they were ruled independent contractors, we did not believe that the board had fully looked at the reasons.

Mr. Vice-Chairperson in the Chair

So we have asked for those reasons why they made the decision they did so we would have the ability to appeal it. Seven months later we have not heard the reasons. The workers there think that the union is the problem. They think that we have not done enough. How long does it take? If you wrote a decision saying they are independent contractors and therefore not eligible for collective bargaining, then you must know the reasons you did it. How long does it take you to write those down and get them into our hands?

So just to reiterate, we believe that the legislation does not go far enough. I hope this government recognizes that it does not go far enough. I hope that in the not too distant future I will be able to come here and the other representatives of unions will come here and be able to say we support the Government's proposal to introduce anti-scab legislation, to actually streamline the certification process more and that if we all agree so much in democracy in the workplace and we all agree that collective bargaining is a good thing then we will do everything we can to make sure that that is done. Thank you.

Mr. Vice-Chairperson: Thank you very much for your presentation, Mr. Condon. Are there questions from the Committee?

Ms. Barrett: Thank you very much for your presentation, both your verbal one and your written presentation. I will look into the issue that you raised about the Labour Board time lines. I hear that concern of yours. Justice delayed is justice denied. Sometimes there are good and sufficient reasons for delays, but sometimes there are not. So I will look into this situation. I must say I was intrigued by your reverse onus suggestion. That gives me something and I am sure it will give others in the Committee something to ponder, but, seriously, thank you for your insights again from a

personal level and the history that you have brought to us again tonight. I appreciate it very much.

Mrs. Smith: I appreciated your presentation. I have one question for you. You are the postal workers' union. Are you aware that in one of the clauses in the Bill, it is incumbent upon the employer to hire back somebody who has demonstrated picket line violence? They are obligated to do that. How do you feel as a person who is involved in a union? As you said, I am sure when you go into strike mode, then it is time to say: You know, let us do it in a professional way, and we are here to meet our ends. How would the postal workers feel about knowing that they would be hired back if something occurred on the picket line because the employer had to do that? How do you feel about that clause?

Mr. Condon: Quite frankly, I do not have a problem with people being hired back. I know a number of the other presenters have already talked about what happens on a picket line and the fact that the employment-employer relationship is severed. If you are looking for anybody to get up here and condone picket line violence, I am certainly not going to be the one to do it. But let me tell you, I have been through a number of national strikes with our union, 1987 and 1991, when Brian Mulroney was Prime Minister. I am a great believer in free collective bargaining. He thought he could bust the union by using scabs, and there was a great deal of violence on the picket line, and let me tell you, it was all instigated by scabs and cops.

Quite frankly, workers are going to defend themselves. If a truck is driving through the line, a truck runs over people, people are going to defend themselves. So quite frankly, I think as I said before, you could even erase that clause altogether. If you introduce anti-scab legislation you will not have violence on picket lines. I can guarantee it.

Mr. Schuler: Thank you very much, and to the presenter, I heard a portion of your presentation in the back. I would like to apologize to the Committee and to the presenters whom I missed. We were out having a press conference about the unprecedented closure that the Government has forced upon us. *[interjection]* Mr. Chairman, I would ask that maybe you get control of the Committee.

However, I will take your presentation and have a look through it. Certainly we appreciate the fact that people do take the time to come out and present to the Committee. Thank you very much.

Mr. Vice-Chairperson: Mr. Condon, did you want to respond to that?

Mr. Condon: I was just going to say that I was glad to be here. I was prepared to stay here all night to make my presentation. I was called by the Clerks today and yesterday. I was told to expect that we might be going long. I heard how the Committee was set up. So I was certainly prepared to stay here and have my say.

Mr. Enns: I was intrigued by the presenter's recommendations to the Government that the Government should establish a union throughout the workplace. I will watch with interest to how the Government reacts to that suggestion, but also a reminder that that is not unique. That, of course, has been done in a highly industrialized country, in 1933 and 1934 in Germany.

Mr. Vice-Chairperson: Mr. Condon, do you want to respond?

Mr. Condon: The so-called greatest Prime Minister in our history, Mackenzie King, was a big fan of Adolph Hitler. Let us not worry. The workers can fully decide if they are given an opportunity, whether they want a union or not. What they have to be given is that opportunity. I have heard people talk about, here is a workplace that does not need a union. Maybe they do not know they need a union.

Quite frankly, when we grow up in this society, one of the previous presenters talked about the fact that he came from a place where he did not know much about unions, he did not grow up knowing much about unions. I come from that kind of place too, but belonging to a union I learned a hell of a lot more about democracy than I learned in school, and I learned a hell of a lot more about how to treat other people and a sense of fairness. So workers,

perhaps if they learn some of the history in school of unions and what they have done for this country, then perhaps more workers would also want to join unions.

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

I would just like at this time to remind the audience we need to keep decorum. We need to not respond to the presenters. We need to try to keep some decency to the presenters while the Committee is trying to listen. I would ask for full co-operation from both the people in the Committee on both sides to give presenters their time at the podium and as well the audience out there. Thank you.

I would like to call next Mr. Brian Short. Mr. Short, do you have copies of your brief for everyone? Please proceed with your presentation, Mr. Short.

Mr. Brian Short (International Association of Machinists and Aerospace Workers): The International Association of Machinists and Aerospace Workers is pleased to have this opportunity to address this government with respect to our views and concerns surrounding Bill 44, The Labour Relations Amendment Act (2). The International Association of Machinists and Aerospace Workers and its local lodges are affiliated to the Manitoba Federation of Labour as the central labour body in this province. We represent over 3100 workers within this province of Manitoba.

We are active in our pursuits, as an affiliate to the MFL to the establishment of policies that enable us to monitor and address the concerns of our members in the areas of labour relations, employment standards, environmental issues, to name a few.

* (20:50)

In 1996, the Manitoba Labour Relations Act underwent sweeping changes by the government of the day that saw the relationships between labour and employers turn from one that had previously represented a good balance of power and interests to a playing field grossly tilted in favour of employers and their representatives. The changes that we saw in 1996 have been debated long and hard within the labour movement since their enactment into law. We have been vocal about our concerns and attempted to speak out about them at every opportunity. For the most part, those thoughts have fallen long on deaf ears of the previous Conservative government.

It is the opinion of the machinists union that clearly the previous amendments we saw in '96 were designed to weaken trade unions in a manner that made it more difficult for unions to organize new members and to effectively represent those that were already organized. Labour can be proud that despite these attempts to silence us and make us less effective, through these changes we continued to be heard again and again. Again, we would like to thank this government for this opportunity to be heard today.

Taking a look at Bill 44, the International Association of Machinists and Aerospace Workers and its membership see Bill 44 as an initial attempt to begin levelling off that proverbial playing field between labour and employers. The restoration of the balance of power and interests previously touched on is essential, if unions and their members are to be able to work towards creating an economy that will see Manitoba prosper and be a leading force in this global marketplace we hear everybody talking about.

Clearly there are elements of Bill 44 that we are satisfied with. However, there are other areas with which we have concerns, and we find these need further work to improve them to the standards that will meet the needs of working men and women in this province.

There has been a lot of talk about Bill 44 being an attempt to meet the agenda of labour. Well, let me tell you, labour has not seen all of our concerns addressed here, but we are satisfied that a long-term relationship with this government will eventually go to that resolve.

I am not going to touch on all the facets of Bill 44 as you have heard a lot of other presenters do, but hope to bring to you our view on a few of the ones that are important to us.

To start with, the reinstatement following strikes and lockouts. The previous government made amendments in this area that were designed to create a reluctance of workers to exercise their right to withhold their labour when in a legal strike position or to take part in picket line activities. It enabled overzealous employers to fire employees for activity on a picket line that may be cause for termination if such actions were specifically job related during the course of employment, but we know that is not the situation.

Union members were intimidated from both going on strike and for actively participating in picket line activity after legal strikes had been initiated. During a strike or lockout, workers' livelihoods are at stake in most cases. It is only human nature that emotions and passions run high. All too often, employers or their hired security intimidate and antagonize picket lines behind locked fences and gates, with the sole intent of inciting and provoking actions that will allow them to hide behind the legislation that enables them to fire these individuals, the ones that they do not want to be able to bring back after finally reaching a settlement with these workers and the unions.

An employee who may shout an insult to someone or be active in attempting to stop a scab from crossing a picket line and taking away his or her livelihood should be able to do so within the bounds of the Criminal Code and without fear of discriminatory reprisals by the employer as it may apply to their right to return to work afterwards. We have in place a legal system that can adequately deal with these problems. Let us use it without giving employers two bites at the apple to punish workers who have the courage to stand up to them.

The machinists union certainly adopts the policy of labour throughout in general, in that we do not condone nor encourage unlawful activity on picket lines and have personally internally gone to great lengths to establish procedures and protocol for lawful picket line activity.

The threat of job termination has greatly reduced the effectiveness of strikes and picket lines, and has only resulted in effective union-busting measures.

If workers are to be effectively heard and their right to strike is to have any impact in reaching an agreement with their employer, they have to be assured of being able to return to work without fear of reprisal and fired for fabricated reasons.

To this end, the machinists union believes that Bill 44 addresses the needs of workers and helps to restore the faith that our members can and will have a positive impact in reaching the full effectiveness of picket line activity as it was clearly intended.

The alternative dispute mechanism. Long dragged out labour disputes are not conducive to a labour-management relationship that must continue long after an agreement is finally reached between the parties. Throughout such disputes, the impact is far reaching. Whether it is in a small rural municipality or a major city, economically it affects everyone, including the overall provincial economy and its reputation.

The machinists union would challenge any union to say that a strike will be prolonged for the sake of it. Unfortunately, we do not believe the same can be said for some employers. Strikes are only entered into by unions and their members as a last resort to gain what its members feel they deserve, be it better wages, benefits, or working conditions. We do not, however, believe that some employers have that same feeling. We do know that some employers will force strikes or lockouts with hidden agendas, such as breaking a union financially or morally with the sole intent to gain the upper hand in future dealings or to see the union disappear entirely. Those hidden agendas are there.

Research by the Manitoba Federation of Labour shows that in the past five years almost one in five labour disputes has lasted for 85 days or longer. This is clearly not in the interest of unions or our members, and we would hope that employers would find this fact unacceptable also.

Manitoba needs a means of addressing this issue, and the machinists union believes that Bill 44 goes a long way to doing just that. Do not get us wrong. We are of firm belief that there are

other areas that could be even more effective in assisting the parties of a dispute in reaching a settlement such as anti-scab legislation. However, in the absence of such, we can find a way to live within the means of the proposed changes before us. The proposed alternative dispute resolution mechanism contained within Bill 44 addresses a need to resolve bargaining disputes once a strike or lockout occurs.

* (21:00)

The proposal to allow either the union or the employer to request a third-party binding arbitration means of resolving outstanding issues after a strike or lockout has been in effect for after a period of 60 days is one that will potentially see a huge reduction in the figures cited earlier. An incentive to bargain at times can be lost in the larger scheme of hidden agendas. This proposed amendment should bring back into focus what the original intent of collective bargaining has always been, to establish a relationship between the parties that is beneficial to everyone, not to address someone's hidden agenda.

If this legislation prevents an employer from protracting a long and bitter strike or lockout with the sole intention of breaking the union, then good. The machinists union will not apologize for saying that it is about time a measure to control these efforts was introduced. We understand that government has a concern about long labour disputes and their impact on the economy and working relationships. Well, let me tell this committee that unions share that concern. We only wish some employers would share that concern also.

This change will help, but like we said earlier it is only a start. Unions and employers have to want to get an agreement. No one wants to have an agreement imposed, but if it means getting on with the relationship that the parties can build on then it will assist to serve that purpose.

The filing of financial information. It seems like no one knows the real rationale for this requirement that was enacted in 1996 by the Conservatives. We understand that even employer representatives on the Labour Management Review Committee concede that this is a pointless requirement of trade unions. Not only do they do so now, they could see no practical use for it when it was first introduced. Bill 44 finally relieves the trade unions and the trade union movement in Manitoba from unprecedented requirement of filing financial reports within the Manitoba Labour Board. Since its introduction, the unions have been burdened with a process that was not only expensive but a waste of time management to comply with a requirement that served no real purpose.

The two last issues that I will touch on are the union dues utilized for political purposes. I will just be short with our position on that because we saw the previous government implement one-sided limitations, again on the trade union movement, and our members with respect to our ability to actively participate in the political process. Bill 44, we are happy to see, finally repeals this restriction. The machinists union supports this change as it supports the principles being considered in the changes to The Elections Finances Amendment Act.

I just want to take a couple of minutes on the certification vote. One minute? Thank you.

The International Association of Machinists and Aerospace Workers wants to be on record as a supporter of the rights of workers to decide on forming a union through a card-signing process. Bill 44 restores that provision, one that we saw work fine for years prior to the '96 changes. I would like to suggest that worker integrity to choose has been insulted, and the current provisions only serve to leave the door wide open for potential intimidation and pressures by employers that you have heard numerous other presenters bring to your attention. There is an awful lot more with respect to the certification process that I would like to touch on, but obviously with time being what it is I just would like a minute to conclude here, and that will be it, if that is fine with the Chairman.

Mr. Vice-Chairperson: Your time is up, sir. We would like to thank you for your presentation. We do have time for questions. Any of the committee members who would like to ask questions?

Ms. Barrett: Thank you for your presentation. I would like to hear your brief summary, if we could just very briefly hear what your conclusion is, your general overview of the position.

Point of Order

Mr. Schuler: We would be willing to give leave for an extra minute or two if the presenter wanted to finish his comments. We certainly do not want to use question time, which is limited, which the Government certainly reduced down to five minutes. If the presenter wants to finish up, we would be willing to give leave and then use question time so that we can all ask questions. So we would give leave.

Mr. Vice-Chairperson: Mr. Loewen, had you wanted to speak to the point of order?

Mr. Loewen: Same point, that is fine.

Mr. Vice-Chairperson: Thank you, Mr. Schuler. It is not actually in contravention of the rules. It is not a point of order. It was a question that was asked of the presenter. We will let the presenter proceed with the question that was asked.

* * *

Mr. Short: I will just give a brief summary then. Thank you, Mr. Chairman.

It is certainly always a difficult task for a new government when it takes its first look at existing legislation that impacts groups with distinct differences in perspectives. It had to be even more so for this government when it had to deal with such far reaching and prejudicial actions of a previous government that had one agenda only, and that was to tip the balance of power and interest away from trade unions and its members and towards the corporate community.

It does concern us that we are perceived to be self-centred in our interests and that economic prosperity and competitiveness are not issues that labour wish to consider. Employers would like the media and this government to believe just that. Trade unions have recognized that we are competing within a global economy and we have made the necessary changes in our relationships in order to best represent the interests of our members.

The changing face of our communities and the increasing need to expand family incomes have seen a growth in workers holding down part-time or second jobs. Governments, as a result, are fit with the task of protecting these workers and their rights to appropriate labour legislation. Labour legislation cannot and should not remain stagnant. The corporate community would be happy if this government did just that. We have seen worker rights in this province disintegrate with the conservative agenda. Bill 44 has taken a step in the right direction.

The barriers built by the previous government have to be torn down. We believe that restoring true worker rights and access to representation without the fear of intimidation will assist us in attaining those goals. Thank you, Mr. Chairman.

Mr. Vice-Chairperson: Thank you.

Mr. Schuler: Thank you for your presentation. Unfortunately, 15 minutes seems to go very quickly. I have two very short questions, and I will ask them consecutively.

Has the Government indicated to you that Bill 44 is the first step in their process of changing labour legislation in Manitoba, question No. 1? Question No. 2, if Bill 44 was the final step in labour changes in Manitoba, could you live with those changes, or would you have difficulty supporting Bill 44 if it was the final changes we would see to labour legislation in Manitoba for the next foreseeable future?

Mr. Short: Through the Chair, we have not been given a commitment one way or the other by government that this is or is not the first or the last kick of the cat, so to speak, with respect to labour legislation.

With respect to your second question, I would hope–I thought I had touched on it in my summary–that this government and succeeding governments would represent the fact that, with the economy that we have now, the changing global economy that everybody within this

province and every province in this country is working under, that legislation cannot be stagnant, should not be stagnant. It has to change with the times. It has to change with the dealings that every employer and every worker in every constituency within this province and this country are continuing to deal with. I would hope that this is not the last that we see with respect to labour changes in this province or any other province within this country.

Mr. Loewen: Mr. Short, I want to make it perfectly clear that I do not agree with your premise that all business is bad and all union leaders are good. I want to assure you that I know very many business leaders. Some of them, like Art DeFehr, are very good business leaders, as well as deeply religious people, who bring that spirit to their workplace and whose employees do not want a union. There are other business leaders I would not be so kind to. I also know a great many union leaders. Some of them are of the calibre of Mr. DeFehr, some are not, but this premise that it is always the businesses' fault and the union is always in the right, I want you to know I just do not agree with.

Just one question. Are you saying in your brief that if somebody commits an act of violence and is convicted of a crime relating to picket line activity that an employer should be forced to hire that individual back to work? If that is the case, how would you feel about the Government's intention to introduce an amendment to the legislation that would see that somebody who is convicted of a crime on a picket line did not have the option of forcing themselves back into the workplace?

* (21:10)

Mr. Vice-Chairperson: Mr. Short, would you like to give a brief response?

Mr. Short: Yes. I guess my response is twofold. First of all, I do not agree with your submission first-off, but I respect your right to have that position. I will respond with respect to that also. It deals with some employers. There are an awful lot of employers that we have heard that are vehemently opposed to Bill 44, some of the labour law reform being looked at, at this point in time.

There are going to be some people in this room that will not be happy with this comment, maybe some employers in this room that will not be happy with this comment, but I am going to make it anyway. I would suggest that an awful lot of employers, and I am not going to paint everybody with the same brush. I will suggest that there are some employers who are so vehemently opposed to this labour legislation and this labour law reform, are also employers who do not trust their employees, who are hiding things from their employees and will take some steps to cheat or maybe take shortcuts with respect to health and safety issues. There are employers who may very well injure, maim or kill some of their employees–

Mr. Vice-Chairperson: Thank you, Mr. Short. I think we will just cut it off at that point. We thank you very much for your presentation.

Mr. Short: Thank you.

Mr. Vice-Chairperson: I would like to ask if it is the will of the Committee. It has been brought to my attention that we have a gentleman who is with us here tonight, Mr. Grant Mitchell, who has a medical condition and has asked for consideration to be brought ahead. *[Agreed]*

Mr. Mitchell, No. 42. Thank you, Mr. Mitchell. Do you have a written presentation to distribute.

Mr. Grant Mitchell (Private Citizen): Yes, Mr. Chair.

Mr. Vice-Chairperson: Please proceed with your presentation.

Mr. Mitchell: Thank you very much for moving me forward. I was released from the hospital three hours ago, after major surgery a couple of weeks ago, so I have listened with interest but without stamina.

An Honourable Member: Would you like to sit down?

Mr. Mitchell: I am okay. I may disappear altogether if I sit. I am not saying that is a bad thing; I am only saying it might occur.

I am a lawyer. I have lectured in labour-management relations at the University of Manitoba's Faculty of Law for the last 17 years. I have been a nominee of unions and of employers in arbitrations, and I am grateful I have represented this province in interest arbitrations involving government-employed doctors and government-employed engineers during the Pawley administration. I have more recently represented the City of Winnipeg in interest arbitration involving their police association. I have also conducted over a hundred seminars from Vancouver to St. John's on labour relations issues, and I have published a paper on interest arbitration in the particular Manitoba context of imposed first contracts and final-offer selection. It is for those reasons that I have a particular interest in participating, notwithstanding my personal situation at the moment, and I appreciate the Committee has given me the opportunity to speak this evening.

I have a fairly lengthy presentation in writing, which I am not going to give you orally. I hope some of you will read it. I think it has some valuable information. I do not come really to advocate for one position or another but try to provide some information and perhaps some ideas or solutions, which may resolve the impasse.

I, unlike many people, do not see this legislation as anti-business, at least the two portions that I am here to speak about, which is certification votes and interest arbitration. I do not think this is about economic interests. I think it is about process, what is a fair process for determining whether workers wish to be represented by a union, what is a fair process for determining what their collective agreement should contain. I do not think that having certification votes or not having certification votes is pro-union or pro-business or anti-union or anti-business. It is no more anti-business in 2000 than it was anti-union on February 1, 1997, when that took place. However, one examines the process.

The Wagner Act, in 1935, in the United States, which is the prototype for all labour relations legislation, promised to unions that they would have a fair certification process, that is, one that would determine what the wishes of the workers were. There are basically three alternatives. The first is the American prototype. That is a six-week, full-blown campaign in which the employer participates as if it was one of the interested parties in the process. Then after the six weeks there is an election, and the unions lose over half of those votes. The result of that process is that fewer than 17 percent of the American workforce is unionized. That has never been the Canadian tradition. There was a recent editorial in ***The Winnipeg Sun*** which advocated that we should go to the American system. That would be totally contrary to the tradition in this country and this province.

There are two other systems. They are the two that we have been debating about for the last many weeks. One is by peer membership cards, and the other is by the representation vote. An article was written by Paul Weiler in 1983, published in the *Harvard Law Review*. Some of you may or may not know, I do not know, Paul Weiler was the professor who was hired by the NDP Barrett of British Columbia in the early '70s, when they were elected, to draft a labour code for British Columbia. Obviously, it was the first NDP government. It was going to be a labour code that would be helpful and favourable to unions, and it was. He was the creator of the notion of imposed first contracts. Weiler is a professor in residence at Harvard, and I think he is considered by most people to be the dean of labour law in Canada to this day.

In 1983, in this article, he said he examined the American system and pointed out the flaws why the underlying premise of a wide-open campaign, where the employer campaigns as if it was one of the interested parties, was flawed in its thinking. He then said the representation card system which he established in British Columbia was far superior. He sets out the reasons why it was, and there is no question that it was. Then he says: But there is an even better system, an instant vote system.

His words were these in the article. I will just read you one paragraph: After administering a card-based system for five years, I am satisfied that it not only rests on a more realistic appreciation of the tangible value of legal certification but also permits true reading of employees' sentiments about union representation. That is

what we have been hearing from the union supporters this evening. The system does, however, have one major drawback. Although both the union and the Labour Board may know the union has the real support of the employees, the employer, who is prone to genuine self-deception on this topic and wants to believe that the employees do not want the union, often remains unconvinced on the basis of cards alone. A secret ballot vote has a symbolic value that a card check can never have. It clears the air of any doubts about the union majority and also confers a measure of legitimacy on the union's bargaining authority, especially among minority pockets of employees who were never contacted in the initial organizing drive.

What is Weiler saying? He is saying there is an A system, a B system and a C system. The C, the worst, is the American one. The B system is the representation card system, Bill 44. The A system is the vote. Now, does that mean that the B system is so much worse than the A system that this is anti-business legislation because there is no vote? Does it mean that business will leave the province because the employees do not get a vote? I do not think the fact that people say that makes it so. It is a legitimate method. There are two alternative legitimate methods. I hope you will listen to the words of Weiler in considering what the symbolic value of that vote is.

The Minister has indicated that in all cases since February 1, 1997, where the union had over 65% support prior to when it filed its application for certification, it has won the vote. I am not sure whether that is an argument to change the law or to keep it the same, because it says the outcome was the same regardless. The interesting aspect of that is that only the Minister could know that fact, the Minister and the Board. The employees in those workplaces and the employers of those workplaces could not know those facts. The essence of the card system is that only the Board and the union know who signed the cards and how many people signed the cards.

* (21:20)

If we take it at face value that in every case where the union gets 65% support, it will win the vote anyway, then have the vote. Here is the consequence of having the vote. It is all over in a week. The employer knows the employees want a union. There is no reason to kid itself and go through many months of certification hearings arguing that the employees do not really want it. It is futile. Let us get to the bargaining table. For those reasons I would suggest that you consider the points on pages 6 and 7 of my submission that the vote system be retained. It is not anti-business, it is not anti-union, but it does have an effect. I guess the one group that it is anti is lawyers. There is a lot less litigation under the vote system than there is under the card system. So if you would persevere with the card system, I will express private gratitude, but my public sentiments urge me to tell you that it is not as healthy as Weiler has said.

The second aspect I am speaking to you on is on interest arbitration. I am keenly interested in this, of course, because I have participated many times in interest arbitrations. Interest arbitration has been considered as an option for resolving disputes and rejected for over a hundred years, consistently, always, by the U.S. Congress, by the Canadian Parliament, by every provincial jurisdiction in Canada, by every NDP government that has been elected except for the FOS experiment of a very few years in the late '80s.

Why, you would say, would people say why not have a peaceful solution instead of having this conflict? This is why. The essence of the bargaining process is to get the parties to disclose their true position and make their own deal. The only way the parties will disclose their true position is if they fear that the risk of not doing that is no agreement and terrible consequences.

What are the most terrible consequences? Strike or lockout, especially a long one. If you do not have those consequences, you do not have the risk. If you do not have the risk, you do not have the compromise. If you do not have the compromise, you do not have the party's own agreement. You have one imposed upon them.

As an alternative to what has been suggested, I should say that there was, as I believe, to the labour management committee an invitation to consider alternatives as opposed to

a presentation of this arbitration proposal as one to be considered, an invitation to consider other alternatives to resolving lengthy disputes. So, on page 10 of my paper, I have outlined four possible considerations for the Committee and for the Government as alternatives to the arbitration model. The first is to pursue other methods and better methods and quicker methods of mediating.

I would like to congratulate the Government on including an enhancement in mediation in this bill. It is a very healthy step forward. Mediation works wonders. Mediation has settled far more disputes than arbitration ever will. There is far more that can be done with it. There is a tremendous amount of research and experience in this area that is growing every day, and there is a lot that could be done. So build on that or try it for a year or two, and if that is not solving the problem the Government has perceived here, then come back and introduce arbitration.

Secondly, how about a mutual referral to arbitration. Well, you say, well, why could the parties not do that now? Well, of course, they could. Do they? Never. Why not? Because they are dug in. Well, if they have a legislated alternative of referral to arbitration on a mutual basis, you preserve the risk, because you might say, well, we will go to arbitration if we are not winning the strike, but the other side might say no. So you still have the risk, but you still have that out, that graceful exit that says: We are not caving. We are just following the legislation.

The third alternative is wait and see how your mediation proposal that you have works in practice before you go the final step. The last alternative is to do it on a case-by-case basis. In a particular dispute, give the Minister the authority, just as the Minister has for ordering a final offer vote, to say in this particular dispute I think the healthy solution will be, blank, argue arbitration, final-offer selection, pick a choice, the healthy solution. That way you have the solution at the end without the promise at the beginning. The risk is there, but the alternative is still there at the end.

My only other comment is that I have been involved in labour relations in this province for over 20 years. I think it is a great province. I think our labour relations climate, notwithstanding what you are hearing here tonight and last night, is excellent. My experience is top-notch professional union representatives and the same for management. It is a good working relationship. I think that our history of legislation has been one of moderation. I do not believe that this legislation is a departure from that. This is not immoderate legislation. This is not a gross revamping of the labour relations landscape. It is not. The only arguable example of that that has occurred in the last 30 years was the 1985 amendments in the Pawley administration. This is not that kind. There is moderation here but there is reason to look at process and find the best way to do things. I trust that the Committee, in reviewing all the submissions that are made, will come up with that solution. Those are my comments. Thank you.

Mr. Vice-Chairperson: Thank you very much, Mr. Mitchell. Obviously it was very important for you to come in. I know the Committee all appreciate your coming in from the hospital three hours ago to be here. Obviously it is very important to you. Do any members of the Committee have any questions?

Ms. Barrett: I share our concern that, well, appreciation that you were able to come and concern that you go sit down somewhere or probably lie down, I think, at this point. I appreciate your spoken presentation and look forward to reading your written presentation and your comments about the culture and the context in which this legislation is being presented.

There is not enough time for me to get into a discussion, but I would like to at some future date. I do want to make one perhaps not quite as serious comment. I quite enjoyed the quote that you made, not because it was in the context of employers, but just as a phrase, "prone to genuine self-deception" is, I do not know if it is the lateness of the evening or the time of the year, but I just find that a delicious quote and I appreciate that very much along with the more weighty ideas that you presented tonight.

Mr. Mitchell: Thank you very much for your comments, Madam Minister. I would very much welcome the opportunity at a fresher moment for both of us to discuss other issues.

Mr. Loewen: Thank you, Grant, for being with us this evening. It has certainly been a long haul, and we appreciate the sincerity you bring to your argument. Earlier today we received a presentation from Colin Robinson, who argued the opposite points that you argued. I find it fascinating that he quoted Paul Weiler in defence of the card system, and he quoted you, from the *Manitoba Experience in the Canadian Context*, imposed first contracts and final-offer selection, to attempt to build his argument for the 60-day arbitration clause. So I am very glad that you are here to speak for yourself and let us know exactly how you do feel, but I understand from your presentation that you do not think that either of those solutions are the preferable ones and in speaking for yourself you would argue that there are better alternatives in both cases.

Mr. Mitchell: I think there are and I think that with more time and chance to explore options in those areas that a solution that would be acceptable to everybody can be achieved. I do not think people are so far apart. I really do not.

Mr. Enns: Mr. Chairman, I, as my colleague Mr. Loewen indicated, I want to indicate to Mr. Mitchell that his name has entered into the journals of these proceedings on several occasions by several presenters who have quoted you.

* (21:30)

Mr. Mitchell, I appreciated, I have tried to listen and read at the same time your kind of historical overview right at the beginning that indicated the difficulty, the destabilizing effect that it has on the general well-being of an economy if you have a pendulum that swings pro-labour, pro-management. You point out several instances that that possibly was the case in British Columbia, perhaps in the NDP government of Barrett and the Social Credit of Bennett or Rae of Ontario and Harris, whereas in Manitoba we by and large have avoided that. Mr. Schreyer introduced moderate changes, Mr. Lyon did not really change anything.

In that context that leads you to your final conclusion which you just indicated that indeed this is a wonderful province with an excellent labour relations climate. So I take very seriously, and that is really the whole issue, the two questions that you pose. Is there something seriously wrong with the current process that requires change? I am hoping that you have not been convalescing that long that you have missed all of the unfortunate rhetoric that has, in my opinion, poisoned the labour relationship climate here. We have been subjected to the fact that Tory governments are violently anti-labour. We do our best to destroy labour the moment we get elected. You come to us with a reasoned document and from years of experience indicating that that simply is not true.

Mr. Vice-Chairperson: Mr. Mitchell, did you have a quick response to that?

Mr. Mitchell: Yes. I would say that in spite of governments of all stripes, labour and management have worked effectively together in this province for the last 30 years.

Mr. Vice-Chairperson: Unfortunately, we have run out of time. Thank you very much, Mr. Mitchell, for your presentation.

Mr. Mitchell: Thank you very much for having me earlier and to those who remain.

Mr. Vice-Chairperson: I have been advised that George Bergen, who appears as No. 26 on our list of presenters, has left and chosen not to make his presentation to the Committee and that Mr. Bergen has asked that his brief be distributed to the Committee and considered as a written submission. Does the Committee grant its consent for the written submission to appear in the Committee transcript of this meeting? *[Agreed]*

Mr. Tom Nevakshonoff (Interlake): Mr. Chair, I was just reading through Mr. Mitchell's written presentation here, and I found it so interesting that I wonder if it would be the will of the Committee to include it in its entirety in the record for Hansard.

Mr. Sale: Mr. Chair, I believe that it has been Manitoba practice for some time that written presentations do become part of the public record. They are received by the Committee, and they become documents that are filed. I believe we have always extended that privilege. I believe

that generically we should just do that tonight, because others may feel the same. I certainly would agree in this case, and I believe everyone should have the right to have their views put on the record. I think the Committee would readily agree to that.

Mr. Vice-Chairperson: Is the Committee in agreement to that? *[Agreed]*

Our next presenter is Mr. George Fraser, Manitoba Home Builders' Association. *[interjection]* Before we get started, Mr. Loewen, did you want to respond to that previous comment prior?

Mr. Loewen: I was actually responding to your comment earlier, Mr. Chair. I wondered if anybody had the courtesy to ask Mr. Bergen–he obviously put a lot of time and energy into his presentation–whether he would have enjoyed the privilege of presenting it in the morning.

Mr. Vice-Chairperson: Thanks for the comment, Mr. Loewen.

Mr. Fraser, do you have a written submission? Obviously, you do; you are handing it out. Thank you. Please proceed.

Mr. George Fraser (Executive Director, Manitoba Home Builders' Association): Thank you, Mr. Chairman, ministers, members of the Standing Committee. My name is George Fraser. I am the Executive Director of the Manitoba Home Builders' Association.

First I would like to say that the Manitoba Home Builders' Association is a member of the Coalition of Manitoba Businesses and the Manitoba Employers Council. As members, we fully support the positions presented by their spokespeople. You have heard one previously, and you will be hearing one later this morning. We share their concerns. To emphasize, as others in the business community have, we will focus on the three elements that the business community has been focussing on.

I would just like to add at this point that I think it is important that the Committee again reflects on and everyone who is present here today understands that through the LMRC process we have eight clauses that basically are going through here without the opposition of the business community. We have been dealing with three clauses. Mr. Mitchell spoke of moderation, and I think that is an excellent example of the fact that the moderation, in the establishment of labour legislation in particular, continues, even though we have some disagreements at this point.

Automatic union certification if 65 percent of employees sign unions cards. This movement backward in time with an increase in the required percentage for certification inserted as a carrot for the business community is unacceptable. The secret ballot process is progressive. I think Mr. Mitchell indicated that very clearly in his presentation ahead of me, and it is easily understood by anyone–I think this is an acid test–who is new to this debate and new to any workforce facing certification. If we turn back the clock, both sides to this debate, business and labour, will continue to accuse each other of transgressions surrounding the certification process.

The ultimate use of the secret ballot is a legislative safeguard for any employee faced with the difficult decision of working with or without a collective agreement. At the end of what can be a very intense process in any work site, the employees know they and they alone can make their own personal decision in secret and for their own reasons. What could be fairer than that? Progressive.

Legislators always have the challenge to enact fair laws governing what we do as citizens, and this should be especially true in the workplace. Ultimately, labour relations should support the employee who has to make that final decision in an environment where any coercion is removed. The present legislation does this, and Mr. Mitchell pointed that out.

This Legislature oversees The Corporations Act of this province, enabling thousands of community-based organizations to create by-laws for the orderly management of their affairs. Those by-laws most often contain provisions for secret ballots to conduct elections and to settle contentious issues. This practice is acceptable, understood and respected by thousands of

Manitobans who belong to these groups. In fact, government does not have to police this activity. It happens quite naturally. People understand when some secrecy about their preferences is required. In fact, the union movement in it by-laws adopt similar practices for sensitive decisions. Why can they not support this principle during the certification process?

This process being removed by Bill 44, the vote, is not different than those considered by lawmakers over the decades. Fairness and a stress-free environment in which to make important decisions are a cornerstone of most organizations that support democratic principles.

* (21:40)

Imposed collective agreements after a strike or lockout of 60 days. Clearly the Government has not demonstrated, even at this late hour, the need or the reasons for introducing this legislation. Manitoba, under the traditional strike-lockout scenario, has, with only a few exceptions, managed quite well during its modern labour relations history. Again, I think Mr. Mitchell, very involved in the process, emphasized that. No one has found a more suitable replacement to this scenario and what we debate today will not replace it, nor will the ill-fated former final-offer selection, constantly lurking in the corridors of this building, do the job. Why would we, in this instance, begin to run contrary to all other jurisdictions in North America? We cannot afford to experiment in the midst of the dynamic economies going on all around us, ones in which we must survive each day of the week. This amendment must be withdrawn.

Employee misconduct related to strike or lockout, the third of the items that our business coalition has concerns with. We need common sense and accountability stressed in this area. Citizens demand this of each other every day and every hour of the week in all of our relationships. Our laws emphasize this over and over. Those who lose it, under any circumstances, and complete unlawful acts against anyone or property are subject to the laws of this Legislature, of municipalities and of our federal government. There cannot be a magic wand waved to remove the deed. Those who commit these acts must also understand that they face, if guilty, sanctions, some of which will relate to their place of employment. This, Mr. Chairman, is accountability.

There is no reason to eliminate the emotional conditions of a strike from any other emotional situations we find in society. We are called to conduct ourselves within the law under all circumstances and to be accountable for our actions. Are we so pre-occupied with labour relations that we lose sight of this basic requirement in a democratic society? No one should have immunity for his or her acts. Neither worker nor management should be exempt from this.

Each piece of legislation passed in this House should consider its impact on the other laws, and this is a fundamentally offensive amendment.

In conclusion, Mr. Chairman, the housing industry in Manitoba builds approximately 3000 new homes per year, with an average sale value today, as charted by CMHC, of about $165,000. Each year, over $495 million is added to the assessment base of this province, mainly through the efforts of our industry and of course a willing buyer. Those homes, upon completion, immediately begin to pay on an annual basis some $12 million to $15 million of property taxes, of which 50 to 60 percent will go to support education in this province. This is happening year after year under our present economic conditions.

Our industry and construction in general is facing one of the most significant labour shortages it has faced in the last 40 years, a shortage that experts predict will only grow in intensity over the next 10 years. We cannot find enough skilled workers to perform the tasks required. Aging demographics have created a crisis. Young people are not exposed to the traditional home building trades, as they are not emphasized in our educational system.

Here we are debating amendments to labour legislation that is dividing us instead of creating opportunities for solutions and for working together to solve the problems of our various industries. Changes to labour relations

legislation may appear helpful to some on the surface, but it is not the answer to the future of the construction industry. We need to get our priorities straight. These amendments are not the priority in the workplace that the Government is telling us they are. The last election, elections before it and coming elections have and will place personal income tax levels and property tax levels at the top of the agenda. The education tax load must be addressed immediately or you will be seeing a major revolt from aging property owners who have paid significantly for education over the years and are getting very tired of carrying this burden.

If you add in rent controls, the Minister responsible and I have had some discussions about this, if that have literally stopped the construction of rental properties and multi-family homes, this Legislature would have enough on its agenda to cover the full four years of debate and law amendments. These conditions are the priorities of most Manitobans. They want jobs, they want affordable homes and they do not want high taxes.

Our industry relies on a healthy economic environment. Our industry is price sensitive. It is highly competitive, with profit margins of 2 percent to 5 percent right across our country. If consumer confidence takes a negative shift, our industry immediately suffers. If Manitoba takes a step backward in this highly charged and sensitive world economy, we will lose. If taxes stay high, we lose. If there are major conflicts between labour and management, we lose. If investment in our province drops off, we lose.

Madam Minister, early in your government's mandate our association expressed concern about the lack of meaningful consultation on an item particular to our industry. We were not even given five minutes to discuss the item before it disappeared in the budget process. We were disappointed in that. Unfortunately, we see in this legislation another missed opportunity for meaningful dialogue in advance of action. Again I was fortunate to have Mr. Mitchell precede me, because I think he is a great resource, along with many others, to look towards a sound approach to making the amendments to labour legislation.

From what we read and from what I have heard here particularly, labour representatives in many respects feel the same way. Last minute, scrambled meetings filled with appeasement statements just do not do it. This is not the way to make good legislation. Law amendments are not the same as labour negotiations, or are they, and why should they be? We hope this will change in the short term and particularly for the long term.

As I mentioned before, there are more pressing issues facing us than this. Why do we not place equal effort in those areas? Madam Minister, we are not running away from the debates and intend to continue as long as required to add our input to any discussion. We also assure you that we will not stop building communities throughout Manitoba, as we have in the past, one home at a time.

We also want to assure you that we will not be leaving our colleagues in the business coalition after this matter has been concluded. It is apparent to us that the sharing of expertise, knowledge and thought has been important. New alliances have been forged, and we have gained from the experience. We thank you for your contribution in making this possible. We know there will be more meetings of the coalition in the future on this and other matters. The Government's actions through this bill and others in this session have brought the business community together in a forum that is gaining momentum. We are now prepared for the future. Madam Minister, we await your response.

Mr. Vice-Chairperson: Thank you for your presentation, Mr. Fraser. We have members who would like to ask questions.

Ms. Barrett: Just a comment, Mr. Fraser. Thank you for your input. We look forward to hearing your input and know that you will be continuing to participate in Manitoba, not only the economic structure of the province, but also in the ongoing political dialogue that we are involved in. Thank you.

Mr. Laurendeau: Mr. Fraser, we have heard over and over again from presenters about the three sections of this bill that are the contentious issues that everybody believes that the Minister has not had a proper discussion with the community on.

I was wondering: Do you have an opinion on the seven, as the Minister called them, partial consensus on certain elements, on the other seven? We have not heard a lot about those. I was wondering if you might have a few words about some of those other areas?

Mr. Fraser: Well, Mr. Laurendeau, I think others from the business community, particularly those close to the LMRC process, are supporting, even though there may be still some contention within certain areas of it, we have supported that process to this point. I think it was reasonably fair, as I understand it. I am not a direct participant in it, but I trust the representatives who are representing management in this process in what they have come back with.

The big surprise, of course, was the lack of consultation with respect to some very contentious areas. My colleague from the Winnipeg Construction Association, if we are in a construction area, pointed that out. We would have similar concerns.

Mr. Sale: Mr. Laurendeau asked the primary question, but I would just like to be on the record as commending Mr. Fraser and the association for the commitment to building community and particularly for their interest in the renewal of the inner city. I think that anybody who knows the housing industry a little bit, which I only know it a little bit, knows it is no longer just hammers and saws; it is a high-tech industry with good jobs.

* (21:50)

I would wonder, Mr. Fraser, if you would be supportive of the Government's commitment to double the enrolment in community colleges and to thereby greatly increase the apprenticeship program. You have made reference in your presentation to labour shortages. Do you see the intentions of the Government as helpful in that regard?

Mr. Fraser: The apprenticeship component is certainly one element. I think if the Minister does not know, perhaps he should, but we have been contacted by Red River College for the introduction of a new program in residential construction, which is an area, of course, of our interest. We have agreed to work closely with the administration at Red River to move in that direction, and that is positive.

Mrs. Smith: I really appreciated your well balanced presentation, Mr. Fraser. I was very interested in the way you looked at the whole issue here in Manitoba. You talked about property taxes, and you talked about school taxes. This is really getting down to the grass roots. People buy homes when they can afford them not when they are taxed right out of the limit.

You referred also, it comes to mind, Bill 42 and Bill 44 have been two bills that have been of grave concern here in Manitoba. Part of the problem-solving that I feel that we need to do is be very clear on what the needs and priorities are. I just commend you for talking about the priorities that are so integral to the well-being of the people who raise families here in Manitoba.

Having said that, Mr. Fraser, is there any way Bill 44, in any way, shape or form, would assist you in your business? Is it something in any way that your business could embrace and you could be assured as a businessman here in Manitoba that it would enhance your possibilities for growth in your business?

Mr. Vice-Chairperson: Mr. Fraser, briefly.

Mr. Fraser: I would just say that the three elements that we speak of are of major concern. Others will speak on it in greater detail. Our biggest concern is the economy. Our biggest concern is those relationships that I spoke of in terms of investment and progress.

I would just add, on a personal note, I have recently returned to my home province of Manitoba after being in British Columbia for a few years, working within an association within the climate in British Columbia. I was a member of the business coalition in British Columbia, and the biggest fear I have is that we are heading down a similar road. The word "poisoned" has been used quite often, and unfortunately in British Columbia, with all of its capabilities and all of its resources, has built itself into a very poisoned situation where it has lost continuously

through the last several years, particularly to Alberta.

The two main elements that are needed to get their economy back into the position it should be in are certainly labour and management. At the present time they have driven themselves so far apart that there is no opportunity at this point, I think, for reconciliation. I would not want to see it occur here in our province where I think we have such a delicate situation that we have to work together to make certain that we make progress and survive.

Mr. Vice-Chairperson: Thank you, Mr. Fraser. Time is expired. Thank you very much for your presentation.

The next person we have to call is No. 11, Maureen Hancharyk. We have written presentations, and you can proceed any time, Ms. Hancharyk. I hope that is close to the pronunciation of your name.

Ms. Maureen Hancharyk (Manitoba Nurses' Union): Maureen Hancharyk. There has to be some line about having the patient and now you have the nurse, but I will leave that one.

Good evening. First of all, I want to thank you for the opportunity to make a presentation of our position supporting Bill 44, The Labour Relations Amendment Act. I am here representing over 11 300 unionized nurses in the province of Manitoba. Our union represents registered nurses, registered psychiatric nurses, licensed practical nurses and operating room technicians, nurses who provide nursing care in every region of our province.

Our primary objectives for our members, current and future, are the advancement of their social, economic and general welfare and the promotion of high professional standards. But I must tell you we are also are very equally proud of our past record of patient advocacy. The policies and legislative changes of the previous government have had a profoundly negative effect on the profession of nursing. We have just emerged from a decade of cutbacks, layoffs and the deletion of more than 1000 nurses. Anti-nurse and anti-labour policies have contributed to the acute nursing shortage we are now experiencing. Currently, we have more than 1100 nursing vacancies, and this government must do everything in its power to ensure that working in Manitoba is viewed positively by nurses.

The 1996 labour amendments created a sharp imbalance in the labour-management relationship, with unprecedented power being given to the management side. The amendments served only to hinder the collective bargaining process and greatly reduced the employees' power to bargain collectively. We believe that this proposed legislation moves a step closer to reinstating our right to a free collective bargaining process. It is our position that government policy and legislation that supports nurses in their work environment can go a long way to ensure the retention of those nurses currently working and the recruitment of more nurses in Manitoba.

Our union supports Bill 44 as a first step towards the restoration of labour-management balance in Manitoba's Labour Relations Act, as a step in improving the employees' right to bargain or to organize and contributing to a more favourable work environment for employees. Overall, we believe it is a step in the right direction and can only enhance the quality of work life for Manitobans. It is an indication to us that this government is in the first stages of restoring balance to the labour relations environment in our province.

Manitoba must create an environment that builds up its human resources. The competition for markets is intense today, as is the demand for experienced young professionals. Our working population is aging. Many employees will be retiring in the next 10 to 15 years without enough replacements, and this is very true for nurses. The average age of nurses in Manitoba right now is 47. The question is how do we retain the nurses that we currently have, recruit new ones to Manitoba and, as well, try and recruit young people to our profession? The answer definitely is in the improvement of our quality of work life.

In 1998, the Canadian Nurses Association completed a study on nursing recruitment and

retention issues. The study concluded that poor work life quality is one of the primary elements that hinder the recruitment and retention of nurses and contributes to nurses' decision to leave the nursing profession. In that same year, our union surveyed 5000 of our members and asked them: If given the opportunity, would you leave nursing? Fifty-five percent said they would leave and sixty-nine percent stated that they would not recommend nursing as a good career choice. Manitoba's nursing shortage is expected to linger for some time. The present supply is unable to replace those leaving the profession. Replacement numbers are inadequate because the supply of nursing students under the last government decreased by 50 percent. It is only recently that student enrolment has increased. We must congratulate this government on its move to reinstate the registered nurse diploma program, which has resulted in a number of young Manitobans considering entering the nursing profession.

* (22:00)

Despite this increase, the question remains, how do we keep graduates in Manitoba, providing again a favourable work environment as part of that answer?

Over a period of 25 years, MNU has worked hard to improve the working lives of nurses. Throughout those years, we have organized 127 nursing union locals. It is through our union organizing nurses, negotiating their wages and benefits, and improving their working conditions that Manitobans can have some hope of a sufficient nursing workforce to care for them.

Rights that nurses have won through collective bargaining have been achieved with only one general strike. Our 25-year history testifies to an organization that exhausts every possible avenue before a strike is called. In 25 years, out of 9125 days only 48 days were lost to strikes.

Although in labour relations strikes make the headlines, in Manitoba 95 percent of all collective agreements are settled peacefully between the parties without strike action.

The Nurses' Union wants nursing to remain an attractive profession for those currently practising and for those who may enter nursing in the future. We support any legislation or policy that improves working conditions, and it is imperative that Manitoba labour legislation continues to contribute to a positive workplace environment. The restoration of a provision that respects the rights of nurses to indicate their desire to join our union by signing a union card is a very positive step for all nurses in Manitoba.

The change proposed in Bill 44 that would grant automatic certification upon the signing up of 65 percent of nurses wishing to form a union will return us in concept to the system that governed us for more than 40 years prior to 1996. Although we see that provision as a positive step, MNU would have preferred to see a return to the pre-1996 simple majority to qualify for automatic certification.

The democratic principle of 50 percent plus 1 is present in virtually all aspects of our lives. There is really actually no compelling reason why this principle should not apply to union certifications. Union certification increases the access to protection and improves the work life of employees. The time between an application for certification and a vote can, in our experience, give management a greater opportunity to intimidate employees to revoke their support for unionization. Nurses have reported to us they have been threatened with layoffs, reduced hours, and loss of their benefits during their organizing efforts.

The Charter of Rights recognizes the workers' rights to form unions, and this Bill 44 amendment facilitates those rights and further balances the relationship between labour and management. We are in full support of the amendment to allow for interim certification orders.

As I stated earlier about our general strike, in January of 1991, after exhausting every available option, 10 000 nurses in this province struck for 31 days. It was an absolutely agonizing decision for nurses to leave their patients.

Opponents of Bill 44 are trying to make the public believe that workers will gladly do without their wages and in our case leave our patients for 60 days to gain access to an alternative dispute settlement mechanism. Any nurse who walked those picket lines can testify that this argument is ludicrous. As anyone knows who reads the newspaper, there have been many instances of employers forcing their employees out onto a picket line in order to break the union. Bill 44 will, hopefully, encourage good-faith bargaining and will reduce the number of days lost due to work stoppages.

One of the provisions that Bill 44 addresses is the amendment made by the previous government that was clearly designed to increase management's power to intimidate workers who were on strike or taking part in a picket line. It allowed employers to fire an employee for activity on a picket line that would be considered cause for termination if the infraction occurred on the job. As many of my colleagues have pointed out, we are clear that unions neither condone or encourage lawlessness on a picket line, but remedies for serious breaches of the law already exist in the Criminal Code, and workers should not face the possibility of a double penalty for activities during the highly charged atmosphere of a picket line. In order to exert the right to strike without fear, workers must be protected on the picket line. Bill 44 revokes the 1996 amendment and protections are returned to the worker.

We also support the amendment in Bill 44 to repeal section 76(1), the use of union dues for political purposes. We feel that section discriminates against unions and the amendment takes away the requirement that the union movement had to fulfil while no such standard existed for business. Again, that amendment points to a balance that must be present in the labour-management relationship.

We are in full support of the amendment which removes the requirement that unions must file audited financial and compensation statements with the Labour Board. That only served a duplicate service that we already had available to the members of our union. We provide annually to all of our members a complete audited financial report.

Bill 44 allows the expedited grievance mediation-arbitration procedure to be used for all grievances relating to discipline. We support that amendment as a step in the right direction. However, we would have preferred to see expedited arbitration be expanded to include all grievances, not just disciplinary ones. Cases that are non-disciplinary, including those dealing with wages and seniority, are still left vulnerable to long delays.

Justice is delayed as grievances are dragged on for a year or more. Prior to the amendments made by the previous government in 1996, cases were subject to speedy timelines and definite reporting requirements. After the 1996 amendment, access to expedited arbitration was severely limited, and as a result excluded 70 to 80 percent of all cases that pre-1996 legislation once covered. Access to timely arbitration greatly reduces game-playing and pushes parties towards resolving a grievance.

Bill 44 amends the provision regarding ratification votes within the construction industry so that only union members are permitted to take part in ratification votes. MNU strongly encourages the expansion of this provision to cover all sectors. Bill 44 repeals the ability of employers to interfere in their workers' bargaining strategy by being able to trigger a membership vote on their last offer while negotiations are still taking place. We are pleased this provision is being repealed but disappointed that it does not repeal the power of the Minister of Labour to order such a vote.

Bargaining a collective agreement is one of the most important responsibilities that a union has to its members. Under Bill 44, appointment of a mediator is allowed in two new circumstances. We support the amendment when both parties make a request for mediation but are unable to name a mediator, but we strongly recommend the deletion of the amendment outlining the second new circumstance, as well as the repeal of section 95(2) of The Labour Relations Act. Any time a mediator is appointed when only the Minister or one party deems it necessary is interference in the bargaining process. We had that experience in 1999, during the provincial negotiations. Negotiations were progressing, they were progressing well; there

was no impasse. The Minister interfered in the process, arrested the negotiations, and unilaterally appointed a mediator.

Labour laws must promote harmonious labour-management relations, and to shift the balance of power so dramatically in favour of employers is an injustice to the working people of Manitoba. Working Manitobans are not advocating that the balance of power be shifted in the extreme opposite direction. We are asking that this government treat us honestly and with respect.

* (22:10)

Our economy is strong because of the work of all of us and not just the efforts of a small but elite group. I encourage you to ignore the fearmongering that is now occurring and take this first step towards restoring some balance to the labour relations environment in our province. We believe that there are some areas that require further review, and hopefully our suggestions will be implemented prior to the passage of Bill 44. By improving labour legislation in Manitoba, we can only enhance our reputation as a good place to live and work. Thank you for the opportunity to put forth our views.

Mr. Vice-Chairperson: Thank you for your presentation, Ms. Hancharyk. We have a number of questions from the Committee.

Ms. Barrett: Just a brief comment, again, thank you very much for your presentation and for taking the time to come out this evening and staying around to make your presentation. Much very good information here, but I do want to have members be able to ask questions. I just wanted to say I appreciated your comments on the strike that took place in the winter of 1991 and the comments which you made, which I think are very telling, that anybody who says that the nurses, or by extension any union member, would choose to have that situation occur is not being realistic. I appreciate that from your personal perspective very much.

Mr. Schuler: Thank you very much for the presentation. Twice in your presentation you mention that this is a first step. My question, and there are two parts of it: Has the Government ever indicated to you that Bill 44 is exactly that, the first step? Have you any indication that this is just the beginning process of changes to labour legislation? The second question is if Bill 44 was the final step in changes to labour legislation, could you live with these changes? Do you feel they just do not go far enough? Can you live with them, if this were the final step?

Ms. Hancharyk: No, we have not ever been told that this was a first step, but again, as I pointed out, we believe it should be just a first step. We believe that there are many more things that should happen.

Mr. Loewen: Thank you, Maureen, for your thoughtful presentation. I think it is safe to say that members on both sides of the House wish you well in your attempt to hire more nurses and encourage more young people to take it up as a profession.

Just quickly, in the three most contentious points that seem to be raised during this committee process, I understand clearly from your presentation that you are arguing against the democratic rights of voters to a secret ballot to determine whether they want to be unionized or not. You are arguing against the mutuality of agreement in favour of unilateral calls for arbitration, and you are arguing for the reinstatement of workers who might commit an illegal act on the picket line. Is that a fair comment?

Ms. Hancharyk: No, it is not. Okay, the last point was, no, we do not condone violence on the picket line. We believe that the Criminal Code can quite satisfactorily look after that and that workers should not be penalized twice if something does occur on the picket line. Your first and second points, sorry.

Mr. Loewen: You are arguing against the democratic rights of workers to have a secret ballot to determine whether or not to be unionized. I understand you are arguing against the mutuality of agreement in favour of unilateral calls for arbitration.

Ms. Hancharyk: We believe that both parties should request mediation.

Mr. Loewen: Both parties?

Ms. Hancharyk: Yes. We believe also–

Mr. Loewen: Thank you. Mutually?

Ms. Hancharyk: Yes. We also believe that 65 percent of people signing their cards is a very definite majority, and that, no, it is democratic and there is no need for a secret ballot.

Mr. Vice-Chairperson: Thank you.

Mrs. Smith: Thank you very much for your presentation. The one thing I know about you, Maureen, is that you always had the best interests and still have the best interest of the nurses at heart. I guess sometimes it is hard when you have a nurse in the family, as I do, because I look at nurses as a very special group of people.

I think that you are facing challenges now, and when you present tonight with Bill 44, and when we look at the kinds of challenges that nurses face in the workplace and the shortages that are there and the care that they give to patients, to me that is different than someone working for a business in that sense because any nurses I have known have never looked at a patient's business. They have looked at patients as human souls, and they wanted to do the best for them.

I, too, remember that strike, and I know how horrendous it was. Of all the things in this bill, Maureen, or of all the things, if you could write legislation yourself, what are the two things that you think would be most beneficial to nurses here in Manitoba?

Mr. Vice-Chairperson: Ms. Hancharyk, a brief answer.

Ms. Hancharyk: As I pointed out, there are at least five areas where we believe that the legislation could have gone further: the 50 percent plus one, which is the majority used in all other aspects of our life; the expansion of the expedited arbitration for all grievances; the expansion of ratification votes by only union members; and repealing the power of the Minister of Labour to order ratification votes; and I guess the last part, where only one party requests mediation.

Mr. Vice-Chairperson: Thank you very much for your presentation. We have run out of time. Our next presenter, Mr. James Hogaboam.

Mr. James Hogaboam (President, Delivery Drivers Alliance of Manitoba): Thank you, Mr. Chairman.

Mr. Vice-Chairperson: Do you have any written–

Mr. Hogaboam: Yes, I do. I will pass–

Mr. Vice-Chairperson: –to distribute to the Committee. Go ahead, Mr. Hogaboam.

Mr. Hogaboam: Before I start on the written part of my presentation, I may just want to make a couple of observations. While I was sitting here the last couple of days, one of the things that came to mind was–I have been involved in organizing the union in my workplace–that one problem workers have is they do not understand the process of how to get certified. Most workers do not understand how to sign union cards and this process.

The only person who really tells them how the process works is the union organizer, and sometimes there is a mistrust. The worker does not know if they should trust this person they have not seen before, et cetera. When a worker commits to signing a union card, that is a pretty strong commitment to the fact that they want that union representing them. In my situation, when we organized our workplace, we had 47 percent of the workers or 46 percent of the workers sign union cards and we went to a vote.

We had over 60 percent of the workers vote in favour, and it was over 94 percent of the workers in that workforce came out to vote, because the boss got his people out and did a good job of getting his people out. Most of the people were afraid to sign union cards. They were afraid the boss was somehow going to find out that you signed a union card. They may listen to what the union organizer says, but they do not necessarily trust that union card is not going to find its way into the boss's hands or that

the bosses are not going to find out who signed that union card. I think that is one of the things that the workers do not understand, the process involved here. That is why people do not sign union cards, because they do not understand the process. My suggestion is that maybe we should have more education of that, on how unions are formed. I maybe even could take it as far as taking it into the public school system to allow people to understand how unions are formed, about signing cards and votes and these kinds of things. So that is what I briefly seeing on that thing just from my experience.

Also, I was fired as a union organizer in my workplace. I was also assaulted by my former branch manager because of my union activity during the union drive. So I know about intimidation, and I also know about workers being fired. I personally–this is my personal opinion–I believe there has been an anti-labour climate in this province not only since 1996 but since 1919 in this province.

* (22:20)

I will proceed. I would like to thank everybody for letting me make this presentation on behalf of the Delivery Drivers Alliance of Manitoba. Our alliance represents 700 to 800 delivery drivers in the province. We view these proposed changes to Manitoba's labour laws as minor adjustments to bring more equality between business and labour. However, we also believe these changes are urgently needed to reverse the undemocratic changes that were made by the Manitoba labour laws by the Filmon government. Furthermore, the Delivery Drivers Alliance believes other more drastic changes must be made to provide even more and better equality between business and labour. I want to refer to our specific situation here because one of the situations that has arisen with the courier industry and the trucking industry is people who do this job are sometimes not recognized as employees. So, to get certification, sometimes they have to be recognized as employees.

First of all, changes must be made to the procedures that determine employee status. In our industry, 85 to 90 percent of the drivers meet the requirements of employee in a relationship to the company they work for. However, almost all those drivers do not receive holiday or vacation pay, as well as other benefits entitled to employees. The problem arises that the procedures that are used to determine employee status are too time-consuming and frustrating to those who question their employment status.

Currently, the drivers in my company, Dynamex Courier are still waiting determination on their status as employees. Those drivers filed their application February 1997. Likewise, each driver's status is determined individually when, in fact, we all do the same job picking up and delivering freight. Better guidelines must be established that allow the process to move quickly and effectively for the benefit of all parties involved, including the ability of the labour standards department to investigate a company thoroughly based on a single complaint, similar to the rules of the Manitoba health and safety, which allows government inspectors to access to a workplace once a complaint is filed. Manitoba workers must not be denied basic worker rights because of slow, frustrating government bureaucracy.

Referring back to the proposed changes in Bill 44, the Bill does not even meet the federal government standards of forming a union, which is 50 percent plus 1–that has been bantered around here a few times tonight and yesterday–and if they get 50 percent plus 1 to sign union cards, automatic certification under federal jurisdiction. The question is, if a government in this country or in a province can hold power without having a majority of votes cast in favour of their political party, including the government that sits here today, which did not get over 50 percent of the vote, obviously, from Manitobans, how come workers have to have over 65 percent sign cards to get union certification? Is that democracy? I do not think it is democracy. There are two different rules for two different situations. The business community is talking about the democratic right of a secret ballot. Well, if we have to get over 50 percent of a vote to have a union, why does the government get to be formed with having less than 50 percent of the vote?

Furthermore, and this is a point that I made up in the last couple of days when the NDP was

wavering on some of the issues that they brought forward with Bill 44, I am asking the Government why it is caving into business pressure. Does this mean to Manitoba workers that the Manitoba NDP does not support those workers and the workers' rights? In reality, the Coalition of Manitoba Businesses, who spent a lot of money and made a lot of things known and made a lot of complaints, they are actually a minority. All business owners in the province are a minority. Manitoba workers outnumber bosses 10 to 1 in this province. Bill 44 should improve the rights of the majority of Manitobans. I also warn the NDP and Manitoba business that, if government does not support the rights of workers, I am sure Manitoba workers will elect a government who will support their rights and demands. Therefore, Manitoba's NDP must address other labour rights which support the majority of Manitobans.

Excuse me again. It is very dry in here. I want to thank you guys for not having the things two weeks ago when it was about 30 degrees.

The four points I make here. The simple majority, 50 percent plus 1, should be the standard which allows workers union representation automatically without a need of a second secret ballot. That is democracy. Manitoba must implement anti-scab legislation to give workers and employers equality during a strike. The workers do not work, the boss does not do business, both parties negotiating on equal ground. Anti-scab legislation will also stop the concerns about picket line violence. Picket line violence comes down to the fact that workers fear for their jobs. They fear that the scabs coming in are taking away their jobs. That is where picket line violence comes from, and anti-scab legislation will get rid of that.

Plant closure legislation. I am probably the first person here to speak about plant closure legislation, and I ask: What right does an employer have to take away the jobs and livelihoods of workers who made the bosses profits? Many times plants are even closed in this province and elsewhere so that the employer can reopen another plant somewhere else with lower wages. Plant closure legislation will protect the jobs and lives of Manitoba workers.

Manitoba workers must start working for Manitoba workers. Co-operatives and publicly owned businesses must be a priority for Manitoba. Manitoba workers must have a stake in the economy and help all workers take control of the global economy. Profits from Manitoba publicly owned businesses can be used to improve our health care, education, et cetera. Manitoba workers instead of shareholders and rich business people can benefit from the labour of Manitoba workers. Why give handouts to Smithfield, Versatile, Maple Leaf to open up factories to make those business owners richer? Why not use Manitoba tax dollars instead to build factories and jobs to benefit Manitoba workers?

In closing, we see these changes in Bill 44 as a first step to improving the lives of the majority of Manitobans; however, Manitoba's government must address these outstanding issues pursued by labour now. Without acting on demands of labour and caving into the pressure of the special interest called business, the NDP is showing Manitobans that no current politician sitting in any government in this country can be trusted or respects the interests of the majority of Canadians. Likewise, if the NDP Government continues not to respect the interests of the majority of Manitobans, four years from now Manitoba workers may elect politicians who will respect their rights.

Mr. Vice-Chairperson: Thank you for your presentation, Mr. Hogaboam. We have a few questions from the Committee.

Mr. Sale: I appreciate the presentation. I was particularly concerned when you told us about the process of intimidation that you experienced. I think you also talked about essentially what would be an assault. Did you witness that happening to other people in your situation, or is that an isolated case?

Mr. Hogaboam: I have seen and heard of intimidation. You have the gentleman, Mr. Christophe here, from Westfair. I know one of the women who was involved in that strike, and supposedly somebody from management got in the car and tried to run them down in the picket line one afternoon. My former employer, who happened to be at one time the boss's son until a

larger corporation bought the company, used intimidation tactics within the workplace all the time, not just during union certification but all the time. The idea was they would call you into the back office and close the door.

I remember one situation where a worker had a problem because we were driving company-owned vehicles. He had a problem. The employer was charging him for the gasoline of this company-owned vehicle that he was using. That was not the normal procedure. I went in as a union rep at the time to address the concerns of the driver, and the boss basically told me to get out. I am not going to deal with this issue while you are here.

What would usually happen is the boss would take him in the office and say: This is the way things are. If you do not like it, you can hit the road. I was physically assaulted; other workers were threatened and yelled at. It was a very, very scary place to work at times. It lasted two and a half years until we finally got certification. We had to go through this process of finding out whether we were employees or not with the Labour Board. Our first application was denied. The company actually appealed the certification all the way to the Supreme Court. Of course, it did not go that far, but they appealed it that way, and stalled and stalled.

We had to have a vote. It took a good month to get that vote. Even then it was touch and go. But we did get over 60 percent. There was intimidation. The boss threatened to close the place. We knew they were not going to close the place, but they used that tactic. That tactic has been used time and time again.

I hope that answers your question.

Mr. Schuler: I have sat through this committee and through several other committees where we have heard intriguing presentations. I have to tell you that you do introduce a very new concept, certainly one that I have not heard of before. That is called plant closure legislation. Could you as briefly as possible tell us how that would operate, unless–

An Honourable Member: Similar to American states.

Mr. Hogaboam: There are different aspects.

Mr. Vice-Chairperson: Excuse me. Just a second, Mr. Hogaboam.

Mr. Schuler: Perhaps my colleague from Transcona would like to answer the question, seeing as he has all the answers. But, if he does not mind, maybe we will have the presenter do it.

Mr. Vice-Chairperson: I would again remind all committee members to give due diligence and show some decorum. We are here to listen to the presenter. That is whom we would like to have heard.

* (22:30)

Mr. Hogaboam: There are a number of ways you can implement plant closure legislation. There are the minor things to the extreme, of course. It depends on how you want to proceed. The extreme, of course, would be the fact that no employer can close his plant and pack his equipment and leave. If that happens, you send the police in and lock down the plant and turn the plant over to the employees or to the government. That is the extreme situation.

The other situation is to tell employers that there has to be some negotiation here similar to what happened in the–where was that? The presenter this morning was talking about one of the–

Floor Comment: Pine Falls.

Mr. Hogaboam: Pine Falls? Similar to the Pine Falls thing. A negotiation went on where the employees were able to keep their jobs through work with the government and the employer, so that the plant could remain open. Similar to what was being discussed with New Holland and–

Floor Comment: New Flyer, the new plant.

Mr. Hogaboam: –New Flyer, at the time when these things came up, where there are negotiations going on. So there is the extreme and there is the minor thing, trying to keep the plant open and government stepping in to keep the plant open. Or there is the extreme where

government goes in and tells the employer: I am sorry, you cannot. If you do not want to do business here anymore, your assets are under seizure.

Mr. Vice-Chairperson: Thank you, Mr. Hogaboam. Are there any other questions from the Committee?

Mr. Schuler: I have a question for the presenter, and that is: Has the Government ever indicated to you that Bill 44 might just be a first step? If Bill 44 is not the first step–that it is a final step–can you live with Bill 44?

Mr. Hogaboam: You have asked everybody this question. Are you taking a poll?

No, the Government has never told me anything. I was not even, actually, going to present anything here until the Manitoba trucking industry got involved on the business side, because a number of our drivers worked for companies within that. So we, at first, were not even going to get involved with this. Like we said, we did not see it as that big of a deal, but it seems like it has blown up to a big deal.

No, the Government has not said anything about this being a first step or a further step or anything like that. I made it quite clear that other changes have to be made by government in favour of labour or labour is going to do something about it. Labour in this province is getting radical.

I will tell you: There are people here today who showed up at a meeting a couple of weeks ago. They were big-time union leaders who were strong NDP people for the longest time, showed up at a meeting called Workers Against Capitalism. They went there and spoke in favour. You will see more Seattles, you will see more Washingtons, unless government starts recognizing–

Mr. Vice-Chairperson: Thank you, Mr. Hogaboam. I hate to cut you off, but our time has expired.

Mr. Hogaboam: Okay. Thank you.

Mr. Vice-Chairperson: Our next presenter is Mr. Kenneth Emberley. Just in the interim, I would like to remind the Committee that when we have our presenters up, if we can show the presenter some respect and try to keep our chatter to a minimum so that the Chair can hear. I am having difficulty hearing, from both sides.

I see you are handing out your written presentation, Mr. Emberley.

Mr. Kenneth Emberley (Citizens for Democracy and Less Poverty): May I ask, please, the permission to give this to the Minister to look at while I talk?

Mr. Vice-Chairperson: Certainly. You can proceed any time, Mr. Emberley.

Mr. Emberley: Thank you, Sir. Mr. Chairman, ladies and gentlemen, it is a great privilege to be here, and it is even better than when we appeared at Law Amendments Committee four years ago. How is that for a compliment?

We have some pretty serious business to talk about. We are forgetting one thing, although I think our nurses' union hits it. Our dean of Agriculture just died a few months ago, Grant McEwan, one of the greatest men I ever met, one of the greatest men I ever read about. Grant McEwan has written a number of books but he wrote one entrusted to my care, and he said the country is entrusted to the care of the people that live in it. Some of the people in the country are entrusted to the care of the Government, and many of the people that work in the country nowadays are victims of aggressive businessmen, and they are not getting any care.

Mr. Chairperson in the Chair

Ladies and gentlemen, I have a number of books that I have included. The Minister has them. I want to do a little more broad-ranging view than some have had, but all of it is relevant. Hearings on Bill 44 to improve the balance between governments and their corporations or corporations and their governments with tax-deductible dollars and tax dollars almost without limit available to governments and corporations. Workers unionized and unorganized with no tax

dollars, no tax-deductible dollars. We are talking about balance. There ain't no balance there.

Businessman joins the Chamber of Commerce. Until a worker can join the Chamber of Commerce without restrictions and join his union as easily as a businessman joins the Chamber of Commerce, you do not have a democracy. All of the restrictions are on people in union activity. There are no restrictions on a businessman walking into the Chamber of Commerce, and they have huge amounts of tax-deductible dollars to do the things they want to do to the people and to the country. There is no sense of balance.

I have an exhibit, a magazine, *Dollars and Sense,* and look, please, at the graphs on pages 11 and 14. They show in a magazine about 20 years old that the United States, of eight industrial countries, was the leading one in creating poverty, and in fourteen countries, the United States was the leading one in having imprisonment. The United States put ninety more people per hundred thousand in prison than South Africa did at the height of apartheid, and interestingly enough, in the United States they were mostly blacks, just like in South Africa.

Now you have to start and think about these things. That is the life of it, and it is so different from this country, up until Mike Harris and others like him. You would not know that, when Ronald Reagan for eight years would not allow the minimum wage to rise, for eight years he appointed a woman lawyer to head his department, no minimum wage rise for eight years. Peter Lougheed did the same thing at times of bad inflation in the early 1980s. We are going through the same thing now. Poverty is the biggest problem in this country. In the last ten years our poverty rate has gone from one in seven, to one in five lives in poverty. In the United States the poverty rate has gone from one in five to one in four. United States always leads the world in poverty because they do not have any social programs, they do not have any medicare, and they do not have any compassion.

Now we have had something new. You have not heard about it, but it is called free trade and globalization and NAFTA. The second paper that I have given to my Minister of Environment is the story, *Trading with the Enemy,* where Irene Dupont of General Motors and J. P. Morgan's bank organized a revolution against Franklin Roosevelt to try and overthrow the United States government because they were feeding the starving unemployed in the drought and the Depression in the 1930s. There was a trial in Congress and they were convicted, and he was so terrified of all the other bankers in the country that he never registered a conviction or a punishment. It was four years later when the court decision was made. That is the power of business that we have to deal with.

Now there is a nice little clipping there, a headline, a great big headline, 82 percent of people believe that the brain drain is true, 82 percent of people, on the front page of the *National Post,* and you read the Canadian Centre of Policy Alternatives and they have gone to Canadian government statistics and five years in a row there is 400 percent more people come from Europe and the United States and other countries into Canada with new, young university degrees than the small number of Canadians that leave Canada to go to the States. It is what you call bullshit. That is a very technical term.

They have had five stories on the front page of the *National Post* where the fiction writers do their best. I want to give it a little bit of balance. I have a manuscript that I got from Dr. Helen Caldicott in 1988, 57 pages, about the National Association of Manufacturers in the U.S.A. which worked from 1908 to 1998 to make sure that all the policies of government would be the policies of business. That is all they did. They sent people to England, elected Margaret Thatcher. They sent people to Australia and New Zealand and put in extreme right-wing governments. Pierre Trudeau in 1968 was elected in Canada, and Pierre Trudeau was always what he called a real, tough man, and in 1975 he passed eight vicious anti-union laws, worse than the ones that Gary Filmon did, and every one of those was copied all across Canada.

* (22:40)

Now we have a balanced situation, but it ain't very balanced, and that is the reason I give you this presentation, to support the other people. At the time of the free trade fight in

1988, the businessmen representing the Business Council of National Issues, 150 biggest transnational corporations, mostly U.S. branch plants, they spent about $92 million getting Brian Mulroney elected, and afterwards the first thing he did was pass a law and give them back the $92 million they had to get him elected. Now there is somebody talking that if we put in a law that makes it difficult for business to finance elections, you have heard some kind of a law like that, some wild, radical government is putting in, that you will tip the delicate, fine balance between $92 million from the richest corporations in the country and every one of those 150 corporations had an internal corporate publication to supply to their employees and free copies to all their friends. You have no idea the size of the imbalance there was.

Alex Carey explained that for 30 years the National Association of Manufacturers has worked to prevent democracy, and they appointed the 198 CEOs of the 198 biggest companies in the states to bring in something called globalization. It is a very big term, but globalization and free trade is purely and simply to take the free trade slave zones that we have had all around the world run by our transnational organizations and bring them home to Canada and the United States.

Now, five years ago I went into two homes in Winnipeg, two homes, two Latin-American women working on their own home sewing machines. They would not be hired in a factory. They had a home sewing machine, and they worked 12 hours a day. The average wage they got was $4 an hour. The minimum wage is $6 an hour. Now you know the minimum wage buys exactly one-half as much food, rent and clothing as it did 12 years ago. The businessmen–if you think you got hell on the front page of the papers because you are trying to put Bill 44 through, you wait till you start raising the minimum wage. If you do not start raising the minimum wage soon, we are going to all start to work to elect a democratic government, not a New Democratic government, but a democratic government. That is the first thing on the agenda is to get the minimum wage after you get your labour law passed.

I am just thrilled with the quality of the presentations that came here tonight. Did you meet any intelligent, capable people, any decent people? Yes, bundles of them, but I ask you to please glance through those papers and just see. There is one little paper, the *New Bureaucracy*. Hershel Hardin is a genius. He has written a book about the privatized nation and deregulation when there were a hundred companies formed in one year, companies of teams of lawyers and accountants to work on the privatization and deregulation. Most of you would not know that in 10 years Ronald Reagan took a country that had 800 000 millionaires, and in 10 years he created 700 000 more. They robbed every savings and loan, every bank. They swindled every organization in the country. George Bush's four sons got $2 billion of the CIA, Savings and Loan. I have a six-page excerpt from a book on it.

Now we are talking about balance. I am asking you, please, glance at those papers, ladies and gentlemen, and see what you are trying to do with Bill 44 is to gradually, gently, restore the balance that was upset when four years ago a whole new set of labour laws were brought into this province.

If you want to get nurses to work, you stop the hate campaign against nurses. If you ever knew how hard it is to be a good nurse and how much they care, and to have a hate campaign. I have had four nurses all quit before age 60, quit nursing. One of them quit at age 55. She says I will never go in to do any volunteer work. If the hospital drops dead, I do not care. I was treated so badly in the last while in the hospital. She says I worked in the baby clinic, the natal clinic, where the little babies were born, and she says I think 40 percent of my work in the last five years has been paperwork and not allowed to do nursing and doing paperwork. It is technically called covering the doctors' asses in case of a lawsuit. She hates nursing because it is bookkeeping, it is administrative work; she is not allowed to nurse the patients.

So, I beg of you, listen to the wonderful head of the nurses that told you there are all kinds of people. There are good businessmen in this country, but the good businessmen have too much power and too much money, and they

write too many dreadful hate stories on the front page of the paper.

I was ashamed of my country and ashamed of the people that wrote those hate letters against my NDP Government. Thank you very much for your courtesy and patience. I hope there is something of value for you.

Mr. Chairperson: Thank you very much for your presentation here this evening, Mr. Emberley.

Ms. Barrett: Thank you. I was able to glance through, but I was concentrating on your presentation, Mr. Emberley, so I was not able to give these documents the time that they deserved, but I did want to say that I think you have, of all the presenters that we have heard on Bill 44, put the context and your comments always coming back to the issue of balance. I think you have given us a great deal to think about, and you have certainly given me a great deal to think about, a lot of things that we need to reflect on. We are attempting with Bill 44 to provide some balance. It was a remarkable presentation, and thank you very much for your presentation and for the material which I will return to you.

Mr. Chairperson: Mr. Emberley, did you wish to comment, sir?

Mr. Emberley: I was going to say, poverty is the No. 1 issue. Poverty. The minimum wage person is being robbed of $12,000 a year by the rich every day, every year.

Mr. Schuler: I certainly would like to thank you for your presentation. You certainly have brought some interesting items to the table, and just as an aside to the Minister, if she would be so kind, perhaps as the Labour critic, I could get a copy of the articles which are referred to in the presentation so that later on we could reference them. If the Minister would be so agreeable, I would like to have a copy of the articles.

One of the things that you do mention is the power of the media in the whole political process. You have a most intriguing quote on page 2 which says: The mass media is the propaganda ministry more effective in the U.S. since 1914 than Communist Russia and Nazi Germany.

Certainly we have heard a lot of comments made about the media involvement in Manitoba, particularly on the issue of Bill 44. Would you say that that particular quote would apply here in this case as well?

Mr. Emberley: I do not mean to be impolite and unkind, but the Alex Carey manuscript that I have explains how the United States during the First World War got hatred so bad for the Germans that they were lynching Germans the same time they lynched niggers. Yes. Exactly the same time. They decided, businessmen decided they would use that propaganda after the war, and they smashed the United States steel strike in 1919. A committee of five churches studied a month-long steel strike and every single charge that appeared in the newspapers that smothered the area around the strike, almost every story in the papers was a lie, almost every story in the paper.

It is detailed in that manuscript, and that was used as an example to smash every union strike in the United States. Unions are almost eliminated from the country. The United States has a religious hatred of unions.

* (22:50)

Mr. Schuler: I did not hear the first part of your answer, I am sorry. You have to wait till you are recognized and then your microphone goes on. Was your answer yes to the question, because I did not hear it?

Mr. Emberley: Yes, in that Alex Carey manuscript, and I will give you a copy of it.

Mr. Schuler: Just hold on. I would just like to ask you the question again, and then you have to wait till you are recognized so that we can hear it on your microphone.

My question is: Do you think that same kind of thing would apply here in Canada in regard to the way Bill 44 was treated in the media?

Mr. Emberley: The way Bill 44 was treated but also the way the whole free trade and

globalization debate is carried on. The mass media is controlled by billionaires. There is a black man in Toronto who owns most of our papers. I think he sold them, though, to a local billionaire, and it is not only a billionaire controls the newspapers and the television but that the very giant corporations that advertise in the newspaper will only advertise in the newspaper that does not have any labour news. It does not have this, does not have that. The newspapers are pretty sensitive. Conrad Black and Izzy Asper are smart enough to know what the owners of General Motors and Cargill want in the newspaper. They pay to put advertising in, so there are two sets of very rich and powerful people control everything that is in the main newspapers. There is not anymore, for 20 years, any citizens' newspapers. We used to have them, and they were funded by the Government, that newspaper funding in the 1970s. But that is gone.

Mr. Chairperson: Thank you very much, Mr. Emberley, for your presentation here this evening. Time for questions has expired.

The next presenter on the list is Darlene Dziewit. Is Ms. Dziewit in the audience? Please come forward. Do you have a written presentation for committee members?

Ms. Darlene Dziewit (Private Citizen): Yes, I do. I apologize, there may not be enough to go around. I did not know how many I needed.

Mr. Chairperson: We will make copies. You may proceed when you are ready.

Ms. Dziewit: Thanks. First of all, I want to thank you for allowing me to speak on this very important bill, and I want to thank the Minister for her unfailing support of working women and men since she has been appointed. It is so refreshing to have a minister who puts working women and men first, a Minister of Labour (Ms. Barrett). I also want to congratulate the Minister on bringing the Bill forward. I am sure she had lots of unique challenges in doing that, and we want to thank her and tell her we appreciate that.

I have been a member of UFCW Local 832 for almost 30 years, and I have been a union representative for almost 23 of those years. Currently, I work full time negotiating collective bargaining agreements on behalf of many of our members in units ranging from less than 10 people to more than 700. I bargain on behalf of employees in the private sector and in the public sector and pretty well anything in between.

I am speaking to you today from a perspective of personal experiences at the bargaining table and on picket lines, and I am speaking on behalf of many, many of our members who cannot be here today and some of whom who asked me to speak on their behalf because they are nervous about speaking in front of people.

I would like to talk to you about two aspects in particular of Bill 44, those being the alternative dispute settlement mechanism and the reinstatement following strike or lockout. With regard to the alternative dispute settlement mechanism, I support the Government's proposed alternative dispute settlement mechanism; however, I believe it needs amendments to make it more effective, this especially since the Government has failed to introduce either anti-scab legislation or to reinstate final offer selection legislation.

Many employers in Manitoba are good employers. They need to bargain regularly with their employees' elected representatives, and they settle agreements which are acceptable to both sides. However, many employees have a different experience. Their employers refuse to acknowledge that workers have a right to join a union and to bargain collectively. These employers do everything in their power to attempt to break their employees' unions. I am sure you have even heard from some of these people in these hearings. Now, if you listen very carefully to what they say when they talk about big unions and union bosses, what those people are really talking about is their employees since, believe it or not, employees are the union. These people have no interest in their employees' rights, except to limit them.

I want to give you one example of the kind of employer we have been talking about. In October of 1998, 30 members of UFCW Local 832 who worked at the Perth's plant in Winnipeg went on strike. The major issue was the

elimination of the employees' pension plan. Those employees earned between $7 and $9 an hour and over a number of years they deferred an additional 60 cents of their wages to be paid into the pension plan on their behalf by the employer. The employer proposed to eliminate the 60-cent contribution.

The pension plan was a very important issue to our members since many of them were older or were single parents and certainly at the rates of pay that they were making could not afford to pay for a pension themselves. The majority of them were women. The employer knew this, and I believe forced the strike in order to break the union, knowing full well that our members would never agree to give up that pension.

Five months after the strike started, it ended. The employees kept their pension, but it was at a huge cost. In order to get back to work and not to lose their jobs entirely, they had to give up many of their seniority rights and allow the employer to keep some of the scabs that had been hired since the strike started. Circumstances were such that many of our members left their employment and the employer hired more and more of the scabs. Eventually the number of scabs exceeded the number of picketers, and a decertification of the union was successful. Now the employer had gotten his way. A five-month strike ultimately broke our members' union at Perth's.

The above example of Perth's is one where the alternative dispute settlement mechanism would have been helpful. However, I would like to give you another example of where that alternative dispute settlement mechanism would be virtually useless, I believe, in the long run. I deal with an employer in rural Manitoba who has repeatedly tried to circumvent his employees' wishes to be represented by a union. UFCW Local 832 was certified without a vote, which was required at the time, when the Manitoba Labour Board in a very rare automatic certification procedure certified the group due to the employer's illegal interference that was so blatant.

We had numerous terminations of employees with all except one being reinstated. We went to the Labour Board repeatedly to deal with issues such as unfair labour practices by the employer, terminations, and a refusal by the employer to allow the union representative to have access to the workplace, even though the Labour Board had issued an order for the employer to do so. This employer has been ordered on several occasions by the Manitoba Labour Board to post Labour Board awards against the employer for all to see in the workplace. The union has had to have the Manitoba Labour Board impose the first collective agreement since, not surprisingly, the employer refused to bargain in any meaningful way with the union and the elected employee representatives.

* (23:00)

Since the imposition of the first agreement, we have had to continue to have hearings with the Labour Board. In addition, numerous grievances have been filed, and we have won virtually all of them. By the way, we have not resolved one single issue with this employer without the matter being taken before the Labour Board or an arbitrator. Not one. Very shortly we are going to be commencing bargaining for a second collective agreement with this employer. I know we are going to have to struggle to maintain a basic, not a Cadillac, agreement. I am convinced that our members in this unit, most of whom make between $7 and $10 an hour, will be forced to strike.

If Bill 44 is passed, our members will most likely have to strike for 60 days before they can get some relief and a new contract. Sixty days on a picket line with strike pay of $100 a week is very difficult for most people. Given our history with this employer, even if we obtain a second contract, we will likely have to strike yet again for a third contract, all to obtain simple basics that most other workplaces enjoy. Do not forget there is no anti-scab legislation in Manitoba. This employer will be allowed to operate with scabs by replacing these mostly unskilled workers. We have no final offer selection process which was in place in Manitoba in the 1980s, and which allowed the parties to resolve disputes prior to strikes occurring, as well as after a 60-day strike by way of the employer and the union submitting a final offer to a selector who would choose one offer or another as a

resolution to the matter. The only option available to these employees of this rural employer that I have described will be to strike, and to strike, and to strike; either that or to give in, to give in, and to give in. I urge this government, at the very least, to amend Bill 44 to allow for an additional window for employees to use the alternative dispute settlement mechanism prior to a strike occurring. This is the only way for this mechanism to provide proper fairness to the collective bargaining process.

I also want to talk about reinstatement following a strike or lockout. In 1987, UFCW had a 125-day strike against Westfair Foods in Manitoba; that is Superstores and Economarts. It was a vicious and bitter dispute. To this day, labour relations at Westfair Foods remain among the worst of our 150 or so agreements.

I was on that picket line every day of the strike. Our picketers were punched; they were kicked. They were spit at by shoppers who crossed the picket line, and by scabs and management. Many picketers were injured; one, in particular, stands out in my mind. A picketer asked one of her regular customers how he could cross a picket line when she was on strike. The customer responded by grabbing her by the neck and holding a red-hot cigarette to her throat. The customer was charged. But of course, when the strike ended, those charges were dropped.

Several of our members and union representatives were also charged. Many of them performed community service or were punished in other ways. When the strike was ending, the company refused to finalize the agreement unless the union agreed to allow the company to terminate 12 of the strikers. Some of the 12 had been charged with nothing more than heckling management and scabs; others had been charged with nothing at all. In order to resolve the issue, all of the 12 cases were referred to arbitration. All the 12 were reinstated by arbitrator Wally Fox-Decent, and 11 of the 12 decided to return to work, and subsequently, were good employees of the employer.

If the current legislation was in effect in 1987–and it was not–none of those employees would have been reinstated. Each one of them had committed an act, which could have been considered cause for termination if the infraction had occurred on the job. Most of them would have been terminated for insubordination. Of course, we know that employees cannot swear or yell at bosses at work. We know that. But on a picket line when emotions are high and tempers flare, it is absurd. It is absolutely absurd to think that people will not lose their tempers.

During the 1987 strike at Westfair, the company hired camera operators to film our members on the picket lines. One of the reasons for doing this was to get footage for the company to use, to obtain injunctions against the picketers and their union. These camera operators employed by Westfair often incited incidents on the picket line. I was there. I saw it. One particularly enthusiastic fellow used to approach a picketer with the camera off. He would give a shove or say something inflammatory. Immediately he would raise his camera and film the picketer's reaction. Another variation on the theme would be for a scab or for management to approach a picketer and shove or otherwise inflame the situation. The camera-person would then, once again, without having filmed the initial incident, film the response. This happened repeatedly and on almost every single picket line location.

Since the enactment of the Filmon government legislation on the rights of employers to terminate employees during strikes, there has been a distinct chilling effect of the actions of picketers on the picket line and not to the good. I have witnessed incidents of picketers who are afraid to hand out leaflets during a strike when the leaflet condemned the company's actions. The company policy, you see, says that employees can be terminated for publicly berating the employer, so they are afraid. It does not matter if you tell them no they cannot do it, they are afraid.

Strikes are, by definition, acts of defiance. Employees on strike ought not to be forced to pay the ultimate price in labour relations, which is to lose their jobs for giving voice to that defiance, nor ought employees be fired for what is in most cases a minor action taken in the heat of the moment when passions are high. Now I want to be really clear. I am in no way condoning violence on the picket line of any

kind by either side. If a serious incident occurs, there are laws under the Criminal Code to deal with those incidents. All I am saying is that employees ought not to be doubly penalized for an act committed in the heat of anger.

Now, in conclusion, I congratulate the Government on the introduction of Bill 44. It contains many provisions which will begin to restore the balance in labour relations in Manitoba. However, we need to see this as a necessary first step in an ongoing process. Much more needs to be done. I encourage you to undertake a further review of The Labour Relations Act with a view towards greater equality between workers and their employers, and I thank you.

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

Ms. Barrett: Thank you for your presentation. You have raised some very important issues and issues that have been raised before, but I think what is particularly telling in your presentation–as I have said with others–is the personal experiences that you have shared and the incidents, the concerns that have been raised by workers and by unions about, admittedly, a minority, but by some employers in instances both of picket line activity and union organizing. I appreciate very much those personal statements, because they give the context within which we are attempting to deal with this labour legislation and some of the reasons we are bringing this bill in, in the first place. So I agree with you. I appreciate your input very much.

* (23:10)

Mrs. Smith: Thank you very much, and thank you so much for your presentation. I was wondering, I believe that when we have very important legislation like Bill 44, we have presentations that come forward that explain the pros and the cons of why or why not Bill 44 is very important. Something you said in your presentation, you were talking about employees earning between $7 and $9 an hour, and you were talking about, in particular, a large number of women. I was wondering, in your view, what we need to think about.

We talk a lot about in Bill 44, you know, the unions and the employers, the employees and the employers. Is there a component of education for the employees to enhance their skills? Should this, in your view, be a part of what union can help negotiate with employers to increase the skills so the job market opens up for them, for instance, training in perhaps starting their own business or training in computer skills, things that will enhance lifelong skills? Is that a component that might be useful?

Ms. Dziewit: I am glad you asked that. Our union has a training centre that is on Portage and Arlington. It contains two computer labs of 15 computers each that is open to our members to take various courses. We teach Grade 12. We have Grade 12 upgrading, English as a second language, numeracy and literacy skills. Anyone who knows me knows this is a real soft spot with me, and I could go on for hours. I would encourage you to phone the director of education at UFCW, Graham Dowdell, at 880 Portage Avenue, and he can take you on a tour. That will show you exactly what we are doing in terms of education.

Mr. Schuler: Thank you for your presentation. My question is: In the case where someone on the picket line, an employee, has actually been charged with an act of violence, has been convicted, and I am referring to the Trailmobile case of 1995, do you believe that there is then a case for the employer to terminate the employee where an act of violence took place, the individual was convicted in a court of law?

Ms. Dziewit: I do not believe so. I think there is a double jeopardy there. People pay a horrendous penalty when they go on strike. They pay a horrendous penalty if they are terminated during that strike. Horrendous. I think that it is not appropriate. You cannot play double jeopardy here. If somebody commits a crime, they pay the punishment according to the laws of the land. To then say that they should pay a punishment further to that is wrong.

Mr. Schuler: One supplementary question, and you talk about this being a necessary first step, what do you see as being a necessary second or third step?

Ms. Dziewit: What I see is what I suggested, that there be a complete review of The Labour Relations Act with a view to bringing more balance to the province. The balance in favour of the employers right now is currently far, far exceeding that way to the employees, and I think we need to talk about things like anti-scab legislation, like final offer selection, like ways to minimize and eliminate strikes. Quite frankly, if you really want to eliminate violence on a picket line, you will bring in anti-scab legislation like they did in Québec when there was violence on the picket line.

Mr. Chairperson: Thank you very much, Ms. Dziewit, for your presentation here this evening.

The next presenter on the list is Julie Sheeska. Please come forward. Do you have a written presentation for committee members?

Ms. Julie Sheeska (Private Citizen): No, I do not.

Mr. Chairperson: Then please proceed.

Ms. Sheeska: Hello, my name is Julie Sheeska, and I am in support of Bill 44. I worked at Price Chopper owned by Sobey's Western Division. In April of this year I was terminated for union activity. When I arrived at work on April 3, the manager of the store and a gentleman from Sobey's head office were there to greet me by handing me the termination slip. I asked why I was being terminated, and both of them stated that they did not know and that I was to call head office and speak with Human Resources.

I found that quite bizarre since he was from head office. I questioned them repeatedly as to my termination, even asking them if it was my job performance. My store manager's response was that I was doing a good job. I was very confused because all I was asking for was an answer to my question. I then contacted my union rep at UFCW and an unfair labour practice was filed.

When my fellow workers found out of my dismissal, they, too, asked questions and no consistent answers were given to them. They were left shocked and feared one of them were next. I feel that with Bill 44 in place, it will stop employers from making their own labour laws and practising them.

The week of my dismissal, Price Chopper was more concerned if I had called a certain manager there, whom they assumed was a union organizer, than calming the fears that the employees had of themselves being the next persons to be terminated. This accused manager's phone calls were then mentioned to make sure that I was not trying to contact her. Even though I was terminated from Price Chopper, my determination was even stronger to help locate phone numbers and names for UFCW because I knew that my fellow workers needed me more than ever now. The support of UFCW and the drive that they had to fight for my job was overwhelming.

With Bill 44 in place, it will help stop employers like mine from trying to manipulate voting before the votes take place. Management developed a strategy of getting employees that they knew were anti-union to make "vote no" signs and place them in the back room as well as in the washrooms. Even though management denies any involvement in these signs, the anti-union members used Price Chopper logo signs for their anti-union drive. The anti-union members would pair up and corner other employees, telling them false information on the union and what the union stands for. The anti-union employees were to find out who was opposed to the union and who approved of the union and were to get back to the management with the information. The anti-union employees were also trying to find out who started the union and, for my experience, I was approached by an anti-union employee to try and find out if it was one of the two employees they had suspected.

I also kept in touch with the employees to hear what was happening there. The individuals that I spoke with stated that enough was enough of the harassment that was given to them by the anti-union campaign. They started to rip down the signs and the management told them that they could not take down the signs, and if they wanted they could put up pro-union signs. Of course, who would be comfortable to do that when their eyes are everywhere watching

everyone's move. It was like a hawk watching its prey.

The week of the voting, the anti-union employees of Price Chopper were intimidating the fellow employees to vote no for the union representation of Price Chopper. In conclusion, we, the employees of Price Chopper, as well as the UFCW, are happy to announce that Price Chopper is now unionized, and as well, the unfair labour practice was settled on August 1. I have been reinstated at my present position as assistant meat manager and am being compensated and there is also going to be a letter of apology on the board for seven days stating their unfair labour practice. Thank you.

Mr. Chairperson: Thank you very much, Ms. Sheeska, for your presentation here this evening.

Ms. Barrett: Yes, I appreciate your coming here tonight, and it must have taken a lot of courage to share your story with us, but I want to thank you for doing that because again you have told your own personal story and within your story are at least three reasons why we need good labour legislation in the province of Manitoba to protect the rights of workers to join a union if they so choose, the rights of workers to not be fired for activity that is legal under the legislation and for the rights of workers to be reinstated when management does not follow through on the first two issues. So I appreciate very much your sharing with us your personal story and your having the courage to come here tonight and to do that. It has been very important for us. I am glad that there are many people in the room here tonight who have been able to hear your personal story. I am pleased to say it ended on a positive note, and I am sorry you have had to go through what you did, but your strength shows in your commitment and we are very grateful for that, so thank you very much.

Mrs. Smith: I just want to say I really appreciated your presentation, and I know the lateness of the hour and everything, it took a lot of patience and courage to come up and present. My comment is that in any work situation, I think we are talking about something more than labour legislation. We are talking about interpersonal relationships and people allowing others to be treated in a proper way in a workplace. I know there are many stories in businesses that have embraced employees and employees have become an integral part. It was really good to hear that in the end it did work out, and that is probably largely attributed to your interpersonal skills to overcome that. Thank you.

* (23:20)

Mr. Chairperson: Thank you very much, Ms. Sheeska, for your presentation here this evening.

The next presenter on the list is Donna Favell. Is Ms. Favell in the audience here this evening? Ms. Favell is not with us this evening, so her name will be dropped from the list.

The next presenter on the list is Joy Ducharme. Is Joy Ducharme in the audience this evening? Good evening. Do you have a written presentation for committee members?

Ms. Joy Ducharme (Private Citizen): No, just some notes for myself.

Mr. Chairperson: Then, please proceed. If you could just lift your microphone up a little bit there, please?

Ms. Ducharme: My name is Joy Ducharme. I am not a president of a corporation. I am not a member of the Chamber of Commerce. I have been employed in Winnipeg for the last 20 years. I am a mother of four, I am a wife, and I am currently employed with Marusa Marketing, which is also known as Market U.S.A.

I have come to you today to tell you why Bill 44 is important to me. In April of 1999, I was part of a group of employees who chose to start organizing to become unionized. About a month into organizing, management found out. That is when everything changed. The first thing in the morning announcements, we usually get a good morning, not anymore. We were told no talking on the union, about union on work premises or we would face dismissal. That was done on every morning repeatedly for weeks. When we took our breaks or lunch, it does not matter, management was there, listening to our conversations. Normally they go in their direction; we would go in ours. For those

months, once we started organizing, they were there. The company started handing out written warning sheets to employees like it was candy.

We work for a marketing company. We get monitored every day, but not five times a day, not ten times a day. We were taken into offices and given one-on-one screaming matches. We continued to take it. A fellow employee even dropped his union card that he had signed, and two days later he was fired. This kind of treatment went on for months until it was almost time to vote. Two days before the vote, the supervisor started coming on the floor telling us that we should start looking for other jobs because they were already doing this. So they had us believing that they were doing this as well. If the union comes in, it will close its doors.

We even came in one morning, and we usually get there around seven-thirtyish. It starts at eight. At a quarter to eight, the lights were still off, nobody was there, at ten to eight, which is very uncommon, because if you are familiar with a computer system like an EIS, it has to come up half an hour before the shift. They made us all believe they had closed their doors.

They also, just before the union vote, had one-on-one meetings with the employees, telling us that our union dues would be $80 every two weeks, that the employees, people that work for the union, drive brand-new cars paid by our union dues. They said we at Marusa should be happy that we have jobs, that we should be happy that we have jobs, not them. We are the ones that give them their jobs. We are the ones who market for six straight hours on each shift, and we should be happy that we have jobs.

On the day of the vote, we were all given times when we could vote. Some people that were on a temporary layoff because of a shortage of work on a specific campaign were called back in by the company just to vote. The day after the vote, all of sudden people were being laid off, not in fives, but in thirties. This continued until almost 80 percent of the employees were gone, keeping in mind that at that time there were at least 220 employees. Marusa also has gone through over 3000 employees as of right now today in Winnipeg. I am TSR No. 217. I have been there from the beginning, so I have seen it all.

Keep in mind that the company had closed a lot of votes so they could not be counted. While waiting for hearings to start with Marusa, Marusa also made up a new company policy that if they laid you off, they were not going to rehire you. Now that guaranteed them that anybody that signed a union card was not coming back. They knew better not to lay me off because I was there from the beginning. I am what they call a banger. I can call any program and make them money. They kept me there. They also knew that I was an organizer. They left me alone, but they picked on everybody else until 80 percent were gone.

When the hearings were all done and the votes were counted, we lost. We had 60 percent signed cards when we went for our vote. Only 30 percent of the people, maybe 30, voted yes. This only proves that the scare tactics that came from the employer months before the vote affected the true vote. If Bill 44 was in place, employees could have received automatic certification and not gone through this type of harassment.

In closing, I feel that Bill 44 gives back the rights to join a union without interference from the employer. It is true democracy, and that is what Bill 44 will give us, even at Marusa.

Mr. Chairperson: Thank you very much for your presentation, Ms. Ducharme.

Ms. Barrett: Thank you for again sharing another story of what actually happens in workplaces and what an employer who is not following the rules, the impact it can have on people. I appreciate that very much and applaud your willingness and ability not only to come and share your story but your obvious strength in being able to stick it out there, and I wish you all the best.

Mr. Schuler: Joy, thank you very much for coming out. It takes a lot of courage to sit this late in the day. I do not know if you were here till midnight yesterday to have the opportunity to make your case. Certainly personal experiences are very important for the Committee and

something that helps us when we will be going line item by line item. So thank you very much again for your presentation.

Mr. Chairperson: Thank you very much, Ms. Ducharme. The next presenter this evening is Alice Ennis. Sorry, Mr. Sale, you have a point?

Mr. Sale: Just while the presenter is approaching, I wonder if we might just make an offer to any who are here and have children at home or have to go to work tomorrow morning if they wish to table their presentations with the Committee for our reading that they might be welcome to do so. Not to discourage anybody from staying, but there are those, I am sure, who have to go to work in the morning. So we might make that offer, Mr. Chair.

Mr. Chairperson: Thank you very much, Mr. Sale, for making that point. For any of the presenters that are here with us this evening, if you wish instead of making a presentation to the Committee you wish to present a written presentation, we would accept that and include that with the transcript of this committee proceedings, and that could be presented, I think, to the Clerk at the back of the room.

Sorry for the interruption, Ms. Ennis, please continue.

Ms. Alice Ennis (Private Citizen): Good evening, Mr. Chairman, Madam Minister, members of the standing committee. I stand before you today not representing any unions or any companies, I am just here to speak on behalf of myself.

I have been employed with Maples Garden Market IGA for about three years. Our parent company is Sobey's Western Division. I am just here to tell you about some of the harassment, intimidation, coercion that we have gone through.

We have been threatened, like many other people that you have heard here today, that if we voted yes our company would close down our store and there would be 95 people out of work. That does not sound like a lot when you are only making $7 an hour and getting 10 hours a week but for those of us that is our life's blood. Some of us were passed over for promotion. One of us was passed over for promotion, and the promotion was given to somebody who was just hired. Another member, his promotion was given to somebody who had no idea what the job was about.

This is very dear to me. We work very hard at our store. I am very good friends with almost every single person that I work with. When I see them scared to come in and vote, their democratic right to come in and vote the way you feel, it really, really makes me mad. I work with a lot of kids that have no idea that these companies are just threats. They come in, afraid to do their jobs. They come in, afraid to speak to customers.

Some of our shifts were completely cut out of the work week. Some of our shifts were handed to junior staff members. Now, if those of you that were here last night will recall, Mr. Praznik suggested to Heather Ostop shortening the time between the application for certification and the vote. That is not going to work. Employers start to harass and intimidate people as soon as they find out that you are trying to organize a union. We have been verbally abused by our managers. Right after the union vote was done, they put up cameras all over the store. We cannot sit upstairs in the lunch room on our lunch break and discuss anything that is not business. We have found recording devices in our departments. I like to go to work and be able to speak to these kids about what they are doing on the weekend to cut the animosity or the monotony that goes on in there. We are their captive audience for eight hours a day. There is no way that anybody is going to give us a level playing field. We are there eight hours a day. They have got us. They can tell us anything they want.

* (23:30)

We are hoping that Bill 44 will give employees just a little bit of power. We do not want to take anything away from the employer. It is their business. All we ask for is just a little bit of respect. I hear a lot of people talking about bargaining in good faith. I wish my company would do that. We have been sitting for almost a year now with a mediator, right from the start.

They have cancelled almost every second meeting. I have employees coming to me, asking me: What is going on? What are we doing? What is going to happen? We are mad at the union. We are mad at the company. What are we going to do?

I have no answers for them. Unfortunately, I have none. I would love to say: We are there. We are finished. Everything is going to be perfect. But I cannot. Because they refuse to bargain in good faith. I hope that you people will take this into consideration and pass this bill. We need it. It will show the employees that you are there to support them. They are the people that vote for you. The majority. Thank you.

Mr. Chairperson: Thank you very much, Ms. Ennis, for your presentation this evening.

Ms. Barrett: Thank you again for your personal experiences. You spoke about wanting respect and a level playing field, and not wanting more than is your due as employees. Hopefully, Bill 44, our intention is to enable that process to be expedited, particularly in situations, which it sounds like yours may be, where there is not a level playing field, and there is not the element of respect that needs to be there. That is our goal with Bill 44, or begin the process. So we hope that we are on the same wave length with you. We hope that that is the outcome of this.

Mrs. Smith: I want to thank you again for coming. I noticed you were here last night as well. I really encourage you to take heart. I know that you have gone through difficult situations. Again I do not think that the labour bill is the only answer. I think we have to look at problem solving, interpersonal relationships at the workplace. We have heard a number of presentations, as I said before, and I do not like the idea–what I hear in your presentation is you are not anti-employer. You want to have the respect, and I do not think respect can be legislated. I think we have to go back into an educational component, and maybe we need to change our paradigms and think outside the dots. Maybe it has to happen as early as youngsters who go to school in terms of working in the real world in the workforce. I just wanted to say thank you for your presentation. I thought it was very heartfelt and very meaningful.

Ms. Ennis: Just to point out, I do not think that you need to re-educate the employees. It is the employer. You have to start showing them that people are not animals. We are not there just to make them a quick dollar. We would like a little bit. We know we make them the money. We are on the front lines. We are the foot soldiers. We are the reason people come back, and we just want that little bit.

Mr. Chairperson: Thank you very much for your presentation here this evening.

The next presenter on our list here this evening is Kelly Gaspur. Good evening, Ms. Gaspur. Do you have a written presentation for the committee members?

Ms. Kelly Gaspur (Private Citizen): No.

Mr. Chairperson: Then please proceed.

Ms. Gaspur: Good evening, ladies and gentlemen. I stand before you in support of Bill 44. I have been a union organizer for the past five years. What I bring before you is to share with you my experiences. We do not solicit employees. They come to us to find representation. We go to meet with the people in their own homes. We feel it is most beneficial to meet with them in their own environment. It seems to help them with their fear of being found out. We explain to them that they cannot be fired for any union involvement. In my experience, this is very difficult. You have heard what the other women have said. We are there to try to tell them you cannot be fired for union activity. It is the law. They are being fired, and they are coming to us for protection. These people are terrified of what the employers will do to them when they find out.

The perfect scenario for an organizer is to get the card signed as quickly as possible, the mentality of get in and get out as quickly as we can because this way the intimidation will not start until application is made. If the employer does not find out as quickly, the intimidation is not there. The gentleman kept saying last night if we shorten the time of the vote–well, that cannot be done. The intimidation is already there. If the employer has not found out before the application is made, they find out when the

application is made and it is begun. Like Alice said, it lessens the length of the intimidation by the employer. Every campaign I have been involved in, so be it retail, grocery, warehouse, clothing, industrial, music instruments, you name it, it is all the same. They threaten the employees with, and I quote: If a union gets in, we will either shut down the company or we will move it.

If that is not intimidation, I do not know what is. My reality as an organizer is the people are terrified. They want a better work environment or whatever the case may be. Every organizing drive is unique in that you think you have heard every horror story out there, but you know that you have not because they come with a different story. We were working on one drive in particular. The employees were sharing with me that one of their supervisors would carry a stick around and if they were not working as fast as she thought they should, she would hit them across the shoulders with the stick.

This is Canada. We are not a Third World country, and this is what is going on. It is not one employee saying it; it is all of them saying it. I am sitting there listening, as a middle-class private citizen, thinking this cannot be happening. It is. The homes we go into–I invite you to come on an organizing drive, and you will see how these people live. They are making minimum wage. They are barely making it. It is incredible. Ten people are living in an apartment, and that is no lie. I bring to this hearing my experiences and what I have seen.

It has been my experience that it can never be a fair vote because the employer has the intimidation. It has already begun. So to me it cannot be a fair vote. That is why I am in support of Bill 44. Thank you.

Mr. Chairperson: Thank you very much for your presentation here this evening, Ms. Gaspur.

Ms. Barrett: Thank you again for sharing some of your stories and by extension some of the stories of the people that you are working with when you are doing your organizing drives. I am disheartened by the words that I am hearing of intimidation and threats. I think we all want to believe that the workplace is a safe place, not only safe in the traditional view of the word "safe," but is also a place where legal activity can take place. As you have said, it is legal for workers to be encouraged to make decisions about joining a union. So it is discouraging. It must be very hard for you on many occasions.

Again, as I have said earlier, we are trying with Bill 44 to change that context in the areas where it needs to be changed. I am not saying that all employers are bad employers, and I am sure you are not either, or intimidating or this kind of thing, but in those instances where it is, we do need to ensure that people's rights are met and that you can do your very important legal work without fear of intimidation on the part of either yourself or the people you are working with. Thank you very much for sharing your story. Good luck.

* (23:40)

Mr. Chairperson: Thank you very much, Ms. Gaspur, for your presentation here this evening.

Ms. Gaspur: Thank you.

Mr. Chairperson: The next presenter we have on our list is Colin Trigwell. Is Colin Trigwell in the audience? Good evening, Mr. Trigwell. Do you have a written presentation for committee members?

Mr. Colin Trigwell (Private Citizen): No, I do not.

Mr. Chairperson: Please proceed, sir.

Mr. Trigwell: I am a union organizer for 30 years, 17 of which have been in Manitoba. I can tell you the real facts, the real life, and not a fictional or fairy tale world. The fact of the matter is unions, I have heard today, the big, big unions–I am big. I am an organizer and I am big, but I do not intimidate anybody. In 30 years of organizing, I have never and my union that I have worked for has never been charged with coercion, intimidation, or fraud. Not once.

If you look at the Labour Board statistics you will find that employers are continually being charged with unfair labour practices during an organizing drive--continually. The fact

is, you are right. We have legislation under The Manitoba Labour Relations Act that does protect workers. It says that they have a free right to join a union if they choose. That is absolutely correct, but there has not been one campaign that I have been in, and I have been in many, that the employer has not committed or intimidated in some fashion, some far worse than others.

The fact of the matter is and the real truth of the story is management and companies do not want unions in them. The companies that are not organized out there do not want a union. They do not. And in comes the union. And what do they do? They react, and they react in many different ways. One of our presentations that we make, and I want to make it clear, we do go house to house so that they feel comfortable in the presentation. We do not go near the place of work, because if we talked to somebody during the place of work, usually management is looking out the window. I do not want to put that person in that kind of a position. So we will go.

When we have employees that are 18 and under, and there are quite a few now that are 18 and under in part-time jobs, we will not talk to them unless their parents are with them. We want to give a story, we want them to be informed of what it is all about. If I promised them a wage increase or if I promised them a pension plan or if I promised them benefits, I would be charged for coercion. We have never been charged, and what I am saying here is what do I do to this person when I say to them, when I go to their homes and I say: Look the union is supporting you. The Labour Relations Act supports you. You have a free, democratic right to join a union, free from intimidation from me and free from intimidation from the company. Your wages are protected during this period of an organizing drive. Your benefits are protected during this period of an organizing drive, and your hours are protected during this period of an organizing drive.

Now the employer comes and they say to part-time workers–which some of them are working in three different jobs and need that job because you got $7 an hour, and I would like to see people in this room, including me, live on $7 an hour. I know I could not do it. It would be damn hard. They go, and we tell them that the company cannot do this to you, and The Labour Relations Act protects you to do that, and what do they do? The first intimidation factor would be: Well, if the union comes in, we are going to hire more employees, and if we hire more employees, that means that you are going to get less hours. What do you think that does to a person who is just about ready to go to vote for a union? Afterwards, I told them they cannot do that.

So The Labour Relations Act is correct and it is good. I have no problem with the rights that an employee has to join a union, free of intimidation, but what happens? Do we file an unfair labour practice on that? Where do we go? Under the Manitoba Labour Board, the fact of the matter is there have probably been four automatic certifications, and I believe all four of them are ours. There have not been many, and that is going over 20 years. There are very few automatic certifications.

What they say is: You may post a bulletin and have another vote. The fear is gone. Where is the democratic right for those employees to vote when they have already been intimidated? They have got the fear. Can I pay their paycheques? No.

What do I do about Julie Sheeska whom I promised she could not get fired for union activity who gets fired for union activity and it takes five months before its reinstatement? Who is going to pay her rent? Me? No. And the employer, it is a cheap way to beat off a union if all I have to do is pay $5,000 in retroactive pay after the organizing drive is complete. What do I do? Pay the employee back $5,000, reinstate her back to her employment. It is cheap to beat off a union. What about the five months that she has suffered because she cannot collect UIC because she has been terminated? What protection is that? That is the real world.

There has not been an organizing drive that I have been on that has been without any intimidation. Not one. It is a matter of what amounts. It is the bigger amounts that we fight and we take to the Labour Board, but we could file unfair labour practices continually on every organizing drive. I was here last night. I had a vote last night. We will be filing unfair labour

practices on Birds Hill IGA because the manager went around to every employee on the Sunday, the day before the vote, and told them that they are going to be losing their hours if the union comes in. That is the day before the vote. We did not have a chance to get back at it because we are not allowed to campaign on the day of the vote.

Tell me that this is a fair system. I just want it fair. I mean, there are good employers out there, and I have no problem with good employers. There are fair employers. Even the fair employers, when it comes to organizing, commit an unfair labour practice to what level is the level that we talk about. There is never going to be a fair vote situation. It is easy for the Opposition and management to say grab the grass roots and say, well, what is more better than a democratic vote. Let the employees vote. I agree, if we had a balanced field and the employer did not commit these things and the employer did not threaten employees who join a union, I would agree 100 percent, but that is not the real world. That is not the real world.

I challenge this committee to look at the Labour Board statistics in regard to unfair labour practices, in regard to the degree of unfair labour practices, and look at the other one where the unions have been charged with coercion, fraud and intimidation. I challenge you to look at that, because we have not. I am not sure of any other union that has. You may find one or two, but I doubt very much there are many. Look at the unfair labour practices during an organizing drive.

I spend half my time at the Labour Board. I just spent 21 days at the Labour Board for Marusa, 21 days at the Labour Board in hearings, lawyers' fees, to protect workers' rights. I mean that is the kind of stuff that we are dealing with. Every unfair labour practice, it takes almost five days, almost five days to do the investigation and to go before the Board. We used to go and the Labour Board used to set dates of two days, two days and when. Then we get two days set, we cannot finish because the company is not ready, does not have its witnesses there. Then we wait another month to get another two days. What do we do with the Julies who are looking for money for rent, and Julie is only one?

* (23:50)

At Faroex we had four employees fired. Two days before the vote, a big moving van comes up in front of the lunchroom. They waited until twelve o'clock in the afternoon when every employee was having their lunch and they decided to move out machinery because they said to them Flyer–they do business with Flyer and some company in Québec–if they unionize, the company will pull our contracts away. So what do they do? They load up all this stuff. We had a smart person there who decided to take off for lunch and follow the truck. It went to a warehouse in Stonewall. The day after the vote, the van came back and put it right back into place. Those are facts. That is the real world. That is not a fairy tale world. That is the real world, what organizing is all about.

We had them take a captive audience meeting. They booked everybody off of work at twelve o'clock, paid them for four hours, took them to a rec centre, gave them pop, told them that if the union comes in, they are gone. They are going to be gone because they are going to lose their contracts. We had one employee who phoned me after that meeting and says: Is that true? I say: No, it cannot be true. Flyer is organized. The company in Québec is organized. They deal with unions all the time. I do not believe that that is true.

The person did not believe me. He phoned the president of each company to say, if the union came in, would we lose our contracts. The president did not answer and got back. He got back to the owner of the company, and the guy got fired because he phoned those two presidents. This Labour Board did not reinstate him, did not reinstate him and would not do that, and that was the issue. That is what he was terminated for because he phoned because he wanted to know. He wanted to know for sure, before he voted, what was going to happen. That is the stuff that is going on in organizing. That is the real world. We have employers talking here about: Jesus, the Government has gone, the balance of power has gone this way to the workers. I see that in the press. It will never be

that way to the workers ever because they have captive audiences for eight hours a day and the intimidation factor is there. They are the ones that pay the paycheques; we do not. That intimidation is going to be there.

The issue of 65 percent, has anybody looked at the Labour Board statistics on that 65 percent? Let me tell you I am willing to bet right now that less than 10 percent of all applications made by the unions, with unit size of more than 15, is under 10 percent. We are here for two nights until twelve o'clock because this is a big fiasco. The employers are making this a big fiasco, but less than 10 percent of all applications in unit sizes that are 15 percent or more is with 65 percent. I do not think it goes far enough. I do not think that Bill 44 goes far enough, but I stand here to support Bill 44. At least it is somewhere.

Let us talk about violence on the picket line. I have been on several, and I know my friend is going to ask me, if somebody gets convicted or charged, do I support that he should be reinstated? Let me answer that question right off the bat. Yes, I do. The reason I do is because what strikes have created to good law-abiding citizens, to good community people who have never had an ounce of trouble before. When you see scabs cross the picket line and take your job, and you have been on the picket line for four months, tempers fly and you do make a mistake. It would be the first time that he has ever done. He has got no record of violence, and he has a family. He would go to church. They coach the hockey team. That is the type of thing that he gets upset about. You know, in one flare, he could be terminated for and lose his job. That is why I say he should be employed. These are good, law-abiding citizens. I am sure we all make a mistake, and we have all been in that position of making a mistake. I do not say on a picket line because if you were on a picket line, you would understand why this legislation is so important when you see your livelihood being taken by a scab.

That is my submission.

Mr. Chairperson: Thank you very much, Mr. Trigwell, for your presentation here this evening.

Ms. Barrett: Thank you for, again, your many, many years experiences. You have raised again some examples that are disturbing and that need to be addressed and some issues that we need to look at. You have raised some very good points..

You said you supported Bill 44. Do you think it begins the process of rebalancing?

Mr. Trigwell: Yes, I believe it is a start, and it is a start in the right direction, but labour relations will never be a balance; we will always have an uphill battle. Do you know what? I do not want legislation to worry about unions or companies, but worry about the constituents, the workers, because those are the ones that have to be protected.

If you truly believe in The Labour Relations Act that says you should be able to have the right to join a union free of intimidation, free of harassment by both the unions and the company, then support those. Think about those people and find out real stories because you are not getting them. Find out the real stories from the workers; go see them. You know who has been applied for; the Labour Board has it. You know what is happening. Check with them because those are the people you have to look after. Unions will look after ourselves, and I am sure the companies can look after themselves, but make sure that those employees are protected.

Mr. Schuler: Colin, thank you for your presentation, and thank you for answering all my questions ahead of time. I have no questions left.

Mr. Chairperson: Thank you, Mr. Trigwell, for your presentation here this evening. The next presenter on our list here this evening is Larry McIntosh. Is Mr. McIntosh in the audience? Good evening, Mr. McIntosh. Do you have a written presentation for our committee members?

Mr. Larry McIntosh (Private Citizen): Mr. Chairman, if I could address the Committee for one minute first. I am very conscious of the fact that some of our presenters here tonight may have pressing commitments, that they may be forced to leave without presenting their presentations tonight. I am suggesting that my

name be put to the bottom of the list, that they have a chance to get their voices in.

Mr. Chairperson: Is it the will of the Committee? *[Agreed]* Okay. Thank you, Mr. McIntosh. We have next on our list Mr. Graham Starmer. Mr. Starmer, are you in the audience? Please come forward, sir. Do you have a written presentation for our committee members? Thank you, sir. When you are ready, Mr. Starmer, please proceed.

Mr. Graham Starmer (Coalition of Manitoba Businesses): Thank you for hearing my representation today.

The Coalition of Manitoba Businesses is the first of its kind in Manitoba. It brings together over 16 000 employers from across Manitoba, employing many, many, many thousands of workers. Its membership includes the Canadian Chamber of Commerce, the Canadian Council of Grocery Distributors, the Canadian Federation of Independent Businesses, the Canadian Federation of Independent Grocers, the Canadian Restaurant and Foodservices Association, the Manitoba Chambers of Commerce, the Manitoba Community Newspapers Association, the Manitoba Home Builders Association, the Manitoba Hotel Association, the Manitoba Motor Dealers Association, the Manitoba Restaurant Association, the Manitoba Trucking Association, the Merit Contractors Association of Manitoba, and the Retail Council of Canada.

One thing and one thing only caused this historic partnership: Bill 44. The mere existence of the Coalition should send out a strong message that business in Manitoba is very concerned about the effect Bill 44 will have on our economy.

* (24:00)

Specifically, the Coalition has three major concerns about Bill 44: (1) automatic certification if 65 percent of the employees sign union cards; (2) impose collective agreement after a strike or lockout of 60 days; (3) employee misconduct related to strike or lockout.

We will now outline our concerns related to each of these issues. One, automatic certification if 65 percent of employees sign union cards. Currently the legislation provides for a secret ballot vote on every application for certification where 40 percent of the employees have signed union cards. The proposed changes would provide for automatic union certification without a secret ballot vote if 65 percent or more of the employees in the bargaining unit sign union cards.

The Coalition is opposed to this change, as it would defeat the principles of democracy. There is no proof that a secret ballot vote is unfair to either employees or unions. In fact, a secret ballot vote is the fairest way to determine if a majority of employees in a proposed bargaining unit are in favour of the union. There are situations in which employees are pressured to sign cards either by union representatives or fellow employees. A secret ballot vote is free from pressure or coercion and allows employees to exercise their free choice from pressure or intimidation from anyone.

In addition, a secret ballot conducted by the Labour Board ensures that all of the employees are aware of the union's application and can exercise their right to choose to vote for the union or not. If the secret ballot vote is taken away, there is no guarantee that all of the employees will be given the opportunity to exercise their right to choose to belong to a union. This can lead to a situation where the union could get certified, and fully a third of the bargaining unit might not even know that the union was attempting to be certified. This is inherently unfair. The fact is that union certifications in Manitoba have not decreased since the secret ballot vote became law. This is proof that the current system is balanced, and the Government ought not to interfere with the process. The coalition is also of the view that if the certification is ultimately determined by a secret ballot vote, the results are more readily accepted by all the concerned parties, even employers. If the employer knows that the employees are given an opportunity for expressing their views on unionization free from interference, and a majority vote in favour of unionization, then that is the true wish of the employees. There is an inherent credibility in a secret ballot vote.

The argument that the current system increases the chances for unfair labour practices by employers prior to the vote is not supported by reality. The vote happens within seven days, which limits the opportunity for unfair labour practices to occur. We would call this the "quick-vote process," which I think has been suggested by a number of academics specializing in union matters. The facts are that there are few unfair labour practice complaints, which proceed to a hearing. The majority are dropped when the results of the vote become known. Most importantly, if employers do commit unfair labour practices, the Labour Board can order automatic certification if the true wishes of the employees cannot be ascertained because they are tainted by the actions of the employer. This is the ultimate safeguard to ensure that the employers do not commit unfair labour practices and that the employees are permitted to exercise their choice.

The amendment proposed by the Government is unnecessary and undemocratic. The Coalition takes the view that this change would deter investment in Manitoba, particularly since two of the provinces that we compete with for business, Alberta and Ontario, do not permit automatic certification without a vote.

Two, imposed collective agreement after strike or lockout of 60 days. The proposed legislation allows either the union or the employer to apply to the Manitoba Labour Board to settle the terms of a renewal collective agreement between parties, after 60 days have passed since the start of a strike or lockout. To be permitted, the application would have to be approved by a majority of the employees in the bargaining unit. The strike or lockout would end, and the employees would return to work pending the imposition of a collective agreement. The parties can also agree to have the terms of the renewal collective agreement settled by an arbitrator.

There is no similar provision in the current Labour Relations Act, and no similar provision anywhere in North America. This proposed change is of serious concern to the business community. It is a concern to existing unionized employers and to employers considering investing in Manitoba. This provision would change the fundamentals of collective bargaining in Manitoba. It provides a unilateral advantage to unions and employees in bargaining. In effect it allows unions to frustrate bargaining and prolong disputes by taking unreasonable positions, knowing there is always the option of an imposed agreement by the Labour Board. There is no corresponding unilateral option for the employer.

Under the current system, both parties are motivated to achieve agreement. Both sides face economic risk if they are unable to achieve an agreement. It is also logical that a negotiated agreement will enhance labour relations, because it is an agreement which the parties can live with. An imposed agreement will always connote that one party won and the other one lost. This is not the way to foster harmonious labour relations in Manitoba. This is not the way to attract new business to Manitoba. By giving a unilateral advantage to unions at the bargaining table, employers may be strongly motivated to locate to more favourable jurisdictions. There is no other jurisdiction which has similar legislation. So this means employers have unlimited options as to where to relocate.

I have already explained to the Minister the due diligence process prospective companies go through before locating in Manitoba. She should take that seriously. Similarly, legislation such as this will be a serious detriment to businesses locating in Manitoba. What possible motivation could there be in attracting employers if they know that they are entering an unlevel playing field? Why would an employer not choose any other province in Canada to avoid the potential outcome of this provision?

The Coalition is concerned with the real possibility of Manitoba becoming the home of the 60-day strike. The current system works and the potential change is simply not viable from a business perspective. Ultimately, if businesses do not feel that Manitoba is a good place to do business, that will hurt everyone. It will hurt employers, unions, and more importantly, employees. Manitoba currently has a positive labour environment. This government should not pass legislation which drives businesses away and deters businesses from coming to Manitoba. We are aware of a possible amendment that may

take away employees' ability to opt out of binding arbitration. While the amendment removes the imbalance of only allowing one side to opt out, it does not address the fundamental problems with the proposed legislation as discussed above. Accordingly, the Coalition cannot support this clause, even as amended.

Three, employee misconduct related to strike or lockout. The proposed legislation restricts the employer's ability to refuse to reinstate employees for misconduct committed in relation to a strike or lockout no matter how severe. A similar provision was repealed in 1996. This is a very real issue for Manitobans. We are all concerned about safety, and the Government's proposed legislation could condone behaviour on the picket line which is potentially harmful to employees and members of the public. The Coalition is of the view that this amendment is contrary to public interest and common sense. There is no reason for this proposed change. The Government seems to be suggesting that employees lose all common sense of reason and decorum when they are on strike and that this should be condoned. On the contrary, the Coalition takes the view that employees should be accountable for their actions at all times, even during a strike. This is just common sense.

* (00:10)

We have seen the negative results of this type of legislation in the past in a well-known case of the Trainmobile and CAW. Does the Government want to encourage illegal misconduct on the picket line? Whose interest will be served by such an amendment? It certainly would not be in the interest of the business community or the public. Some union leaders would view this as double jeopardy. How would you view a thief stealing from an employer during a strike? Would you have to hire him back so he could be a thief again?

Once again, there is no rationale for this change, and in fact history has shown us that this provision is extremely dangerous. While we have not had a chance to review in any detail any proposed amendment relating to this section, we would be inclined to endorse any amendment that entrenches an employer's ability to terminate an employee that engages in criminal or other similarly serious misconduct during a strike.

In conclusion, many businesses in the province have worked very hard to make Manitoba a better place to live. We are not a lunatic fringe. Frequently, we are the people who pay the salaries. We, in the majority of cases, work in harmony with the employees, in many cases union employees. We are shocked that this government would put to risk Manitoba and its future. We continually have asked ourselves why. Why put forward this type of legislation when partnerships are being formed? Why inflame old animosities? Why convene a process which is flawed?

The current legislation is working. Unemployment is at a record low, investment is strong. Why do anything to upset the balance and tamper with a system that is working?

I would suggest that you withdraw Bill 44. I might point out that I am as concerned as other persons at some of the situations that have been described here today. We are concerned of some of the perhaps mistakes or ill-advised actions of some employers, but this is unrelated to the provisions that are before us in Bill 44, so I would suggest that you remove Bill 44. Thank you.

Mr. Chairperson: Thank you very much, Mr. Starmer, for your presentation here this evening.

Mr. Schuler: Mr. Starmer, thank you very much for your presentation. I was wondering if you would like to just briefly comment to the Committee your feelings about the whole labour-management relation that now exists in Manitoba and, if possible, a little bit on the process. How do you feel the process with Bill 44, how it went through the system? Again, how do you feel that this–what kind of shape is the whole labour-management relationship in right now, seeing as we have heard an awful lot in the last weeks in regard to the different sides and the stands they have been taking?

Mr. Starmer: When the new government came to power, we were very favourably impressed with some of the issues that they were undertaking and proceeding with. When the

Government started for the first time in many years the summit, we felt that they were continuing along the path of sort of a renewed position as to previous historical bases that they have originated from. When we started this process, we felt that there was a good opportunity to really develop better labour-management relations to such an extent that there were many opportunities where labour and management could come together, and in fact this government was encouraging that.

We were really shocked when the new legislation came forward, particularly of one aspect of the Bill that did not go through the normal process that it would normally have done by going through LMRC. So we felt that this was inappropriate. We still believe that is inappropriate. We feel that there is an opportunity for the Government, especially in view of some of the comments here tonight, to withdraw Bill 44, and let us reset, rethink and perhaps look at a better way of putting forward some legislation.

Mr. Jim Rondeau (Assiniboia): I would like to thank you very much for your presentation. It was very informative. I just have two quick questions. The first one is you spoke on picket line violence, and I am also concerned about the violence and things like that. You were concerned about the violence that the union would create, and you did not believe that the law of the land was appropriate. What would happen, in your estimation, if management were convicted of doing some unfair, illegal or improper activities? Should that be taken to a different way, or should there be a separate system for that?

The second question was that you were very concerned about democracy and the fact that the democratic vote would be important. Currently, the unions cannot even get a vote until it reaches a 40% threshold. There are also rules, like the union does not have freedom of speech, freedom of access, does not have freedom to advertise and things like this. With your consideration of freedoms and the true belief in democracy, what changes do you think should be happening to allow true democracy in this process?

Mr. Starmer: Related to the employer, I think you will find that if an employer, be it a manager, committed an illegal act on the picket line, I think you would find very quickly that the management would deal with that quite harshly. I do not know of a case where that has occurred. If it has, please let me know, and I would certainly love to know that. Most of the cases that we have come across are related to the employees on the picket line overstepping or conducting illegal acts. That is what concerns. We are not concerned with the shouting and the rhetoric. I believe that any good employer feels that that is part of the process. What we are concerned about is illegal acts.

We looked at every viable way that we could turn upside down related to the 65% clause. We could not find a better process than currently exists. The 65 percent has to be accepted by employer and employees a secret ballot. It happens with the 40 to 65 so why not continue with the 65 percent.

Mr. Chairperson: Thank you very much for your presentation here, Mr. Starmer. Time has expired for questions. The next presenter on our list this evening is Jerry Roxas. I hope that I pronounced that correctly. Roxas. Sorry for my mispronunciation. Do you have a written presentation for committee members?

Mr. Gerry Roxas (Communications Energy and Paper Workers Union of Canada, Local 830): Yes, I do.

Mr. Chairperson: Please proceed when you are ready, sir.

Mr. Roxas: First of all, I would like to thank you, Madam Minister, committee members, for giving me this chance to be heard.

My name is Gerry Roxas. I work at a local manufacturing plant as a machine operator. I have worked for my employer since 1986. In November 1995, my fellow workers and I signed membership cards to show our intent to be represented by a union. More than 65 percent of the workers signed cards. As the normal practice, our employer took issues with the description of the bargaining unit, and we received notice from the Labour Board that a hearing was scheduled for January 5, 1996. On December 21, 1995, four days before Christmas,

my employer fired eight people, including myself, who, they believed, were involved in organizing the union. You cannot imagine the fear my family and I had. I had just lost my job because I exercised my democratic right to be represented by a union. Merry Christmas.

On January 16, 1996, the Labour Board issued an interim order and certified the Communications Energy and Paper Workers Union to represent us. Thank God we had more than 65 percent of the workers sign the cards, so we were automatically certified. Had we tried just one year later and had to endure a second vote, we may never have survived the intimidation tactics of the company. Why in our democratic society do workers have to endure being fired for wanting a union? You will say they do not and there are laws to prevent this. Yes, ultimately the company was found guilty of unfair labour practice, and we all received our jobs back some several months later.

* (00:20)

I need for this Legislature to understand, when eight of your fellow workers get fired for just thinking of a union, you thought things were bad before, you would think twice the next time you voted because you might be next.

We live in a democratic society, and it is up to the Government to ensure that the laws are in place to balance the power in that society or you no longer have a democratic society. There are no unions in countries that are under dictatorship or communism. Unions are the cornerstones in any democracy. They are, after all, the voice of the workers. A country that implements laws to weaken unions and muffle the voice of working people is on a slippery slope. The same is true in our small society in the workplace. If you place barriers preventing or hindering the right to organize a union, you are assisting the employer to wield all the power and it would be no different than it was during the master-servant era.

I applaud this government for recognizing that the balance of power has been tipped in favour of the employer for the last four years, and Bill 44 only restores the law to 1947 standards. It is better than the 1847 standards that we have today. I look forward to when the law reflects the year 2000. Bill 44 is a good start. Thank you.

Mr. Chairperson: Thank you very much, Mr. Roxas, for your presentation here this evening.

Ms. Barrett: Thank you again. I appreciate your personal story. Others have mentioned this, but I was struck by what you said and a comment that you said your fellow workers were fired and the timing was disgusting, but that aside, you got your jobs back ultimately and okay, so what is the beef? I think what you have made very clear here, and what has come clear to me is that the company was convicted of an unfair labour practice, but you are the ones who paid the penalty by not having your jobs. You were found to be in the clear, you were not the problem, and yet you are the ones that were without work, that were unable to have EI, that were penalized for the unfair labour practices of the employer.

We recognize, and I recognize that we are not at the year 2000 in our labour legislation at this point, and I hope that it will not be 50 years from now before we get there, but we are making the attempt in Bill 44 to begin redressing that balance. I appreciate your support and thank you very much for sharing your story.

Mr. Chairperson: Thank you very much, Mr. Roxas, for your presentation here this evening.

The next presenter we have on the list is Dale Paterson. Is Mr. Paterson in the audience? Mr. Paterson, do you have a written presentation for committee members?

Mr. Dale Paterson (Canadian Auto Workers): I certainly do.

Mr. Chairperson: Thank you, sir. When you are ready, you may proceed.

Mr. Paterson: Thank you, Mr. Chairperson, Madam Minister, members of the Legislative Assembly, the staff and those in attendance this evening.

The National Automobile, Aerospace, Transportation and General Workers of Canada, CAW-Canada is pleased to have this opportunity

to present our views to this legislative committee studying Bill 44, The Labour Relations Amendments Act.

CAW-Canada is the largest private-sector union in the country with approximately 240 000 members employed in every major sector of the economy. Since becoming an autonomous Canadian union in 1985, CAW-Canada has almost doubled its size through new organizing and mergers with other unions. Although 35 percent of our membership continues to be based in automobile and auto parts manufacturing, our union includes members in airline and rail transportation, fisheries, mining, trucking, aerospace, the hospitality industry, retail establishments and more recently service workers in hospitals and the private sector health care field. We are also one of the most diverse unions in Canada in terms of both the gender and ethnic mix of our membership. In Manitoba, CAW-Canada represents approximately 11 000 workers, including members in some of Manitoba's largest employers, such as Bristol, Boeing, New Flyer, Versatile, University of Manitoba, Willmar Windows, Radisson Downtown Hotel, Hotel Fort Garry, Reliance Products, Technical Products International, and many others. In total, there are over 60 employers that the CAW represents in this province.

Bill 44, a big disappointment for working people. CAW-Canada views the NDP's Labour Relations Act amendments as a major disappointment. It is a weak commitment to improving the economic and social position of working people in the province. Right-wing governments in Canada, including the former Manitoba government, led by Gary Filmon, are not the least bit hesitant to dismantle longstanding labour law protections and to signal to employers that they can and should oppose unions and fight to maintain a union-free environment. CAW-Canada expects that when the NDP forms a government, it should be proposing policies and legislation which clearly advance the struggle of working people and their families. Bill 44 in our estimation falls short of doing that.

For CAW-Canada, the issue is not so much what is in Bill 44, but what is missing. Where are the anti-scab provisions? What is in the Bill that addresses the needs of women workers whose presence in the paid labour force continues to increase? How does Bill 44 assist part-time, temporary and casual workers gain access to the protections of The Labour Relations Act? Does anything in Bill 44 lower the barriers to unionization in the private service sector? In our view, the answers to these questions is either a straight nothing, or very little.

If the NDP is to remain relevant, it must have the courage to advance policies which will set a new tone to the political debate in this country. Along with defending our social programs, expanding the reach of our public education system, improving on health care and exposing the treachery of the mindless tax cutters, the NDP must be committed to labour legislation which will offer real assistance to workers to protect their interests against the ravages of global capitalization.

Anti-scab provisions have been a cornerstone of Québec's labour legislation for over two decades. Most observers would agree that these provisions have contributed to the stability and rationality of Québec's labour relations climate. Capital continues to invest in the Québec economy. Witness their recent announcement, and I say recent as of a couple of days ago, of Bombardier, that will build a new aerospace factory outside Montreal. Those were approximately 4000 new jobs in that sector in a province that has anti-scab legislation. Yet it appears that anti-scab legislation is nowhere on the agenda for Manitoba's NDP. In our view, it should be front and centre in Bill 44.

Similarly, the labour movement has been pointing out for years that the current structure of labour relations legislation, based as it is on the Wagner Act of 1930, does not fit the mold of present day workplaces. The Wagner Act, with its plant-by-plant model for certification and a distinct collective agreement for each bargaining unit, was designed primarily to meet the needs of workers in large-scale factory production. It was not designed for workers in small workplaces or in the service and retail sectors of the economy, many of whom are in part-time or casual employment. You heard some of those people

speak today. Only with some form of sectoral bargaining can workers in these situations acquire the bargaining strength that would put them in a comparable position to workers in large-scale production. It is our view that the NDP should be championing such reforms. Yet again there is no mention of them in the Bill 44 amendments.

CAW-Canada supports what is in Bill 44, although on some items we think the Bill has not gone far enough. Our main criticism is that the Government has not taken the opportunity provided by Bill 44 to propose labour law amendments that would make significant improvements in the ability of unions to organize and represent workers in Manitoba's workplaces.

Automatic certification. CAW-Canada welcomes the direction of Bill 44, which puts an end to the philosophy of Conservative governments that certification should only be granted after majority approval for the union in a secret-ballot vote, but we are dismayed that the amendments will require a union to sign up 65 percent of the bargaining unit before certification is granted. This is indeed a hollow victory for workers. Its hollowness is illustrated in the Minister's defence of the proposal, which was noted in a *Free Press* article aimed at the critics in the business community that since 1996 unions have won every vote when they applied with a 65% sign-up. If with a 65% sign-up we would win the vote anyway, there is no major benefit in having automatic certification. Thanks for nothing would seem to be the appropriate response from the labour movement.

As expected, certain sectors of the business community are making loud noises that certification without a vote undermines a basic democratic principle. Nothing could be further from the truth. Union organizing campaigns cannot be compared with electoral campaigns. Employers have tremendous built-in advantages which enable them to influence a certification vote. Again, we have the evidence today brought forward by a number of private citizens that rings so true with those campaigns and what can happen during those processes.

* (00:30)

They routinely employ a cluster of anti-union strategies which augment their inherent power advantage in the workplace. They hire professional union-busting consultants, hold captive audience meetings, mail anti-union messages to workers' homes. They make promises, sometimes to improve wages or get rid of poor supervisors. More often they circulate rumours that the workplace may close or jobs will be contracted out. It is not uncommon for them to resort to direct attacks on union activists. Unions have few effective tools to counter these employer tactics. Unfair labour practices complaints are too costly and time consuming to be of use in most situations. That is why in labour circles, certification votes are often referred to as, quote, the graveyard of workers' dreams.

So let us be clear. The reason employers want votes is because they know they can win a high percentage of them. They are not really concerned about defending democratic rights. They want to prevent their employees from joining a union. Indeed, if democracy were the issue, one could point out that the very least unions do is bring a modicum of democracy into the workplace, where workers achieve a collective voice and legal protections within which to negotiate wages and working conditions.

From this perspective, if democracy was the issue, employers would never engage in anti-union campaigns. I would love to be able to bring to you today some of our supporters and some of our card signers from Palliser Furniture. Boy, would I love to. But do you know what? Nobody wants to. Why? Because they are afraid. They are afraid of being fired. They are afraid of being terminated. They are afraid of being called on the carpet on trumped-up charges of poor work performance. That is the reality in Manitoba workplaces in a lot of campaigns, including Palliser Furniture.

For the CAW, the real democratic principle, which is an issue here, is that of majority rule. The CAW believes that certification should be granted automatically when 50 percent of the bargaining unit sign membership cards. This is the law governing certification in Saskatchewan. It is a threshold on which most democratic

decision making is based. Indeed, Canada's political history is full of examples of governments exercising power when they have received support from less than a majority of the electorate. Workers, therefore, should be entitled to benefits of certification after a majority in a bargaining unit have signed cards indicating that they wish to be represented by a union. We therefore urge this government to amend Bill 44 to reflect a 50% automatic certification procedure.

Alternative dispute mechanism. Bill 44 introduces a mechanism whereby either party to a labour dispute, which has lasted for more than 60 days, can apply to the Board to refer the dispute to an arbitrator for settlement. Employees in the bargaining unit get to vote. I understand the Minister has mentioned some potential amendments that they are willing to look at, and the CAW agrees with this proposal of the alternate dispute mechanism. It makes good labour-relations sense.

We are surprised that certain sectors of the business community in Manitoba are opposed to this proposal. Their concern, as reported in the media and presented in this last couple of days, seems to be that this provision will encourage unions to embark on strikes, which they know they cannot win, and then, after 60 days on the picket line, get an arbitrator to win the battle for them. Such views reveal an unsophisticated view of labour relations. First, unions and union members do not regularly embark on struggles they cannot win. Sixty days on a picket line, with a loss of wages this entails, is not an attractive proposition for any worker. But, more importantly, arbitrators are not in the habit of awarding settlements which could not be achieved through the normal course of collective bargaining. The first rule of any interest arbitrator is to attempt to fashion an award which reflects what the parties could have achieved through the strength of their negotiating positions. In any given situation, one party or the other might not be happy with the specific recommendation of an arbitrator. But on balance, arbitrators' awards do not stray far from the well-established patterns.

In our experience few employers want lengthy strikes. In fact, most would welcome an alternative mechanism that would bring about a resolution to such strikes. The only exception might be those employers who are intent on breaking unions that would be prepared to endure a lengthy strike in order to get rid of the union.

CAW-Canada believes that our labour laws should not encourage such activity. Indeed Canada's labour-relations system is built on the premise that labour disputes are not to be fights to the death for either party. The nature of our system is that it recognizes that the collective bargaining relationship is a long-term one in which parties with opposing interests develop elaborate mechanisms to put forward their positions and arrive at compromises, which both parties can live with.

CAW-Canada believes that the mechanism for alternative dispute resolution proposed in Bill 44 will help to build a more stable and constructive labour-relations environment in the province of Manitoba.

Penalties for strike-related misconduct. CAW-Canada agrees with the proposed amendment to section 12(2) of the Act, which allowed an employer to refuse to reinstate a worker following a strike because of alleged misconduct on the picket line. CAW-Canada does not condone illegal activity on the picket line. We put a lot of effort into conducting disciplined, orderly strikes. However it has been long recognized that in the course of exerting legitimate economic pressure, tensions on the picket line can become very brittle. Mr. Justice Ivan Rand, in his famous report which settled the Ford Motor strike in 1946, noted that "a strike is not a tea party."

The current act gives employers a powerful tool to intimidate workers on the picket line and even in some cases to provoke confrontations, which then become the grounds for discharge. Such activity is tempting for some employers because it allows them to easily shift the issue from the collective bargaining differences that led to the strike to whether or not strikers are reinstated. In removing this advantage from employers, Bill 44 will be restoring the Act to its former balance. The Criminal Code provides

ample remedies for any illegal activity that may occur.

Bill 44 amendments will assist in keeping the parties focussed on the collective bargaining issues that are the basis for the dispute rather than creating new issues about who returns to work. I am reminded of a few years ago, in 1996, when we were talking about the issues of strike-related misconduct. You will all remember seeing, I am sure, it on television, the Boeing labour dispute within 20 minutes of the strike occurring, and the unfortunate situation of 25 semi-trucks trying to cross the picket line, and a number of picketers present. You will remember on the television set one of the strikers pummelling his back into the fist of a constable while lying down and being handcuffed. The judge ruled over a year later that those were frivolous charges, but if we had legislation like we have now, there is a potential that that worker would have been held out of service and would have lost his pay for over a year and then got let go from the court system and would have been out without a job for that period of time. So that should give your answer on those questions if they are put to us.

Ratification votes. Employers should not have the right to demand that bargaining unit members vote on the employer's final offer. Such a procedure undermines the authority of the bargaining committee and allows employers to interfere in the bargaining strategy developed by the union. We are pleased the provisions are repealed under section 72.1 of the Act.

Expedited arbitration has been a standard feature of labour legislation in Canada for over 25 years. One must keep in mind that the basic trade-off in our labour legislation is that in exchange for state recognition of the union and a legal obligation on employers to bargain in good faith, workers would give up the right to strike during the term of a collective agreement. The grievance-arbitration procedure is the legislative mechanism for resolving disputes during the term of the agreement. Part of the original deal was that arbitration was to be quick, inexpensive, and informal. It is none of those things today. Mark my words, I am in arbitration almost every other day. In fact, today in Manitoba it is not unusual for our members to wait for one year before their grievances are heard by an arbitrator. Governments of all political persuasions have recognized that a mechanism for quick resolution of disputes is a benefit to all.

CAW-Canada, however, believes that this access to expedited arbitration should apply to all disputes, not just to disputes related to the discipline of employees. We do not understand the rationale for limiting access to expedited arbitration to discipline issues, and we recommend that Bill 44 be amended so that any grievance can be resolved through the expedited arbitration process.

In conclusion, CAW-Canada thanks the members of this legislative committee for listening to our views on Bill 44. We hope that the issue will assist you in your deliberations from these proposed amendments to The Labour Relations Act. Thank you very much for the opportunity.

It is not bad; 1:40 in the morning. I am still wide-awake. I am a little bit dry. You are doing wonderful-*[interjection]* I did not want to waste any government money by wasting water and the environment. Thank you.

Mr. Chairperson: Thank you very much for your presentation here this evening, Mr. Paterson.

Ms. Barrett: Just a slight correction. It is only 12:40 not 1:40.

Mr. Paterson: I was having trouble reading time. I liked the digital clock when I was a younger kid. It was easy to tell time.

* (00:40)

Ms. Barrett: Anyway, I thank you for your presentation, Mr. Paterson. It was very well thought out, and it raises a lot of excellent issues. I did want to make one comment. You have put into a few sentences what the labour relation system is based on, and I like that very much, not to be a fight to the death for either party, but it is a long-term one and that we need to develop mechanisms to recognize that. I think we have begun that process in Bill 44. I recognize that

you feel, along with many others, that we have not gone far enough. Although, as you have heard, many feel we have gone too far, but these comments you have made in this paper reflect, from my view, what we have as a goal for the labour relations climate in Manitoba, and any assistance that The Labour Relations Act can give to that. So I appreciate the totality of your presentation, but that in particular.

Mr. Schuler: Dale, thank you for your presentation. I guess a lot of the concerns that come out of the penalties for strike related misconduct is the mixed message that businesses get, that the community gets, from amongst other people, from unions themselves, and I quote from your presentation on page 7: "CAW-Canada does not condone illegal activity on the picket line. We put a lot of effort into conducting disciplined, orderly strikes."

I am sure you are aware of the Trailmobile strike in which you personally were quoted on CKND and CKY as saying: I do not have any problem with what the workers did this morning and I congratulate the workers for the action they took this morning.

I guess a lot of people see an inherent contradiction in what your presentation says and then what you say publicly after an event where violence did happen on the picket line and people were charged. I guess that is the kind of fear that people have when this particular issue comes up.

Mr. Paterson: Well, thanks very much for the opportunity to answer some questions. That quote was in reference to a number of employees who decided to go into the workplace and raise the issue and take over their plant and raise the issue about collective bargaining and the ability to get back to the bargaining table to achieve a fair and equitable collective agreement. There was no violence. There was no damage. There were no threats to anybody, and I did support their actions on that occurrence in Trailmobile.

That should be a perfect example, because that occurred many, many, many, many months into the dispute. I believe it was over a year into the labour dispute, which would give a perfect example for our ability to have an alternative dispute settlement mechanism where after 60 days it did not make any sense. The Minister mentioned about not a fight to the death. It would have been a perfect opportunity for the union after 60 days in a situation like that, knowing that no side is winning in that situation, no one was going to come out in a win-win there, to request the assistance and an arbitrated settlement. It would have been ideal for that situation.

Unfortunately, we had some members that were frustrated by the legislation and frustrated by the law that went in, and what did they say when they were inside the workplace? Their response was: We just want to get a collective agreement and go back to work. Every single one of those people that were charged ended up going to court–that was how they were dealt with–and got community service. They returned to the workplace, remained in the workplace, are good, model employees. If The Labour Relations Act was not the way it was then, they would have been terminated and looking for work instead. You have 33-year employees who were working in that workplace who went back in to make a point–33 years in that workplace, had not received a parking ticket in their life, took this drastic action, and ended up still working in that plant today under another union, but still working there today.

Mr. Schuler: I guess, Dale, you did not quite answer the question. These individuals were charged and convicted. You stated that you congratulate them for the action they took, and yet in your presentation you talk about, we put a lot of effort into conducting disciplined and orderly strikes. There is an inherent contradiction there. I guess I am not as much focussing on what the individuals did and where they work and where they do not work, but more that it leaves a bad impression upon people, certainly businesses in the business community, when they see these kinds of contradictions.

Mr. Paterson: I disagree. We do not condone picket line violence, but I also support the actions of the workers in that situation at Trailmobile. I back them up 100 percent. They are our members and we have to represent them and do the best job that we can to represent them in such a difficult situation. I would not take

those remarks back at any time for one minute. I still stand by those remarks, but thank you anyway for your concern.

Mr. Chairperson: Thank you very much, Mr. Paterson, for your presentation here this evening. The time for questions has expired. The next presenter on our list is Jerry Woods. Is Mr. Woods in the audience this evening? Mr. Woods' name will be struck from the list.

The next presenter that we have is Maria Soares. I hope that I have pronounced that name correctly. Do you have a written presentation?

Ms. Maria Soares (Union of Needletrades, Industrial and Textile Employees, Local 459): Yes, I do.

Mr. Chairperson: Thank you. When you are ready, please proceed.

Ms. Soares: Good morning. The members of UNITE Local 459 are pleased to have this opportunity to share our views on the proposed amendments to The Labour Relations Act.

The UNITE Local 459 represents over 1200 workers at 12 different workplaces in Winnipeg, Brandon, and Portage la Prairie. Our members manufacture a variety of products including jeans, outerwear, sportswear, and children's clothing. The clothing industry has always been a major employer of new Canadians, and the face of UNITE is an image of diversity. Our members are from Asia, South Asia, Eastern Europe, South America, all over the world. The majority are women.

Our mission is to strengthen and improve working conditions for all UNITE members and to give a voice to the concerns of working people, particularly low-wage workers, women, and immigrant workers whose voices are underrepresented. UNITE bargains contracts, seeks to improve working standards, and builds worker power in our economic and political systems. The union's work goes far beyond the workplace as outlined further below. UNITE Local 459 has taken a leadership role in advancing basic skills to help our members and their families reach their full potential at work, in the union, at home, and in their communities. Through the union, workers in the apparel industry are winning both dignity on the job and the opportunity to build a more secure future for themselves and their families.

I would like to briefly speak about UNITE's learning centre. To read the apocalyptic statements of business lobbyists, one would think that unions are nothing more than strikes and picketing. Their self-serving rhetoric is aimed at distorting and confusing the issues rather than contributing to a rational dialogue. The truth is that unions play a key role in maintaining a free and democratic society.

The heart of UNITE Local 459 over the last four years has been our learning experience centre. The learning experience centre of UNITE 459 opened its doors in November 1996 as a joint initiative between UNITE 459, the Workplace Education Manitoba Steering Committee and the National Literacy Secretariat. The purpose of the learning centre was to provide essential skills necessary for our members and their families to productively contribute to the community. UNITE provides courses that assist individuals to do their present job more efficiently; apply for new jobs, if and when they are laid off; access courses at their workplaces, colleges, and other adult education centres; and, generally improve our members' lives, for example, helping their children with their homework and also attending parent-teacher interviews, if they need a translator.

Since we opened our doors, we have had over 200 students attend classes. The majority of them are UNITE union members and their families. However, we also provide training and education for other unions and the community at large. UNITE'S learning experience centre's goal is to provide a warm and friendly environment, to meet individual students' needs, and to give them opportunities to develop the foundation skills needed in every day life.

I now would like to speak to Bill 44. The members of UNITE support the basic thrust of Bill 44, which is to restore the balance and fairness to labour relations in the province of Manitoba. This is hardly a radical piece of legislation. In fact, while a good first step, in many respects, this bill will leave workers in

Manitoba behind the rights that workers have achieved in other jurisdictions.

In the wake of free trade and globalization, Manitoba workers and their families have faced assaults on their standard of living from all sides. Now more than ever, workers need the protection, dignity and security in the workplace that only a collective voice through trade unionism can provide.

Increasingly, employers are utilizing temporary, contract, and part-time work to create a just-in-time workforce, driving down labour standards and impoverishing workers in the process. The results of this trend are all too evident in the widening income gap between the rich and the poor in this country. It is difficult for even a two-income family to earn a living wage. More and more working people feel their control over their working life slipping away. It is vital that government take steps to restore the bargaining power and reinforce the rights of working families.

* (00:50)

Under the previous government workers experienced a downward spiral in their rights. The Filmon Conservatives pushed Manitoba to the extreme right wing of the spectrum in Canada, stripping workers of basic rights that in some cases took decades to achieve.

As we enter a new century it is time to bring back balance to our labour relations environment and to move ahead. Bill 44 is an important step towards achieving this goal. I am now going to address some specifics of the Bill.

Reinstatement following a strike or lockout. Currently the Act allows an employer to refuse to reinstate a worker following a strike because of alleged misconduct on the picket line. UNITE supports the proposed amendment to this section. Section 12(2) of the current act does nothing to promote stability in labour relations or peace on the picket line. It simply hands employers another powerful tool to intimidate workers by undermining their job security. It creates an incentive for provocative behaviour by employers on picket lines aimed at establishing the grounds for discharge of union activists. No one condones illegal behaviour on the picket line by either labour or management. The Criminal Code clearly establishes the parameters of acceptable behaviour and provides ample remedies for illegal activities that do occur.

Political activities. Section 76.1 of the Act requires unions to consult with each employee about whether they wish their union dues to be used for political purposes. This provision was a transparent attempt by the Filmon government to silence its perceived critics. There was never any parallel requirement placed on businesses to seek shareholder consent before engaging in political activity. There was no objective rationale for this provision then, and there is certainly none now. We support the Bill 44 amendment in this regard.

Requirement to file financial information. UNITE supports Bill 44's repeal of section 132.1 of the Act, which requires unions to file audited financial and compensation reports with the Labour Relations Board. This requirement introduced by the Filmon government served no useful purpose and simply imposed new administrative burdens on both the unions and the Manitoba Labour Relations Board. UNITE has no objections to providing financial statements to our members, as will be required under the new section.

Card check certification. The heart of business opposition to Bill 44 appears to be their attack on card check certification and their preference for mandatory votes. In taking this position, business appropriates the imagery of democratic decision making. However, there is nothing truly democratic about a process which as experience in every jurisdiction that requires certification votes demonstrates simply hands employers carte blanche to trample on the collective bargaining aspirations of their employees. Certification campaigns such as those required by the American National Labor Relations Act are often described as an opportunity for both sides to make their cases. This description overlooks the fundamental dynamics of the workplace, where one party, the employer, has almost complete control of the voting constituency for eight or more hours a day. Employers can and frequently do fire

workers for simply exercising their right to join a union. The essential fact that an employer can remove an employee from the workplace above all else renders the employees vulnerable to employer coercion. The fact that some illegally discharged workers may ultimately be able to later gain reinstatement from the Labour Relations Board does not significantly alter the balance of power.

The fact that union-organizing campaigns must still be run in a clandestine manner by itself demonstrates where the real power of reprisal lies.

The claim that representation votes ensure democracy or a free choice for employees is highly misleading. Creating a campaign period is simply an invitation to employers to engage in subtle and not so subtle tactics to thwart their employees' desire to organize. The choice for employees too often becomes not do you want to join a union but do you want to keep your job. The security provided by a secret ballot is no match for the power and control wielded by the employer, which permeates every aspect of working life.

There is ample evidence from other jurisdictions that mandatory certification votes simply invite employer intimidation. In British Columbia, the Subcommittee of Special Advisors appointed by the Minister of Labour in 1992 concluded that the law in that province should be amended to bring back card check certification. The subcommittee recommended that mandatory certification votes be eliminated. The subcommittee stated: "The surface attraction of a secret ballot vote does not stand up to examination. Since the introduction of secret ballot votes in 1984 the rate of employer unfair labour practices in representation campaigns in British Columbia has increased by 100 percent. When certification hinges on a campaign in which an employer participates, the lesson of experience is that unfair labour practices designed to thwart the organizing drive will inevitably follow."

The experience in the United States provides similar experience that lengthy certification campaigns inevitably lead to employer intimidation and abuse of workers' rights. The commission on the Future of Worker-Management Relations appointed by President Clinton found that over the last three decades the number of unfair labour practices committed by U.S. employers during organizing campaigns had soared. In short, under the American law, which theoretically protects workers' rights to organize, two out of a hundred union supporters are likely to lose their jobs simply by exercising this legal right. Non-enforcement of already weak legislation has led to a crime wave of illegalities by anti-union employers.

This is the type of system that business lobby groups would like to impose on Manitoba. It has absolutely nothing to do with democracy. Workers in this province deserve better.

Our only disagreement with this provision of Bill 44 is that it establishes a threshold of 65 percent for union certification. Normal democratic processes would suggest that 50 plus one should be all that is required to join a union. There is no justification for creating an additional barrier to worker organizing by requiring more than a simple majority. When over 50 percent of workers in a work place have indicated their support for the union by signing cards, they should be able to automatically gain recognition for their union on that basis.

Alternative dispute settlement: UNITE agrees with the mechanism introduced by Bill 44 whereby either party to a labour dispute that has lasted more than 60 days can apply to the Board to refer the dispute to arbitration.

No worker wants to go on strike. Indeed, the vast majority of collective agreements are resolved without any disruption of work. Generally, arbitration awards follow the established pattern within an industry and do not put either side at a disadvantage.

In conclusion, UNITE supports the adoption of The Labour Relations Act amendments found in Bill 44. It is a good first step, but only a first step. Much more must be done to ensure that workers have access to democracy and a collective voice through organizing.

The structure of the workforce is changing. As permanent and secure jobs disappear and the

contingent labour force grows, workers who fall into part-time, temporary, and contract work have little job security, if any benefits, and minimal training opportunities. Employment patterns are mirroring the just-in-time manufacturing production methods requiring a just-in-time labour force. Overwhelmingly the workers who fall into these low-wage jobs are women and young people.

Mr. Vice-Chairperson in the Chair

Bill 44 re-establishes some semblance of balance in labour relations, but it leaves Manitoba workers without key protections that workers in other jurisdictions enjoy. The anti-scab legislation in place in Québec and British Columbia provides an obvious example.

* (01:00)

We urge this government to continue on a positive agenda for labour law reform. The business lobby groups will howl regardless of how much or how little you do. As a matter of historical record, business has opposed every progressive step in the evolution of Canada's employment law, including the abolition of child labour. It is no surprise that they oppose the modest changes found in Bill 44. Rather than being deterred by voices of doom, the Government should see this bill as a starting point to putting Manitoba on the leading edge of building workers' rights.

Mr. Vice-Chairperson: Thank you very much for your presentation, Ms. Soares. We have committee members who would like to ask some questions.

Ms. Barrett: Just a comment. Thank you for your presentation, and I know of some of the work that UNITE has done, and I am glad you took some time to give us a background because it does provide us, again, another perspective on the workers in this province, a group of workers who are, if I can use the word, vulnerable. You have shared with us your experiences with those workers and brought their stories to us and in the context of this discussion on this piece of legislation. Thank you and congratulations again on the work that you are doing.

Ms. Soares: Thank you.

Mr. Vice-Chairperson: Seeing no other questions, thank you very much for your presentation.

I would now like to call on Neal Curry. Do you have a written presentation?

Mr. Neal Curry (Westland Plastics Ltd.): No, I do not.

Mr. Vice-Chairperson: If you would like to begin.

Mr. Curry: I know it has been a long session. Most everything has already been said by my business colleagues so I will keep my comments brief.

The item with the biggest potential for economic impact on Manitobans is the provision for binding arbitration following 60 days of a strike or lockout. The free negotiation of contracts is basic to collective bargaining. Without the threat of economic loss on both sides inherent in the strike-lockout situation, a motivation to bargain in good faith is greatly lessened.

What company would invest in a jurisdiction where they could not effectively predict their labour costs? Arbitrated settlements tend to leapfrog previous settlements and are inflationary. Take a look at pro sports. No other jurisdiction in North America has this type of provision; thus leaving Manitoba-based companies at a competitive disadvantage. I have worked for several large multinational companies in the past, and I know first-hand that capital is a commodity and money goes where it is well treated. You may not like to hear that, but it is an economic fact, not the rantings of a lunatic fringe as one of the members of the labour establishment charged earlier. There is a time to be a pioneer, but does this government want to take the responsibility for the resulting loss of investment and jobs resulting from the pioneering?

The second item of contention is the loss of the secret ballot with respect to union certification. The secret ballot is so fundamental

to democracy that it is incomprehensible to this observer that it could be objected to. There has been a great deal of labour advertising regarding intimidation by employers during organization drives. I can only speak from personal experience with several companies, both unionized and non-unionized. I must have been fortunate that I only worked for good companies because in my experience of 35 years, the only intimidation I have personally witnessed has been directed at employees voicing their objection to the union.

Perhaps organized labour is caught up in a time warp dating back to the 1930s. At any rate, there is no reason whatsoever to destroy the basic democratic right of the secret ballot.

The third and final point that I would like to address is the provision that illegal picket line behaviour not result in termination of employment. How can we even appear to sanction illegal and often violent actions on the picket line? I try to teach to my children that they are responsible for their actions and must pay the price. How can I tell them that the Government does not believe in this?

Furthermore, these violent picket line actions usually undermine the employer-employee relationship so badly that it cannot be repaired. Thank you.

Mr. Vice-Chairperson: Thank you very much for your presentation. We have a question from Mr. Schuler.

Mr. Schuler: I defer to the Minister if she would like to–*[interjection]* Thank you, Bob, for your presentation.

Mr. Curry: It is actually Neal.

Mr. Schuler: I am sorry. Bob is No. 29, and he is next.

One of the things that we have not heard a lot about in the last presentations is that we have an economy that has the lowest unemployment rate in Canada. We have got a lot of investment. Things are actually looking up for Manitoba. In your opinion, will Bill 44 affect that, the strong economy that we have?

Mr. Curry: I do not think there is any doubt about it. When people are looking to expand, they are going to the jurisdiction that can best get returns. If you go to a place that is not friendly to business, why would you do that? You can go to Alberta; you can go to Ontario; you can go to the United States. There are a lot of the larger companies–maybe in the public sector where they have a captive market and they cannot move, but manufacturing is not like that. Manufacturing just goes.

Mr. Loewen: Thank you, Mr. Curry, for sticking it out tonight with your presentation, although we talked on the phone before, and I certainly appreciate the strength you have shown in standing up for what you believe, and we appreciate your presentation. I am just wondering, Neal, if you have had any response to the letter that you sent to the Minister of Labour, and in particular I would be interested to know if she gave you answers to the seven questions that you asked in your letter in July.

Mr. Curry: I have not received a letter yet. I have got responses back from several ministers that I have written to deferring to the Labour Minister.

Mr. Vice-Chairperson: Seeing no other questions from the Committee, thank you very–sorry, Mr. Loewen.

Mr. Loewen: Thank you, Mr. Curry. If it is all right with you and if it is all right with the Minister, I would certainly appreciate seeing a copy of the response to see how she has responded to your questions.

Mr. Curry: Do you mean that you would like me to give you the–

Mr. Loewen: Yes, if it is acceptable to you, I would appreciate hearing what the Minister has to say in response to the seven issues that you have raised with her. Thank you.

Mr. Enns: I just want to raise the issue with the presenter who reminded us that investment capital knows no boundaries. It will go where it finds the best terms available for it. We have heard many presenters today lose sight of that fact. I say that not unkindly about those

presenters that talked to us from labour's point of view. We have had a presenter that wants plant closure legislation. If a business goes broke, the Government should buy it or the people should buy it. I do not know what your background is in Manitoba, but I remind them that we went all through that. The people, the government owned a bus company that lost $10 million, $14 million, $15 million a year. We were building buses that cost us $200,000 to manufacture and selling them to Chicago for $140,000, subsidizing American transit riders. We finally decided that that was nonsense, and I will give credit. It was a NDP government under the leadership of Gene Kostyra that privatized that bus company. We had a paper company, and I was in the House, that regularly lost $35 million a year, $35 million that should have gone to health, to education, to roads, to anything rather than subsidizing a private paper company. We at one time owned a Chinese food making company. We owned door making companies. We owned a whole host of companies. But we have tried all of that, and surely I would have thought by now even my friends in organized labour would not be coming up with those kinds of solutions to job creation.

I mean, surely, I am just looking for you to respond, if we have a healthy climate, a healthy labour relations climate, everybody wins. If businesses grow in Manitoba and we attract more, we have more opportunities, we can pay better wages to our working force, better opportunities for them to unionize. Everybody wins. I am just somewhat saddened that that still seems to permeate through so much of the organized labour force that does not understand what creates the jobs in the first instance. That is not really a question, it is a statement, at one o'clock.

* (01:10)

Mr. Vice-Chairperson: We thank you very much for your comments, Mr. Enns. Mr. Curry, we are out time. Thank you very much for your presentation.

I would like to call Mr. Bob Dolyniuk. Good evening, Mr. Dolyniuk. Do you have a written presentation to present to the Committee?

Mr. Bob Dolyniuk (Manitoba Truckers Association): Yes, I do.

Mr. Vice-Chairperson: Thank you. You can begin anytime.

Mr. Dolyniuk: Good morning–

Mr. Vice-Chairperson: Excuse me, sir, but before you start, I would like to remind the Committee we are here to listen to presentations. I would like to ask that the committee members give respect to the presenters. We are all here to listen to presentations. Thank you very much for your co-operation.

Mr. Dolyniuk: Thank you, Mr. Chairman. Good morning, Mr. Chairman, Madam Minister, committee members, and I do say good morning. I respect your tenacity. I am now speaking, so we must be close to the end of the list.

The Manitoba Truckers Association is an industry association representing Manitoba-based truck transportation companies. We are obviously here today to express our concerns regarding Bill 44.

The truck transportation industry generates approximately $1.18 billion to Manitoba's GDP on an annual basis. It directly and indirectly employs approximately 33 000 Manitobans and expends approximately $255 million a year annually in salaries, wages and benefits.

From '93 to '98 Manitoba's trade with the U.S. has increased, and I am speaking both north-south combined, from approximately $8.5 billion per year to just under $14 billion per year in 1998. That translates into approximately 300 000 trucks crossing the Manitoba-U.S. border each year. If you consider that Manitoba is home to only 4 percent of our nation's population, it accounts for nearly 7 percent of Canada's trucking revenue and employees.

The truck transportation industry is not only the dominant mode of freight transportation in Manitoba, Canada and North America; it is also a major generator of economic activity, specifically within Manitoba. To put this in a little better perspective, 90 percent of all consumer goods and foodstuffs moved within

Canada are shipped by trucks. Approximately 95 percent of all goods moved within Manitoba move by truck.

Trucking is a demand-derived industry. The level of economic activity in truck transportation is directly related to the economic well-being of the businesses it serves in every region of North America. Any regressive or negative changes affecting those businesses will have a direct impact on our industry. If such a situation were to arise in Manitoba, the need for trucking industry employees will decrease while at the same time companies, including Manitoba-based companies, will increase their hiring activities in other jurisdictions where business thrives in an economic climate which is healthy and vibrant. This obviously will have a negative impact on Manitoba's unemployment rate.

Our industry competes not only with other modes, and I think you heard from some of the rail companies on Bill 18 yesterday about the competition with trucking, but also with competitors within our own mode based throughout Manitoba, Canada and North America. As our industry desires to maintain a balanced, fair and level playing field with our competitors, we also desire to maintain a balanced, fair and level field between management and labour within our Manitoba-based industry.

Mr. Chairperson in the Chair

Within Bill 44 are three provisions which will create an imbalance. No doubt you have heard it numerous times: the secret ballot; the collective agreement settlement of 60 days with the strike or lockout by arbitration; and strike or lockout violence. Under the current provisions, the unit can be certified if 40 percent or more of the employees confirm their wish to do so through the process of a secret ballot. The proposed amendment to provide for automatic certification, if the unit presents signed cards for 65 percent of the employees, tears at the democratic process. Rather than empowering employees, this legislation would serve to undermine their rights by taking away the most fundamental of democratic freedoms, that of the secret ballot.

Employees in the bargaining unit are far more likely to feel included in the process of a secret ballot, particularly if they were not originally approached to sign a card. Clearly, the current process works. Statistics have shown that since 1996 when the secret ballot was introduced, the number of certifications has actually increased, slightly, in Manitoba from the pre-'96 levels. Additionally, employers are provided with a clear and unquestionable message with the results of a secret ballot. This eliminates any potential, lingering questions or doubts.

Labour has suggested that holding a vote provides an opportunity for the employer to intimidate, coerce, instil fear in employees. However, I believe this is misleading. Existing unfair labour practice provisions, under the Act, provide remedies for such activity. Reducing the amount of time for a vote to be held would provide further safeguards. The proposed amendment will, in fact, provide an opportunity for unions to intimidate, coerce and instil fear in employees in their efforts and zeal to certify.

If I could just divert from my text for a moment, I would like to relate to you, as well, a personal experience. I spent approximately 24, 25 years in my industry. I worked for both unionized and non-unionized companies. I can relate to you an experience earlier in my career where there was a company in our industry that a union was attempting to certify. I guess I have to assume at this point, the union was not being successful. In their zeal to win the battle, they then decided to direct their efforts on suppliers to this company that they were trying to certify. The company I was working for at the time happened to be one of those companies. I can very vividly and clearly remember, today, when the union business representatives with some colleagues, shall I say, entered our workplace and threatened the senior manager present, which I happened to observe.

So, when we talk about intimidation and coercion, as I think it was indicated earlier this evening; it certainly is a two-way street. Neither side particularly, labour side as well, is lily-white or clean. We believe, and keeping in mind I think as labour has indicated, as with all employers, there is a wide spectrum. I am certain

that there is a wide spectrum of labour representatives, as well, or union representatives.

We believe this proposed amendment will not compare favourably with other provinces, particularly Alberta, Ontario, with which Manitoba competes for business. I can relate to that in my industry because Ontario and Alberta, domestically, are our No. 1 competitors. It will not only create an imbalance between labour and management within Manitoba, but also between our Manitoba business climate and the business climate in other competing provinces. We oppose this proposed legislation.

The second change with which we have serious concerns is the proposed amendment to impose a collective agreement after 60 days. Again, as other people have indicated, we are not aware of existing regulations or legislation anywhere else in North America. We view this as a radical move and one which the employer members of the LMRC did not have an opportunity to address specifically during their deliberations with representatives from labour.

The proposed amendment removes the freedom to negotiate and provides an unfair advantage to one side. The existing strike-lockout option is effective because it balances freedom of bargaining and consequential risks if an agreement is not reached. I believe Mr. Mitchell expounded quite eloquently on that earlier tonight.

Employees have the freedom to strike and employers have the freedom to impose a lockout and both sides can face considerable economic risk associated with those choices. The result is that both sides are strongly motivated to achieve an agreement and hopefully work stoppages are minimized. Upsetting this delicate balance brings with it the danger that more rather than less strikes will result as a consequence.

The concept of allowing parties freedom of action to develop their own collective bargaining and dispute settlement mechanisms has historically been openly supported. I quote from the Hansard: In October 1972 the Honourable Edward Schreyer in address to the Manitoba Federation of Labour stated: It is our conviction that the parties themselves should have as much freedom of action as possible to develop their own collective bargaining and dispute settlement procedures. We believe that this approach will produce more acceptable results than would rigid legislative procedures that would inhibit the parties from exercising their own ingenuity in finding, developing and refining ways of resolving the difficulties.

* (01:20)

Further, again, from the Hansard, in an address to CUPE, Manitoba division, in September 1976, the Honourable A. Russ Paulley stated: Our present Labour Relations Act is very largely founded on the principle that the parties themselves, by their own efforts, actions and sense of responsibility, should resolve their differences themselves. Perhaps some of you in the union movement disagree. I sympathize with the union which finds it lacks the strength to compel an employer to agree to its preferred terms of settlement, that there are great dangers in expecting legislation and governments to deliver the goods. For one thing, governments change. For another, the kind of legislation having any real effect would substitute state controls for free collective bargaining, lead to the abolition or reduction of the important freedoms in our society and introduce a regimented system of wages, prices, profits and investment decisions. It would detract from the strength of the labour movement, the last thing, I imagine, labour movement would want.

Risk is the other side of the delicate balance. If risk is removed or lessened, the balance is threatened. Enabling union members to opt for interest arbitration after 60 days, the risk to employees in unions normally associated with the going on strike or opposing a lockout are obviously substantially reduced. This in turn may lead to the result often seen in sectors where interest arbitration has replaced strike-lockout option.

Both sides are encouraged to take extreme positions and remain intractable in anticipation the third party will eventually settle the contract, because the third party is far less able to conclude a collective agreement that truly represents the priorities and best interests of the

parties. This process tends ultimately to be dissatisfying in disadvantages.

It may also even encourage strikes as a mechanism in qualifying for imposed settlements. All parties should have the right to settle contracts by means of negotiation or mutually agreed and voluntary arbitration. Bill 44 proposes to repeal provisions which allow an employer to refuse a reinstated employee for reasons which would constitute charge for discharge if the strike or lockout were not in process.

I will not go through the whole text. We know what the proposed amendment is. Obviously the bottom line is, as has been voiced many, many times over the last two years, that even if a person murdered somebody in the event of a strike or a lockout, they would still not be terminated. In our view, these amendments are significantly contrary to the interests of all parties, the public, employees and employers.

The existing provisions provide a reasonable deterrent to extreme acts during a strike or lockout and should be maintained. Just as a side note, perhaps, if there is concern with minor infractions, perhaps some wordsmithing would be applicable.

The collective amendments presented in Bill 44 will present a message to business that Manitoba will not be a province with a democratic and free labour relations environment. At a time when we have relative labour peace, we have been experiencing rising wage settlements and low unemployment, the question must be asked whether these proposed amendments are required or desirable. We point out that labour reform was not part of the Government's election platform, nor was it mentioned in the Throne Speech and certainly was not proposed at the Premiers' economic summit which was held in March this year, a summit which brought labour, business and government together to discuss strategies for economic growth. Yet this issue has suddenly appeared before us.

We do not want nor need our province to be placed at a disadvantage to other jurisdictions. These amendments would create such a disadvantage. We believe that the emphasis in labour law should be to maintain the current balanced and relatively harmonious situation and foster economic development on that basis.

It has been reported that amendments to Bill 44 may be forthcoming. I guess it is fairly actively reported in the paper. If there is truth to these reports it is our sincere hope that any potential amendments will be sincere and meaningful to all parties.

In closing, we are calling upon this committee, Minister Barrett and most importantly Premier Doer to take the correct and appropriate action for the well-being of our province and our province's economy. Thank you.

Mr. Chairperson: Thank you very much, Mr. Dolyniuk, for your presentation here this evening.

Ms. Barrett: Just a brief comment. On the bottom of your first page you say: We desire to maintain a balanced, fair and level field between management and labour in our Manitoba-based industry.

We may disagree whether Bill 44 does that or not, but we have ultimately the same goal. I think that once we finish the process that you will be able to see that we are working together to achieve that goal. I just wanted to thank you for your presentation.

Mr. Loewen: Thank you, Mr. Chair, and thank you, Mr. Stevens, for your presentation and all the work that you have done raising the interests–I am sorry.

Mr. Chairperson: It is Mr. Dolyniuk.

Mr. Loewen: My apologies.

Mr. Chairperson: Mr. Dolyniuk, sir, do you have a comment?

Mr. Dolyniuk: Mr. Chairman, I was going to start off my presentation just to clarify who I am, at the encouragement of some of my colleagues, and my introduction was going to be: Good morning, my name is Bob, and I am not a

lunatic. Hopefully, that would hit the impression on you to remember who I am.

Mr. Loewen: My apologies, Bob. I certainly appreciate all the effort that you have put into your presentation, and your colleagues. I want to congratulate you and your colleagues in the Coalition for taking the high road and certainly sticking to the facts in terms of your advertising and arguments. I think it is unfortunate that there may be some in the community who may not have as much strength to their arguments of taking the opportunity to take it to a personal level in terms of their approach to it.

I guess what I would like to hear you comment on is we have heard from a number of union leaders that we have presently, before the introduction of this bill, an anti-worker, anti-union climate in the province of Manitoba and with regards to the trucking association and your knowledge from the business coalition in your discussions there, is that how your business groups feel about the labour relations part of the introduction of this bill?

Mr. Dolyniuk: Let me respond to that by saying that, as I mentioned earlier, I think I spent approximately I think 23, 24 years in the industry, the majority of those years in a unionized environment. Neither of the unionized companies that I worked for during that 23-year period had any disputes or issues. Certainly, in discussion with my members, some of the proposed changes do bring concern to them, and they have certainly voiced that concern to me very, very loudly.

Mr. Rondeau: I thank you very much for the presentation. One of the concerns, and you mention it in your presentation, is again when there is violence in the picket line. One of the things I am struggling with is that you said that, if someone gets murdered or kills someone, they are not going to be reinstated, and I agree. I do not think people have questions, but where do you feel it would be appropriate? How would you think it would be best when people--or which organization should make the determination as to who is reinstated and how they are reinstated and what is acceptable?

Mr. Dolyniuk: I think there has to be a line drawn somewhere. Somebody made suggestions about somebody swearing at somebody–I do not know which company or union–but I can assure you in the trucking industry, contrary to popular belief, we generally do not swear in the workplace. When an individual, whether it be a dockworker or mechanic or driver gets upset, temperatures can rise. Certainly, when they are on the road for days or weeks at a time and they are upset over something, it is very heated. Things are said that perhaps should not be said, and discretion is the better part of valour.

When we are talking about strike or lockout, I guess the way I would look at it is if there is personal injury involved or worse or property damage, malicious property damage, then I think there should be action taken. If we are talking about somebody calling somebody a bad name or something like that, I think that becomes almost misleading.

Mrs. Smith: Thank you for your presentation. Bill 44 is a bill that is worrisome, and that is an understatement. Having said that, you as a businessperson and the trucking organization or industry here in Manitoba seems to me to be a very mobile organization in more than one way. If Bill 44 went through without any principal amendments being placed inside the Bill, what are the possibilities of the trucking industry growing or even staying in Manitoba?

Mr. Dolyniuk: I guess there are two sides to the answer. As I mentioned earlier, we are a demand-derived industry. We conduct business within, to and from Manitoba, based on the business activity within Manitoba. Okay. That is one thing. We do the same throughout North America. Many of the carriers that we have based in Manitoba run throughout North America, and I am speaking the U.S. and Canada.

We have some of the largest of the Canadian trucking companies based in Manitoba. All right. Now, if the business is not here, the business is going to go somewhere else. As I alluded to earlier, we employ approximately 33 000 Manitobans. We also employ thousands of other Canadians in other jurisdictions. Now the question is: If the activity is not here, would we

be hiring people here, or would we be hiring people where the freight-generation activity is?

* (01:30)

Mr. Chairperson: Thank you very much, Mr. Dolyniuk, for your presentation here this evening.

I would like to inform the Committee that a written presentation or submission has been received from the United Steel Workers of America. Copies of this brief have been prepared and distributed for committee members prior to the start or during the course of this meeting. Does the Committee grant its consent to have this written submission appear in the committee transcript for this meeting? *[Agreed]*

For the information of committee members, I have been advised that Mr. Bob Stevens, who appears as No. 30 on our list of presenters, has left and has chosen not to present to this committee. Mr. Stevens has asked that his brief be distributed to the Committee and considered as a written submission. Does the Committee grant its consent for this written submission to appear in the committee transcript? *[Agreed]*

The next presenter we have on our list is Lydia Kubrakovich. Good evening, or good morning, I suppose, Ms. Kubrakovich. Do you have a written presentation for committee members?

Ms. Lydia Kubrakovich (Canadian Federation of Students): Yes.

Mr. Chairperson: Please proceed when you are ready. If you could identify yourselves for the record.

Ms. Kubrakovich: My name is Lydia Kubrakovich.

Mr. Krishna Lalbiharie (Canadian Federation of Students): I am Krishna Lalbiharie. Together we are here representing the provincial component of the Canadian Federation of Students, which represents students at the University of Winnipeg, Brandon University, the Collège Universitaire de Saint Boniface as well as graduate students at the University of Manitoba.

Ms. Kubrakovich: The Canadian Federation of Students welcomes the opportunity to make its findings known to you concerning the contents of Bill 44, The Labour Relations Amendment Act. The Canadian Federation of Students, CFS, Canada's national grassroots student activist and lobbying organization, represents over 400 000 post-secondary education students at over 60 universities, colleges and technical institutions across Canada. The Federation was established in 1981 to advocate on behalf of its members in support of eliminating systemic barriers to post-secondary education, of which provincial and federal funding cuts, rising tuition fees and ever-increasing levels of student indebtedness are symptomatic. Notwithstanding its focus on issues directly relating to post-secondary education the Federation recognizes and advocates on behalf of its constituents beyond these concerns, and they act on any issue that touches its membership as reflected in its constitution.

The Federation speaks out on issues advocating from rights to marginalized groups to defending the right to free association to the interests of workers. In view of this and in consideration of the fact the majority of the students are themselves workers in some of the most vulnerable posts and industries, the Federation believes that unionization and collective bargaining are fundamental rights of workers. The Federation encourages and supports the unionization of its members in recognition that unionization is the foremost means of ensuring the dignity, safety, equity and self-determination of employees.

Beyond these statements of the federation policy, however, lies an even more compelling set of reasons to speak out in support of Bill 44. Despite technological gains that make economic hardships seem less severe, students and youth today face levels of underemployment, unemployment, insecurity and low wages that are in fact unprecedented in Canada since the days of Depression-era work camps for youth. Many people my age have never been and never expect to be unionized. My generation is fighting the notion that we should trust

incorporation rather than democratic control of the workplace. Yet, many of my peers have become discouraged in the possibility of changing the corporate rule agenda.

According to Statistics Canada, those aged 18 to 30 in Canada earn a full 30 percent less than did their counterparts 10 years ago. Most young workers faithfully contribute to the unemployment insurance program but few expect to benefit from it in times of need. So few young workers even understand the role of unions or consider union organization to be within reach. Although many young people recognize problems in their workplace, too many fear repercussions when they attempt to confront these issues. Further, the scope of crisis extends beyond young workers. In many ways the challenges they face are simply the trickle-down effect of the larger context of layoffs, displacements, downsizing, right-sizing and a myriad other devastating measures imposed on workers today. Considering that those with post-secondary education have greater opportunities for employment, the situation is grave indeed for those without such credentials. The so-called jobless economic recovery in Canada has left young people and workers generally wondering what their future holds.

Mr. Lalbiharie: Although the Federation recognizes that some elements of Bill 44 require improvement, in general the Federation regards The Labour Relations Amendment Act as an important inaugural step in restoring the balance of power between employees and union members.

The Federation believes that labour legislation must facilitate the constitutional rights of workers to establish their own individuated unions or amalgamate with existing ones. The re-establishment of a provision that acknowledges the democratic integrity of employees indicating their will to establish a union by signing a union card is an integral aspect of the proposed legislation. When the former government enacted measures that required subsequent votes under the direction of the Manitoba Labour Board to certify union status, it placed Manitoba in the minority of jurisdictions in the country that require such cumbersome measures. If Bill 44 is enacted, only four of eleven provinces and territories will require workers to vote a second time before the union is certified as their legal bargaining agent.

However, the Federation is concerned that the Government of Manitoba will still require that 65 percent of the workers in a potential bargaining unit sign union cards before a certificate is issued without a supervised second vote. Of the jurisdictions that recognize signed union cards as a legitimate indication of the wishes of workers, this is by far the highest threshold. Democratic principles in virtually every facet of organization are based on a simple majority of 50 percent-plus-one. There, therefore, is no compelling reason why this principle should not apply to union certifications.

Certain members of Manitoba's business community have alleged that a mandatory supervised vote for certification is a sound standard practice which can be ably applied to union certification. On the contrary, mandatory supervised votes can potentially create a period of time for employers to identify union supporters and, therefore, intimidate them into voting against unionization. According to the report of recommendations for labour law reform in British Columbia as published in September of 1992, the practice of recognizing cards as an indication of the wishes of employees developed as a result of employer intimidation tactics related to the mandatory votes used decades ago. States the report: When the Province of British Columbia adopted mandatory Labour Board supervised certification votes in 1984, the rate of complaints about unfair employer tactics increased dramatically by more than 100 percent and the rate of new certifications dropped by 50 percent.

* (01:40)

Employer intimidation can be highly effective, often accompanying threats regarding business closure, wage reductions, elimination of formal and informal benefits, the laying off of workers, and in some circumstances the firing of employees that have been identified as union supporters. In view of this, to expect a worker to be able to vote according to her or his wishes is certainly an unrealistic consideration, particularly given that employers typically exercise a

prodigious degree of control over all aspects of the workplace. In order to mitigate the power of the employer over the employee's very livelihood, it is critical to recognize the union-card drive as a legitimate practice.

The alternative dispute resolution provision contained in Bill 44 ably addresses the resolution of bargaining disputes once a strike or lockout has commenced, allowing either party in the dispute to request a third-party binding resolution of unresolved issues after a strike or lockout has been in effect for a period of 60 days.

However, the Federation supports the ability of workers to decide whether or not to accept binding arbitration as employees must retain the right to oversee the manner in which the resolution of their grievances is carried out. The amendment will allow for an atmosphere of labour relations that encourages good-faith bargaining which generally leads to collective agreement settlements that are acceptable to both workers and employers. In the event that lockouts and strikes occur, it certainly allows the parties an opportunity to reduce the duration of the work stoppage through access to third- party arbitration.

As this has been already mentioned by the Manitoba Federation of Labour and other labour-movement groups that have presented to you, the Federation certainly encourages the establishment of anti-scab legislation through the Government of Manitoba. The Federation agrees with the findings of the Canadian Labour Relations Board that the use of scabs remains an unfair labour practice applied for, quote, the purpose of undermining the union's respective representative capacity, rather than the pursuit of legitimate bargaining objectives.

The effect of anti-scab legislation, therefore, is to place equal pressure on workers and employers during a work stoppage, encouraging both to move toward the resolution of their differences. Without anti-scab legislation, the employer will always have a greater ability to engage in a lockout or a strike and have less inducement to achieve an expedient resolution through bargaining. Bill 44 additionally repeals the one-sided limitations imposed on trade unions and their constituents regarding the ability of unions to participate in the political process. While this particular issue may certainly be contestable at this point considering the contents of The Elections Finances Amendment Act, this reversal is nonetheless important in principle. It removes a requirement that the trade union movement had to satisfy where no such standard existed for business. It is an important indication that there must be a balance in the relationship between labour and business.

Bill 44 likewise relieves the trade union movement of the encumbrance of filing financial reports with the Manitoba Labour Board. According to the Manitoba Federation of Labour, the measure unfairly burdens unions and their locals with a time-consuming and expensive administrative load. It does not, as is generally purported, facilitate the ability of individual union members to acquire financial information from their unions. Routine reporting of financial information to union members is a matter, of course, for trade unions and is therefore sufficient. Workers have consistently and successfully held their elected union leaders to high standards of accountability.

One of the provisions that Bill 44 addresses is the amendment made by the previous government that was designed to make workers reticent to go on strike or to take part in picket line demonstrations. It authorized employers to fire an employee for activity on a picket line that would be considered cause for termination if the infraction occurred on the job outside of a strike or a lockout. This provision was specifically designed to intimidate union members from striking in the first place and was intended to make picket lines ineffective in the event of a lockout or a strike.

While the Federation certainly does not condone or encourage lawlessness, workers should not be made to fear job loss for acts of civil disobedience or legal defiance undertaken during labour stoppages or on picket lines. As for acts of lawlessness on the picket line by a worker, employer or other party, she or he should be held accountable to the law in the same way as other citizens are. If workers do retain the right to strike, and if this right is to carry any meaning, employees must be able to exert a reasonable amount of pressure on the

company and be assured of being able to return to work and not fired for exaggerated or superfluous reasons.

Ms. Kubrakovich: The Canadian Federation of Students appreciates the opportunity to present our findings regarding this important piece of labour legislation. Given that our workplaces are profoundly different from even 20 years ago, expectations of long-term employment with the same employer no longer are a reasonable certainty. Workers, including student employees, are now faced with the reality of having several employers in their lifetime. The emerging work-force is one of contingent just-in-time workers.

Those of us who study history recognize that the vicious minority reaction to Bill 44, a very modest bill in most regards, is part of a decades-long backlash to concessions and protections that workers fought to win in this century. It also exposes the nonsense of arguments suggesting that the vast trade agreements implemented over the past decade have improved life for workers and business. In fact, the opposition expressed to this bill by some small- and medium-sized businesses is firmly rooted in their recommendation that they, like workers, are unable to compete in a global economy ruled by the lowest common denominator. Rather than becoming divided amongst each other here in the province of Manitoba, we would all benefit from working together to support an activist role for government in mitigating the vagaries and inequities in the markets.

The Federation recognizes that as a society we must refurbish labour legislation so that it facilitates the ability of workers to exercise their rights, especially in the uncertain labour markets we all face. Labour laws must promote convivial labour relations, thus assisting working people to attain fairness and equity in their working lives. As a result, further mechanisms and labour laws to help parties achieve workers' rights must be adopted.

The Federation understands the Province is under great pressure to allow the macro-economics of disparity and grief to run their course; however, we hope you share our view that this is not why, after 11 years of this type of approach, Manitobans opted for a change in government. In fact, the Federation sees several ways in which the Government can further restore Manitobans' confidence in government. First, we encourage the Province to continue to press the Federal Government to eliminate the Canada Health and Social Transfer in an effort to increase dedicated funding for social programs such as health care, education and social assistance. Secondly, the Province must increase pressure on the Federal Government to tackle unemployment by creating jobs and preventing layoffs and job losses and to end this pilfering of the unemployment insurance fund and to reinstate access to benefits for workers. Finally, the Province and the Federal Government must take further steps to address poverty, in part restoring, improving, expanding social assistance.

We thank you for your attention and for this first step toward eradicating the inequity caused by hasty, ill-conceived changes to labour legislation. The Canadian Federation of Students supports Bill 44 because it begins to rectify the balance required in labour management relations. However, as we hope is evident from the experience of young workers and students, there is more work to be done.

Mr. Chairperson: Thank you very much for your presentation here this evening.

Ms. Barrett: Just a comment. Again, thank you very much for your well-thought-out and well-prepared brief and also for sharing the perspective of the new economy, the new climate and the new realities as they impact on young people. I think we too often lose sight of that, and it is very good to see that you have brought that to our attention yet again, so thanks again very much.

Mr. Enns: I thank you for the presentation. I am somewhat intrigued by who you are. You are, I assume, a national organization, as you indicated, representing some 400 000 students across Canada. Might I ask, are you part of the executive of the Canadian Federation of Students?

Ms. Kubrakovich: I am part of–

Mr. Chairperson: Ms. Kubrakovich, you can proceed. I have to recognize you first for our Hansard recording system.

Ms. Kubrakovich: We are speaking on behalf of the provincial component of the Canadian Federation of Students, and I am the chairperson of Manitoba.

Mr. Enns: Throughout the presentation you were speaking on behalf of the Federation, the 400 000 students. My question would be, I suppose, how many of the 400 000 students know that you are here or have seen Bill 44?

Mr. Lalbiharie: Actually, all provincial components of the Canadian Federation of Students which act at the behest of all members of individual student unions within each province know and recognize that we are standing here before you today. I might add actually that the Federation operates based upon a series of constitutions, by-laws and policies, and it is the standard policy and principle of the Canadian Federation of Students to support the rights of workers, to encourage the unionization of workers and particularly the unionization of student employees, so therefore we do speak at the behest of 400 000 students who are members of the Canadian Federation of Students.

Mr. Enns: So you can tell me that your counterparts in Toronto, in Montreal, in Quebec, in Vancouver are familiar with Bill 44 and have expressed to you those same concerns that you just expressed to this committee?

Mr. Lalbiharie: Yes, the provincial component of the Canadian Federation of Students has made the other components within Canada very well aware of the contents of Bill 44. They certainly know what we are advocating as we speak to you right now. In congruence with the standing policies of the Federation, we are supporting this bill, and have the national support of 400 000 students.

Mr. Enns: I commend you for your presentation. I take some small satisfaction out of how times have changed, having been responsible for government and economic development in this province for the last 10 or 11 years.

Five or even ten years ago, students appearing before us would be concerned about jobs, would be concerned about futures. I commend your broadened concern for the social well-being of workers in Manitoba.

Mrs. Smith: I am just guessing perhaps that your age is 18, 19, 20 years of age? I do not know. I am just trying to find out–

* (01:50)

Mr. Chairperson: Sir, please respond.

Mr. Lalbiharie: Certainly. Actually, I am a graduate student at the University of Manitoba. We are perspective members of the Canadian Federation of Students. I am 27 years old. Lydia, by the way, is 22.

Mrs. Smith: Thank you. Well, you look great. The reason why I am asking that is, I know now going through university is very expensive, with tuitions. You had mentioned that. Students often have to work during the time that they are going through school, at least, my kids did.

Having said that: Could you please tell us somewhat of your experiences with labour that you found on your jobs as you were going through the job market and subsidizing your university? What are some of the things that you found compelling, that really moved you to get involved in labour and this kind of thing, and union organizing?

Ms. Kubrakovich: I have worked since I have been 13 years old. I have always seen an unfair balance between myself and my employer. The more I got involved with the Canadian Federation of Students, I realized there needed to be more of a balance between me and my employer. That is why I got involved in the issue of labour and trying to understand my role as an employee in the workplace.

Mr. Chairperson: Sir.

Mr. Lalbiharie: Well I think as for myself, as many social activists or human rights activists or student activists can attest to, unlike Lydia, I have not had to work, fortunately, three part-time jobs to work my way through school. In that respect, it has allowed me, necessarily and rightfully, to recognize that the privileges that have been afforded to me necessitate my

advocation on behalf of those who cannot advocate on behalf of themselves. Because they are actually working in conditions which are at times squalid, which are unfair. Often, because of age discrepancies between student employees and between the employers themselves, there is a notion, or a proclivity, or a tendency to believe that students are ignorant of their rights; that it is right for a student to work minimum wage under egregious conditions, where in fact that is not the case.

I know that I can draw on examples in terms of my travels abroad, in terms of the working conditions that I have seen of students in countries like Indonesia or India or in Japan, in some instances. Some have used those arguments to support thoughts that Canadian students do not have it that bad, but I think looking at situations like that from a relativist point of view certainly does nothing to address the problem of labour. The fact is that we live in a country which is very privileged. It should be leading the example of establishing the proper and balanced set of labour relations laws. I think Canada and students within Canada can set the example for the rest of the world.

Mr. Chairperson: Thank you very much to both of you for your presentation here this evening. Time has expired for questions. The next presenter on our list here this evening is Jim Murray. Is Mr. Murray in the audience this morning? Mr. Murray? Mr. Murray's name will be struck from the list. The next presenter on the list is Todd Scarth. Is Todd Scarth in the audience this evening? Good morning, sir. Do you have a written presentation for committee members?

Mr. Todd Scarth (Director, Canadian Centre for Policy Alternatives-Manitoba): I do, yes.

Mr. Chairperson: Thank you. You may proceed, sir, when you are ready.

Mr. Scarth: Thank you, Mr. Chairperson. My name is Todd Scarth. I am the Director of the Canadian Centre for Policy Alternatives-Manitoba. I would like to thank the Committee for the opportunity to comment on Bill 44 and offer qualified support for the changes it makes to The Labour Relations Act.

I would like to begin by acknowledging that the different sides of the debate around this bill have become, it seems, increasing polarized and entrenched in their positions. It seems to me that underlying many of these tensions is a sense of fear. We have heard over these hearings that many small-business owners seem to fear unions. They fear losing control of their business, their ability to compete, and they fear that unionization will hurt the economy.

For the most part, the vast majority of these fears are unfounded, and I would suggest that they are only inflamed by some of the heated rhetoric that we have heard from some members of the business community recently. As we have also heard in these hearings, workers are fearful as well. They are fearful about job security, about their wages and benefits and about working conditions. They are fearful of employer repercussions if they seek to organize into trade unions.

The fears of workers and employers are shaped in part by their attitudes about new and fundamental forces, forces that are global in scope that affect today's workplace. These forces include trade agreements, rapid and recent technological change, deregulation and privatization. Some employers have responded by eliminating jobs, contracting out and downsizing, but while a labour-cheapening strategy or a deregulated labour market may result in some limited, short-term improvements to competitiveness, before long its consequences result in heightened labour and management hostility, little or no investment in employees, and reduced wages and living standards. This is a high-conflict strategy that benefits few.

I am sure we would all agree that it benefits all of us that our province be economically competitive. I am sure many of you are aware that most contemporary definitions of competitiveness include equally high wages and high productivity and recognize the value of productivity and competitiveness. A key part of this is a highly motivated, highly trained, highly educated, flexible workforce with secure employment. This means, among other things, a unionized workforce.

One of the central arguments being made against Bill 44 is that it will make Manitoba

unfriendly to business. This claim is simply not true. First, given that Bill 44 will take us further towards the average for labour legislation in Canada, where else will business go in the country? More importantly, the idea that businesses skip back and forth across the country from province to province in search of weak labour laws is false.

What about globalization? What about businesses leaving the country? Again, after Bill 44 is proclaimed, Manitoba's Labour Relations Act will not look all that much different from similar acts in many prosperous other countries, including those in Europe.

There is plenty of good evidence that, to quote economist Kim Moody, "the idea that businesses pick up stakes and relocate offshore in the blink of an eye is largely 'globaloney.'" Still, it is true that big business is increasingly mobile, but to the extent that this is true, it is an argument in favour of strong labour legislation. Governments must strengthen their support for the rights of working people precisely when they are most under attack or else be forced to choose a better-thy-neighbour strategy that is little more than a race to the bottom.

* (02:00)

Now, to turn to the details of the Bill, which is a very modest one, most of the proposed amendments undo, to a certain degree, changes made by the previous government in 1996. The 1996 legislation was a betrayal of Manitoba's historically balanced social and political culture, and those changes were accompanied by a period of labour conflict that was nearly unprecedented in Manitoba.

Let there be no mistake, unions are an important component of a democratic society and a strong and balanced economy. The very existence of a union in a workplace enhances democracy. Trade unions not only benefit the workers they represent, but workers in general and society as a whole. It is for this reason that the individual right to join or form trade unions is recognized provincially, nationally and internationally. It is enshrined in the Canadian Charter of Rights. Provincial labour legislation should protect and enhance these rights.

Perhaps the most important of the amendments contained in Bill 44 is the return to automatic card-based certification. This amendment is a welcome, if incomplete, return to the reasonable and democratic procedure that had worked well for the better part of 50 years in Manitoba.

The decision in 1996 to abandon this procedure and force a mandatory certification vote in all cases was based on no good evidence of systematic or frequent abuse, falsification or manipulation on the part of trade unions. Aside from occasional anecdotes, no such evidence has been submitted in Manitoba or anywhere else in Canada.

However, there is plentiful and compelling evidence that requiring a vote after a majority of workers have already signed a card allows employers to intimidate employees into voting against certification. I had a quote from the British Columbia Labour Relations Review Committee to support this claim, but I think we have heard a lot of evidence already.

In the United States, whose certification procedure formed that basis of the amendments to Manitoba's labour law that were passed in 1996, an extensive and ugly anti-union industry has developed to advise employers on how to intimidate workers in the period leading up to certification votes.

I would direct your attention to a study by Professor Bronfenbrenner, a leading labour relations academic at Cornell University. A study she conducted for the labour ministries of Canada, the United States and Mexico in 1997 found that, between 1992 and 1995, of U.S. employers faced with labour relations board representation elections, more than one in three fired workers for union activity; more than half threatened a full or partial shutdown of the company if the union succeeded in organizing the facility; up to 40 percent made illegal changes in wages, benefits and working conditions, gave bribes or special favours to those who oppose the union or used electronic surveillance of union activists during organizing campaigns. This is systemic anti-worker intimidation.

In the United States, the proportion of all workers that belong to unions is now about one-third of that in Canada. There is widespread agreement among industrial relations experts, and you know these are people who do not agree on much in both Canada and the United States, that much of this gap is due to better legislation in Canada. That is that strong labour legislation is a vital protection for the rights of working people.

Employers have stated their opposition to automatic card-based certification but because the employer directly controls the ability of any given employee to maintain his or her livelihood and therefore holds the balance of power, the concerns of employees and their unions must take precedence in this case. Remember, as well, that if they had their way, most employers would probably rather not have to deal with environmental regulation, workplace health and safety legislation, or the minimum wage. So what as a society are we going to do? Well, what we have done is put some reasonable limits on the behaviour of business, limits that are for the good of us all. While the return to automatic card-based certification is welcomed, the threshold of 65 percent is too high. The principle of a simple majority should hold here and the threshold should be lowered.

Some have argued that the absence of a secret ballot makes the process undemocratic. In fact, by signing a union card, an employee begins to participate in one of the most democratic institutions in our society. Many studies confirm that this is the case. One highly regarded such study was conducted by Harvard University professors Richard Freeman and James Medoff. On the basis of the most extensive research ever performed to that time evaluating the behaviour of unions, they said that the picture of unions as non-democratic institutions run by corrupt labour bosses is a myth. Most unions are highly democratic with members having access to union decision making, especially at the local level.

One of the changes made in 1996 allowed employers to fire an employee for activity on a picket line that would be considered cause for termination if the infraction occurred on the job. I think we have heard a lot of anecdotal testimonial evidence tonight about what it is like to be on a picket line, but I would like to emphasize that, aside from being unfair and open to abuse, this section of the Act as it now stands is also simply bad legislation. It is, at best, completely unnecessary, given that the Criminal Code now protects against violence or assault or any other serious lawlessness on a picket line or anywhere else.

Recent reports that the Government is considering preserving this deeply flawed subsection to the Act are disturbing, and I would urge the Government to amend it as originally proposed in Bill 44.

Out of mercy, I will skip over a little bit of this for you. Many employers oppose the presence of unions in their business. Some claim that strong labour legislation in Manitoba would be a disincentive to set up shop here. While it is no doubt true that, all things being equal, currently existing businesses would probably prefer not to have their workers unionized, the evidence shows that when a business is deciding where to locate, labour peace rather than weak labour legislation is a much higher priority. Any days lost to a strike or lockout constitute a hit on our province's economy. For these reasons, the presence of an effective mechanism to resolve disputes before they drag on is an important component of economic growth. The alternative dispute resolution mechanism contained in Bill 44 is one such method that will act as an incentive to good-faith bargaining and a quick resolution of disputes.

Finally, another example of a change made in 1996 that is not only unfair but also simply bad legislation was the inclusion in the Act of a provision that allows the employer or the Minister to order a vote on the employer's last offer during a strike or lockout. Bill 44 would remove the employer's right to interfere in the bargaining process in this way. The assumption underlying this clause must be that union leaders are for some reason strike prone and that they would deliberately withhold information from their members so as to induce strikes, yet there is no evidence that the Manitoba labour leaders mislead their members to promote or prolong strikes, and in fact Manitoba is famous in this country because of the moderation of its leaders.

Union members do not need the Minister to order a vote for them either. They already have the capacity to demand such a vote through the democratic structure of their union. This subsection should be repealed as well.

So, to conclude, the measures contained in Bill 44 are a small but not insignificant improvement to The Labour Relations Act. For half a century, Manitoba's approach to labour relations has been sometimes rocky but generally balanced and sound. If Bill 44 is a sign of things to come from this government, all Manitobans will benefit. I would add that I have appended three further additional amendments to the Act that I would like to recommend. That is all I have. Thank you.

Mr. Chairperson: Thank you very much, Mr. Scarth, for your presentation this evening.

* (02:10)

Ms. Mihychuk: Thank you, Mr. Scarth, and I appreciate you hanging in there for your presentation. I do want to just assure presenters that their full written briefs will be included in Hansard. So all of that will be on the record. If you choose to go over or show us the highlights, I think we would all appreciate that. So, again, I want to thank you for coming to committee and hanging in there.

Mr. Loewen: Mr. Scarth, I think there are some well-reasoned arguments in your presentation. But, as I have told other presenters, I tend to gloss over some of those. I will have to read through your brief in a little more detail. I guess I would just like to leave you with the thought that the picture that most corporations are run by cold-hearted, self-serving, irresponsible bosses who would rather not have to deal with environmental regulations, workplace health and safety legislation, or the minimum wage, and are willing to go to any lengths to prevent the formation of a union is also a myth.

Mr. Chairperson: Did you wish to respond, Mr. Scarth?

Mr. Scarth: No.

Mr. Schuler: Todd, thank you for your presentation, in particular for sticking it out this long. You have a lot of different issues that you raise in your particular paper.

I guess the one that I would like to ask you about is on page one. You mention that many business owners fear unions. They fear losing control of their businesses and the ability to compete. If you skip down, it says: I would argue that these fears are unfounded. This knowledge that you have imparted upon us, does this come from personal experience of having been an entrepreneur, mortgaged your home, started a business? You have had employees? You speak with authority on this?

Again, I am very concerned. We had a presentation earlier on today where an individual made a similar statement, where they tried to speak with great authority about how Bill 44 would not affect the entrepreneurial spirit. Then they had to admit that, well, in fact they had never tested their entrepreneurial spirit. Small business–that is the background I come from–is fragile at best. So to say that these fears are unfounded, did you do a survey? Does this come from your own personal experience? How do you quantify that kind of a statement? Clearly, I have not found anything that would back up that argument.

Mr. Scarth: Thank you very much for the question. First of all, as a point of information, I have owned a small business for, going on five years now. So I do have some personal experience in that. But I would argue that the question is not the impression that small business owners have. My point there is that, as you have suggested, small business owners feel an anxiety about the success or failure of their business that goes beyond that of many other people. It can often feel like a part of your family. That can lead to heightened anxiety and so on. I do not think that is proof of any economic fact. The way people feel, I think, is often very understandable. It does not necessarily have anything to do with economic reality.

Mr. Larry Maguire (Arthur-Virden): Just along those same lines, Mr. Scarth, thank you for your presentation. You make the quote in here that the claim, that Bill 44 will make Manitoba unfriendly to business, is simply not true. We

have heard from a number of businesspeople who have indicated to us that it will. I guess, it leaves me incredulcusly questioning: Do you think that labour does not believe that capital can move from one province to another or one country to another very easily today?

Mr. Scarth: Certainly capital is increasingly mobile. I think the mobility of capital is, to a certain degree, overstated in that capital makes investments on the ground that are not as easy as many people would have us believe to pick up and move around. Nonetheless, that is true, but I would say that the reasons why people start up a business where they do are varied and complicated. Labour legislation is one part of their considerations no doubt. There are many more.

There was a survey conducted by Weyerhauser Corporation quoted in the *National Post* last October, I believe. It asked Canadian businesses to rate the factors they look for when they are deciding where in Canada they are deciding where in Canada to locate. I am sorry I do not have it with me. Right near the top was an educated workforce, a stable workforce, labour peace, these kinds of things. I do not remember how low on the list exactly weak labour legislation was, although I guess you will have to take my word for it that it was quite low. I guess I would, to address the question just on a more theoretical level very briefly, look, if capital is mobile, we can choose. We can either try to keep it here in a way that benefits us all, having a strong, stable, educated workforce, or we can get involved in a race to the bottom.

Mr. Chairperson: Thank you very much, Mr. Scarth, for your presentation here this evening. Our time has expired for the questions. Thank you for staying with us.

The next presenter on the list is John Mann. Is John Mann in the audience this evening? Mr. Mann? Mr. Mann's name will be dropped from the list.

The next presenter on the list is Rod Giesbrecht. Is Mr. Giesbrecht in the audience this evening?

Mr. Rod Giesbrecht (Private Citizen): Yes, sir. I would like to take a page from Larry McIntosh's book, but not one-up him and ask that my name be moved to the second last name to present, please.

Mr. Chairperson: Is it the will of the Committee to allow the presenter to drop to the second last on the list? *[Agreed]* Thank you.

Mr. Giesbrecht: Thank you.

Mr. Chairperson: The next presenter on the list is Buffy Burrell. Is Buffy Burrell in the audience this evening? No? Buffy Burrell's name will be dropped from the list.

Next presenter on the list is Albert Cerilli. Is Mr. Cerilli in the audience this evening? Please come forward, sir. Do you have a written presentation for the Committee, Mr. Cerilli?

Mr. Albert Cerilli (President, Manitoba Federation of Union Retirees): Yes, I have, Mr. Chairman.

Mr. Chairperson: Thank you. You may proceed when you are ready, sir.

Mr. Cerilli: Good morning. I see you are still bushy-tailed and all that stuff. You know, I have only been retired 10 years, and it is really a pleasure to come here and listen to the presentations here that remind me of my younger days. To hear some students speak so eloquently about labour and the presenters from the actual workforce presenting their case before you really shook the heart, and I think they have to be paid attention to.

I am appearing before you as a member, as president of the Manitoba Federation of Union Retirees, and we wish to support the Manitoba Government and the Honourable Minister of Labour, Becky Barrett, for bringing these changes to the Manitoba labour act under Bill 44. As modest and middle-of-the-road as they are, we suggest that this, in respect for this Manitoba government and the road towards future and possible changes that can be made now, and I will get into that in a minute.

* (02:20)

As retired trade unionists, we like to add rather than take away the rights for workers. In

order to understand the process of a group of workers wishing to unionize and form a collective bargaining process with their employer, it is wise to refer to the provisions of The Manitoba Labour Relations Act. In order to carry out this debate, we must also examine labour's history. I think you have heard ample evidence in the last couple of days on a *prima facie* case that the workers are in fact intimidated at the workplace. Part I of the Labour Code, unfair labour practice, is an infringement of rights, union membership rights. We look at section 5(1) and it states every employee has the right to (a) be a member of a union; (b) to participate in the activities of a union; and (c) to participate in the organization of a union.

So far, what a beginning. After all, we live in the best democratic country in the world with all kinds of freedoms for everyone. The employer even has rights to form employers' organizations. We look at The Labour Act under section 5(2) which states employers' organizations' rights. Every employer has the right (a) to be a member of the employer organization; (b) to participate in the activities of an employer's organization; and (c), to participate in the organization of the employer's organization.

This is where all rights of similarities of the employees and the employers end and the interference starts and ends in their desire to be a member of a union once the employees' desires are known, to participate in the activities of a union and most important of all to participate in the organization of a union. Those facts, you have heard the evidence, are not there at all.

The fact of the matter is that since my involvement, starting in 1943, there is no record that employees have interfered with the employer's right under section 5(2); however, there are thousands of Labour Board cases that show employers' interference with the employees' rights under section 5(1). In fact, The Labour Act of Manitoba, which the present government seeks to amend under Bill 44, and these amendments do not even come close to changing this fact, is under section 33(2). I will come back to that in a moment. What these hysterical opponents have really hypnotized themselves into believing is the fact that they are failing to tell the public that the employees are not allowed to talk union at work with their fellow employees. The employees are not even allowed to talk in favour of a union organizing at meal breaks, coffee breaks, regardless if the breaks are paid or not. The employers call this freedom of speech disruptive.

If you look at the Act, and we go back to section 33(2), which must be amended to be consistent with section 5, section 33(2), disruptions of operation, states nothing in this part authorizes any person to disrupt the ongoing operation of an employer's workplace by attempting during the work hours of an employee at the workplace to persuade the employee (a) to become or continue to be or, (b), to refrain from becoming or continuing to be a member of the union.

Yesterday when I heard about the questions from the Opposition to presenters, show me the evidence, show me the proof. Today you got that proof from the workers that presented you the facts of life in the real life. Take a look at it. What we say to you is let us hope for good luck on both counts. In my personal experience, the employer and whoever the employer entrusts to act on behalf of the employer, the employee is singled out and any union activity talking up the union, signing a union card, is reported to the employer, and the union certification application to the Labour Board may be in fact dismissed, even though they may have 55 percent at the time. If this incident happens, they are not even allowed a vote. I know that from personal experience.

While section 32(1) provides freedom of speech which states: "Nothing in this Act deprives any person of his freedom to express his views if he does not use intimidation, coercion, threats, or undue influence or interferes with the formation or selection of a union." Someone forgot to tell the employer who violates all of the above during a union drive to organize.

These are but a few changes that also need to be addressed by this committee to balance the scales so that the employees' rights are restored. We would like to take a moment on why we

stated that and referred to the opponents of the changes under Bill 44 as hysterical and truly undemocratic. I say this because of some history that I am going to point out to you and to the race to the bottom of the scale so that we can be competitive or we will move our operation somewhere else. I will get into that in a minute too. I made some mental notes.

Everyone has threatened to quit reading the *Winnipeg Free Press*. Every once in a while we do that from time to time because of what we read, regardless of who we are, or *The Sun* or the other papers, and we threaten to tear them up, but every once in a while we get some information from those documents and books like the one I am going to refer to, *The Titans*, by Peter C. Newman. The information is priceless, believe me, and worthy of comment.

On page 151, Chapter 7, on Mr. Tom D'Aquino, CEO of the Business Council on National Issues, Mr. Newman's interview states and Mr. D'Aquino answered: If you asked yourself in which period since 1900 has Canada's business community had the most influence on public policy, I would say it was in the last 20 years. Look at what we stand for and look at what all governments, all the major parties have done and what they want to do. They have adopted the agenda we have been fighting for in the past two decades. That is the fast race to the bottom.

The Manitoba business community, which I have just referred to, is copycatting. They are parroting all of these statements made. Every presentation after presentation that I have sat here for the last two days have said one thing, and they advertise it well. They have not changed their tone. All of a sudden you hear evidence from young mothers, from young people, students, of the kind of intimidation that they are faced with when they go to look for work under the conditions that they are asked to work, which are deplorable.

I had the opportunity of retiring for 10 years almost being the first scholar in residence at the University of Manitoba. I lecture at all of the high schools in Winnipeg and we even go out of town with the Workers of Tomorrow program. I brought the Logistics Institute program for transportation and so on at the River East school, which Mr. Schuler knows about, so we are not all blank between the ears in the labour movement. We believe in a number of things to enhance Manitoba as a place to come and do business. In fact it is one of the better places. I will get to that in a minute.

We strongly suggest to this committee, you are elected the MLAs for the people and by the people, for all the people in this province, and not just the business community, to listen to them of what the hell they are talking about, and half the time they do not know what they are talking about. I am just saying to you that in lecturing to some of these students, the Red River Community College asked me a few years back to talk about the role of the trade union movement in molding this country in the democracy we are, in the best country in the world to live in.

In appearing before some 400 students–oh, by the way, this is a tidbit I do not have here, but the Chamber of Commerce president at that time was lecturing next door. They advertised two speakers, myself and the gentleman from the Chamber of Commerce. He had 30 students; we had over 300 or 400–on the principles of democracy and the role of the free trade unions in this country and molding this country. So I can tell you for sure that the unions have nothing to be ashamed of in regard to what is going on.

You heard by some learned people, Sid Green, my good friend Sid Green, I spoke to him last night, a couple of other lawyers and one tonight. You made room for him. He was sick so we should. I did not agree with them simply because they did not go far enough in regard to explaining the history of the Order-in-Council that the Federal Government passed during the war years. Not knowing that they would be here to present in that kind of fashion, I had already included those in my presentation to you. I want to refer to them because I think it reflects the fact of our history which some presenters have already said should be in our curriculum of our schools so that we really understand it.

If you look at the attachments, there were a number of Orders-in-Council passed during the war years simply to fight and retain our

democracy and two world wars. What that really stood for and the reference where it comes from is my union. The history of my union, which was almost 100 years old when we merged with the CAW in 1996, was the fact that we led this kind of formation for union-card organization, and it was recognized from that time on until today. I hear that the cards are no longer valid as a vote, but let me tell you that precedent has set the pattern for that purpose. It should not be outbalanced and thrown out simply because some folks do not like what the hell is happening.

* (02:30)

Those Orders-in-Council established a certain pattern in this automatic union activity, the free collective bargaining process and so on. I say that simply because it reflects that a contract was made between the trade union movement, including my national president, God rest his soul, A. R. Mosher, and the other trade unions of Canada that believed that we had to win the wars, and the Second World War particularly. Those Orders-in-Council were revoked for the replacement and a contract for the labour codes of that day. The labour codes were allowed and amended from time to time.

I was involved in wildcat strikes, which were allowed during those years but now they are not allowed anymore. So Sid Green did not go far enough in saying throw it open, you know, see what happens. Well, I think we have moved away from that with these labour codes, but a lot of changes have been made. What we have to do is continue on building and including the rights of the workers that that contract made to establish and remove the Orders-in-Council so that we can carry on in a manner that befits a civilized society and the best country in the world to live in such as Canada.

I urge you, as the affiliate member and part of the 500 000 members of the Congress of Union Retirees of Canada, we honestly believe that the June 1940 federal Order-in-Council, PC 2685, set the standard for union rights to organize with no interference from the employers and to negotiate rates of pay, pensions, hours of work, safety conditions in those days. The employers are throwing safety conditions out the window in this day and age, and it is a shame. I guess we were wrong that we had won that fight.

We suggest to you that Bill 44 restores some of that. Do not change a word, pass it as suggested, allow the workers their rights under sections 5(1)(a), (b) and (c) at the workplace and also amend section 33(2) to allow this to happen in the free democratic manner which the workers deserve.

Thank you for your patience and time that allowed me to go the extra mile in that. If I have 30 seconds, I would like to refer to the fact of this kind of statement that was made, and I want to deal with that simply in this fashion–

Mr. Chairperson: Mr. Cerilli, I see Mr. DeFehr's article there.

Mr. Cerilli: Yes, but what happens is that–

Mr. Chairperson: Mr. Cerilli, I have to stop you there, sir.

Mr. Cerilli: Okay.

Mr. Chairperson: Perhaps you will have an opportunity during the questions to reference that.

Mr. Cerilli: Sounds good to me.

Ms. Barrett: Just a comment. Thank you for coming out, as you always do, to make your presentations at public hearings on matters of importance to the people of Manitoba. Again, I am learning an enormous amount of history that I did not know, particularly about the Orders-in-Council and things like that. I appreciate that very much.

Mr. Cerilli: Yes, the attachments are worthwhile reading, because they certainly reflect the statement that Mr. DeFehr made in regard to moving and all that investment. Well, let me tell you that–I know the man, by the way, just in case people do not realize on this committee that we do get to know people who are not trade unionists or have union shops.

He does have a shop in North Carolina, and I will bet you his cost is greater there because of

the premiums for Medicare that he has to pay. How do you like that? Of course, he has a shop in Lithuania, and he has a shop in Indonesia. So he is not telling us nothing new. I know the man. When Howard Pawley was around, I think he gave him a few bucks to start up his shop or expand it. Anyway, I just thought I would add that. Thank you very much.

Mr. Loewen: Mr. Cerilli, we certainly appreciate your ability to stay around this late and deliver such a spirited and passionate brief to us. I must say, retirement does look good on you.

I would say that certainly we have no contention with your points about 5(1) and 5(2). We also, and I believe the members of the business community, believe that employees have a right to form a union. They have a right to participate in the activities of a union, and they have a right to participate in the organization of a union. No one is arguing that, or no one is trying to take away from that. We also agree tnat the history of the trade union movement in Manitoba and in Winnipeg, in particular, is of great significance, probably of more significance than in many places in the country. I would urge you to continue your approach to education to make sure people know the value that the trade union has brought to workers and to businesses.

I do think, though, that we must recognize that nobody in the business community is bashing unions. The business community has a concern about the Government's approach to this, and I think it is unfortunate that in raising that approach we have reached the level of rhetoric we have. In fact, it is inflamed by the use of some of the words such as "hysterical" and "lunatic." I think it is unfortunate that the Government did not conduct a more fair and open process in terms of their desires of where they wanted to move with legislation and provide for more consultation between the business community and organized labour. Maybe if they had taken that step, I believe both the union movement, the labour movement, and business would have been well served by sitting down together and talking through some of the amendments that have been proposed. Who knows, at the end of the day those two disparate groups might have actually realized a way to move forward that would have been satisfactory to everybody?

I do not really have a question so much as want to reiterate that it is my belief that the fault here lies with the Government.

Mr. Chairperson: Mr. Cerilli, do you wish to respond to this?

Mr. Cerilli: Yes, I would. First of all, I appreciate the fact that you have no problems with those suggestions, and I guess you do not have any problems either if, in fact, we amend the Act to allow the employees that freedom on the workplace to do just that, and that is the other suggestion at the end of the presentation that I make in the amendments to 5(1)(b) at the workplace under eliminate or amend section 33(2), which the employers call disruptive if I go in there or somebody else goes in there or the employees start talking union, which is a lot of crap.

Mr. Loewen: Just in the brief time, just for the record, I do disagree with that approach, but maybe if this government had been open to consultation between business and labour, we might have had a more interesting discussion about it, more time to discuss about it. Hopefully in the future the doors between labour and business will remain open and we will have an opportunity to discuss these issues in more detail.

Mr. Cerilli: My information is that the labour-management committee from our side tried to just do that. Thanks very much, Mr. Chairman, and good luck.

Mr. Chairperson: Thank you very much, Mr. Cerilli, for your presentation here this morning.

The next name on the list of presenters is Richard Chale, I believe it is. Is Mr. Chale in the audience this evening? No, he is not here. Mr. Chale's name will be dropped from the list.

For the information of members of the Committee, I have been advised that Mr. David Martin and Mr. Ron Teeple, who appear as numbers 39 and 40 on the list of presenters, have left and have chosen not to present to the

Committee. Both presenters have asked that their briefs be distributed to the Committee and considered as a written submission. Does the Committee grant its consent for the written submission to appear in the transcript for this meeting? *[Agreed]* Thank you very much.

The next name on the list of presenters is Peter Olfert. Is Mr. Olfert in the audience? Please come forward, sir. Do you have a written presentation for the committee members?

* (02:40)

Mr. Peter Olfert (President, Manitoba Government Employees' Union): I do, and I distributed them earlier.

Mr. Chairperson: Thank you. Please proceed whenever you are ready, sir.

Mr. Olfert: Good morning, everyone. My name is Peter Olfert. I am President of the Manitoba Government Employees' Union. I appreciate the opportunity on behalf of the Manitoba Government Employees' Union to have this opportunity to share our views about Bill 44, The Labour Relations Amendment Act.

The MGEU is the largest union in Manitoba, with a current membership of almost 30 000 members. We represent Manitobans from a broad range of workplaces, both in the public and the private sector. Our members are as diverse as the services they provide throughout the province. They are mechanics, college instructors, switchboard operators, social workers, pharmacists and parking lot attendants, to name only a few.

It is our job to represent them as unified groups so they have leverage needed to ensure fair treatment and compensation from their employers. Any time there are changes made to The Labour Relations Act it impacts on our ability to work on behalf of those Manitobans we have been entrusted to serve.

Unions were created because individual workers who do not have management authority do not have the power to change things when unfairness or mistreatment occurs in their workplace. Unions were created to try and rectify some of this imbalance of power. Today, though unions certainly do not have all the answers, they have succeeded in improving the quality of life for countless Manitobans by helping to maintain and extend a balance between the interests of employees and the responsibilities and goals of the employer.

In the last several years, however, labour laws in our province have been changed to actively remove some of the leverage workers can achieve through unionization. These changes ensure that the balance of power swung back towards those who make hiring and firing decisions to a degree almost unheard of in the rest of the country.

Today we believe that on the whole Bill 44 is a good start in bringing things more into balance and ensuring Manitobans regain the rights they fought for so hard throughout the last century. Specifically, however, I want to speak to four key elements of the proposed bill.

The certification vote. The restoration of a provision recognizing the democratic integrity of workers who indicate their wish to form a union by signing a union card is an important aspect of Bill 44. It has been oversimplified and misrepresented to the public by those fighting the Bill. What is wrong with an anonymous, democratic vote, they ask? What is unfair about that? Why not give both the employer and the union a chance to campaign like in an election and let the employees decide for themselves? It seems simple, right? As long at you do not think about it too long.

History provides us with the context and the real answer. There is a good reason why most Canadian provinces, all of whom I would assume have nothing against democratic principles, accept a majority of signed union cards as the fairest way for employees to implement their basic right to join a union. When the majority of a workplace has signed cards and expressed their desire to unionize, those who have the power to hire and fire can be resistant to the change.

Over the years we have dealt with many fair employers who accept the decision of their staff and strive to develop an effective labour-

management relationship. Too often, however, those who have the power to hire and fire do not use this power responsibly. They use their power, whether it be through active threats of job losses or closures or hinting that benefits will be lost, to deprive employees of their basic right to freely decide to join a union. Some employers make it impossible for their employees to make an individual decision by intentionally casting doubt on their or their families' livelihood. This is unfair, both legally and morally, and those who argue that the absence of an anonymous vote leads to a strong-arming by the union makes little sense to anyone who has ever been involved in an organizing campaign. The union holds no power or even any particular influence or sway over an unorganized employee. They cannot take your job away or threaten to pack up and leave the province.

Today there is absolutely no evidence to suggest that the union card system for union certification currently being proposed in Bill 44 does not accurately reflect the wishes of workers, and those of us working to represent new members every day have encountered far too many employers who choose not to respect their employees' right to choose. Unfortunately, it happens often enough that we must have a mechanism in place to prevent it. Allowing workers to sign cards and express their right to organize before the employer can interfere is the only way to restore some semblance of balance to the process. I would like to add, however, that we are concerned that the Bill will still require that 65 percent of workers in the potential bargaining unit sign union cards before a certification is issued without a supervised second vote.

Of all the jurisdictions that recognize union cards as a legitimate indication of the wishes of workers, this is by far the highest threshold. For example, federal government, 50 percent plus one; Québec, 50 percent plus one; Saskatchewan, 50 percent plus one; PEI, 50 percent plus one; British Columbia, 55 percent plus one; New Brunswick, 60 percent plus one.

Why 65 percent? Why not 57 percent or 72 percent? A majority is a majority, and any other number is just chosen arbitrarily. We believe that when a majority of workers in a workplace indicate their wishes by signing a union card the significance of that number should be respected and considered a clear message.

Expedited arbitration. One of the key services that the union can provide for its members is to defend their interests when injustice has occurred in the workplace. Over the years, however, the length of time that it takes to deal with grievances put forward by workers for resolution or arbitration by a neutral third party has often been frustratingly long. Such delays can create terrible strain and stress on the person looking to resolve key aspects of their livelihood and ultimately threaten their chances of justice being served.

We believe the expedited arbitration provisions of Bill 44 will go a long way in restoring earlier efforts, such as those introduced in the early '80s to rectify the situation. Currently irresponsible employers are able to leave matters unresolved for as long as they see fit, possibly hoping that the complainants will eventually lose patience and go away. Some say restoring the right of workers' speedy grievance resolution is just too expensive, but the cost of such arbitration comes at the expense of an aggravated worker and of a workplace itself. Lingering ill will and unresolved complaints inevitably take their toll on morale and relationships, which leaves no one a winner. Those with experience with expedited arbitration say it can greatly reduce the game playing on both sides and pushes the parties towards working to make timely justice in the workplace. This has the potential to serve the goal of both the employers and the unions and should be extended to all matters and manners of grievances. If we know from experience in other jurisdictions that it can resolve matters effectively and efficiently, surely something that both employers and unions should welcome, expedited arbitration should not only be enacted for matters of discipline, as Bill 44 suggests, but for all grievances.

Reinstatement following a strike or a lockout. Bill 44 provisions around reinstatement following a strike or a lockout is another positive step that we feel has been misrepresented to the public by those who oppose it. The Government is going to allow violence on the picket line,

they shout. What is this world coming to? Again they are asking the question outside of the context and hoping that the public will accept the simple answer.

The new provision has nothing to do with condoning violence or inappropriate action. Such actions fall in the area of criminal law. Primarily the provision is about ensuring employees do not reject their legal right to strike strictly because of fear that anything perceived as unacceptable by management while on the picket line will be cause for dismissal, no question asked. It is to ensure that workers can take legal strike action against their employer without undue threat of losing their job in the process.

* (02:50)

Since 1996 employers have been allowed to fire an employee for activity on a picket line that would be considered cause for termination if the infraction occurred on the job outside of a strike or lockout. Because of this some irresponsible employers have actually provoked striking employees during the highly-charged atmosphere of a strike and then fired them with impunity. This kind of threat can seriously undermine the effectiveness of a legal strike and render the legal strike and rights of employees almost irrelevant. By amending this provision, the employers' ability to threaten workplace discipline or dismissal is brought more into balance with the workers' rights, once a majority has voted to go on legal strike, to exert fair and reasonable pressure.

Alternative dispute settlement mechanism. Perhaps the provision that has received the most skewed and almost comical public coverage by its opponents has to do with the alternative dispute settlement mechanism. Allowing employees to go for binding arbitration after they have been on strike for 60 days will be an easy way out for lazy union leaders, they say. Unions will just sit back and wait until time is up and then, boom, an objective third party will step in and automatically give workers exactly what they want. It is a stand that defies logic and has no grounding in experience or history.

No strike action is ever taken lightly and no worker or union would ever choose to be out on strike for 60 days as an easy or convenient or cost-effective option. That is two months of walking the line. How many people or unions for that matter can afford to do this unless they feel they have no other choice. Sometimes, however, there is simply no other option but to stay on the line because the employer will simply not come back to the bargaining table and bargain in good faith. Often the employer's sole concern is that a drawn-out strike or a lockout scenario becomes breaking the union and the members' resolve. Unfortunately this leads to protracted and bitter work stoppages that destabilize the economy and negatively impact all of Manitobans.

Bill 44's alternative dispute settlement provision is intended to proactively resolve these stoppages by allowing employees as well as the employers to call in an objective third party who can deliver an impartial decision that will allow everyone to get back to work. Why would employers resist the opportunity to logically argue their standpoint with an independent third-party arbitrator after 60 full days of work stoppage? Only those who feel their offer or argument is lacking in some way have anything to lose in arbitration. When an employer and its employees simply cannot come to an agreement, all Manitobans pay the price. We believe the alternative dispute settlement is currently the fairest way to find proactive resolutions.

In conclusion, the opposition of many of those in the business community to Bill 44 is regrettable and disappointing. Together unionized and non-unionized Manitobans have worked to build a very vibrant economy. All of us want a quality of life in our province that is both dynamic and secure. We all have the same vested interest in making it work, but we do not believe that economic growth only comes at the expense of fairness and of balance. They are not mutually exclusive. For decades, thousands of Manitobans have worked tirelessly to ensure that all Manitobans have the legal right to come together and have a legitimate voice in their workplaces. Today, thanks to their efforts, we have laws that ensure power in the workplace is not absolute, and those who work for others have a means to seek fairness and justice in their working lives. Together today these rights are a foundation of a strong democracy in Canada, and today Bill 44 takes steps to ensure that as a

province we are moving forward rather than back. Thank you very much.

Mr. Chairperson: Thank you very much, Mr. Olfert, for your presentation this evening.

Ms. Barrett: Thank you, Mr. Olfert, a very reasoned brief, as they always are. Just a note that I think the conclusion to your brief quite nicely encapsulates a vision that I personally think is one that we can all live with in the province of Manitoba. It is a vision that we think that Bill 44 is a step or two closer to reality. I just want to thank you for your entire presentation, but in particular the conclusion I think sums it up very nicely.

Mr. Schuler: Thank you very much, Mr. Chairman, and, Peter, it is great to make your acquaintance. I think about three or four months ago that I sent you a letter asking if we could get together, and the most remarkable thing happened. I guess your response and Rob's and Paul's and Bernie's, all of them seemed to have got lost in the mail. So it is just one of these intriguing things with Canada Post. I would love to at some point in time sit down with you and discuss some of the things that you have brought up in your presentation.

I would just like to make a comment on page 7, the same quote that the Minister referred to, and that is Bill 44 takes steps to ensure that we, as a province, are moving forward rather than back. It confuses me a little bit. I do not know if you know this, but the Minister of Labour (Ms. Barrett) is quite a history buff. She loves to deal a lot with history. One of the things that she keeps saying repeatedly is that Bill 44 is actually going back 50 years and bringing back legislation that has been in place since 50 years ago. So I guess really what we would have to say in this instance is Bill 44 takes steps to ensure that we as a province are moving back 50 years.

Mr. Olfert: That is, obviously, your viewpoint. I would argue against that, and I would argue that on a number of bases. I guess if you are saying that to provide a stable workforce, labour peace in the province of Manitoba, is moving us backwards, and I would certainly disagree with you.

I want to just mention a couple of things that the business community and yourselves have been questioning about the Bill, and that is the issue of the dispute resolution mechanism. You may not know that being new to government, but The Civil Service Act has provided unilateral right for both the employer or the employees to take the other group to arbitration, binding arbitration, for some 50 years. We have used it once in 50 years. We got creamed in 1974 when we went to arbitration, and we have not been back there. So I am just saying to you, to your members in the Opposition, that having a dispute resolution such as arbitration is not something that we need fear, because certainly an independent arbitrator, it is a crapshoot when you go to arbitration. It is no different than when you are taking an arbitration case forward on another issue. There is no way that you can ensure your members that you are going to win the argument at the end of the day.

So I think that we should not fear the fact that there is going to be a mechanism in place if this bill is passed that resolves issues after people have been out on the line for 60 days and brings some labour peace back and reduces and improves the morale in the workplace again and then brings some semblance of order to the workplace, because I think that is where Manitobans have been exemplary in Canadian labour relations for many, many years.

Mr. Chairperson: Thank you very much, Mr. Olfert, for your presentation here this morning.

The next presenter on the list is Robert D. Ziegler. Is Mr. Ziegler in the audience? Please come forward, sir. Do you have a written presentation for committee members?

Mr. Robert D. Ziegler (Private Citizen): I do, but before I do that, a couple of other people who were ahead of me on the list and had registered earlier had offered graciously to let people go ahead. I think those people should speak ahead of me. So I am prepared also to request to go after those two individuals. So I would like to go to the bottom of the list.

Mr. Chairperson: Is it the will of the Committee to allow Mr. Ziegler to fall to the bottom of the list? *[Agreed]*

The next person on the list is John Godard. Is Mr. Godard in the audience here this evening? Please come forward, sir.

Mr. John Godard (Private Citizen): This is brutal. You people need a decent union to get you some proper working conditions and hours. This reminds me of, I feel like I am in the Pearson Airport.

* (03:00)

Mr. Chairperson: Mr. Godard, sir, do you have a written presentation?

Mr. Godard: Yes.

Mr. Chairperson: When you are ready to proceed with your presentation, sir, please go ahead.

Mr. Godard: We used to call this an all-nighter when I was an undergraduate.

I am here, I am listed as a private citizen, but I am a professor of industrial relations at the University of Manitoba. I have done some work in this area and on labour law, and I finally decided last night that maybe I should try and present something. So I will try and be as brief as I can, but being an academic, I cannot promise you too much.

I would really like to address the proposals in two stages, first looking at the proposals themselves, and second addressing some broader issues which are not addressed in the Bill but which I believe may be important to the future of the province.

I will just start with the proposals themselves. The two which I consider to have been particularly contentious are the proposal to restore automatic certification with a 65% card sign-up and the proposal to have arbitration after a strike has lasted 60 days.

The negative reaction to these proposals is not surprising. In the current labour relations climate many in business have come to view unions as anathema to their competitiveness and survival. Much of their concern I think may be misplaced and counterproductive.

The research in this area, I would like to speak to very briefly, is limited in a whole bunch of respects. It is very hard to ascertain exactly what the impact of unions is on firms, but the best research suggests that in Canada, unions appear to raise wages on average by somewhere between 10 and 15 percent. They also tend to be associated with lower profits, but the effect on profits interestingly appears to apply primarily to industries in which competitive pressures are low. These are usually concentrated industries where there is monopoly or oligopoly power, and hence the notion here is that employers can afford to pay. In addition, in a very recent study, and I think he was referred to earlier, Richard Freeman of Harvard, the LSE, the National Bureau of Economic Research, and the Centre for Economic Performance in England as well, has recently done a study which finds that unionization has absolutely no effect on a firm's survival chances. It is a pretty convincing study.

There is a pretty widespread consensus among anyone who studies these sorts of things that unions can actually have positive productivity effects. A lot of this obviously depends on the type of relationship that develops. The idea here is that if I have a union representing me I am much less paranoid about what the employer is doing and much more likely to trust what the employer is telling me, especially with respect to workplace changes and the sorts of innovations that we have been talking about certainly in the academic and management literature for the last 10 or 15 years.

The main justification for unions–and I do not think I have to tell anyone here that–is not, however, whether they have economic effects. It is that they introduce an element of democracy into the workplace by providing people with meaningful independent representation vis-à-vis their employer. This is an internationally recognized right, and even the much maligned World Trade Organization has affirmed its support for unions and collective bargaining.

Now I recognize that a lot of opponents to the Bill might say that they support this right, but the proposals go too far. I think their concerns definitely have some merit, but I think they are also more than offset by the positive

implications of the proposals. The U.S. experience is instructive here. In the U.S., I think, as you all know, a ballot is required in all cases. There is widespread consensus that this is a major explanation for substantially lower levels of unionization in that country. Density is around 14 percent right now. It is about 32 percent in Canada, depending on the statistic you look at.

This consensus that it is tougher to join a union in the States is underscored by a 1996 Angus Reid poll finding that half of the workers in the U.S. who do not have union representation would vote in favour of a union if an election were held in their workplace, half of U.S. workers. I should add also that surveys all show that U.S. workers are, if anything, more favourable to unions than their Canadian counterparts. In Canada, the figure is around a third.

In addition, union-organizing attempts succeeded only about half the time in the U.S. during the 1980s and 1990s, compared to almost three-quarters of the time in Canada. Now why do you have these differences? Well, at least part of the answer lies with the ease with which U.S. employers are able, despite laws to the contrary, to intimidate workers once they become aware of a pending vote. A recent study just out of McMaster University estimates that as of 1995 17 percent to 26 percent of the U.S.-Canada gap in union density is attributable to the U.S. ballot requirement. Now this is a '95 study, so it predates changes in the Ontario legislation and changes in the Manitoba legislation. The author concludes that this is–for reasons I will not get into–a conservative estimate.

I will skip over some of the literature here. One thing I have noticed, for example, is the union success rate in certification elections dropped dramatically in Ontario after the Harris government enacted its bill requiring ballots, from an 80% win rate to a 60% win rate. The data I have–it is not formal data–suggest that there has been a drop also in Manitoba but not as drastic. Other factors clearly can be at work here, but it seems pretty clear that the ballot requirement is a major part of the problem.

There is also very little evidence that union intimidation is a problem where automatic certification is allowed. I have not heard this. Maybe I have been on another planet. I must admit I do not read some of the papers as carefully as I should, but it is pretty simple to introduce a confidential process so that if an employee feels that he or she has been intimidated by the union–which I think is unlikely; it is more likely that co-workers will intimidate you–that if they feel that they have been intimidated to sign a union card, they can simply send something or register something with the Labour Board so that the Labour Board does not count their vote. There may be some difficulties in doing this. In Britain, for example–and I will get to the British law in a second–they have system where the Labour Board, if they think there has been some hanky-panky, can rule that there has to be a ballot. It is up to the Labour Board to make this decision. Now the law has just come into effect in the last month or so, so we do not know how well this is working.

As for the arbitration proposal, we know that lengthy strikes clearly reflect attempts by employers, not always, but in many cases, to break a union. What happens here is, from an employer's point of view if I want to break the union, my big cost is to hire replacement workers up front. Once I have got replacement workers hired, the costs of a strike decline over time. I have less and less incentive to settle. By the time, for example, 60 days has gone by, my operations are pretty well running and I have no incentive whatsoever to settle with the union. I also in some cases have low costs to begin with because I have parallel operations that can pick up the slack. Any number of things can go on.

I think that the arbitration proposal is a fairly innovative way to address this. It is a hell of a lot softer on employers than banning the use of replacement workers. I think the one problem that you may have with this is that it may be a little bit inflexible. What you have here is a situation where collective bargaining and strike activity, however you want to view them, are in part mechanisms of conflict resolution. They are ways to get people to adjust their expectations so that they can reach some sort of settlement ultimately. Where this mechanism has failed you need an alternative mechanism. I think that should be elementary to public policy. The 60-

day proposal may be inflexible, but it seems to me that it would be a pretty simple thing to allow the Labour Board to simply rule whether it perceives that these mechanisms have broken down and the dispute is not going to be resolved through this mechanism, in which case you would go to an alternative mechanism, which could be initially mediation, which I understand is proposed, and ultimately arbitration. It seems to me that this is simply consistent with public policy and simply consistent with the notion of having meaningful collective bargaining and union representation.

What I would like to do is kind of a Monty Python thing at this point and go beyond Bill 44 for something a little different. I have not sat through all these hearings, but I have some things which I have been toying with in my own mind which I think represent an opportunity that folks here might have some interest in.

* (03:10)

What Bill 44's main failing is that it is predicated on the assumption that reforms should be directed at making it easier for workers to exercise their rights within the confines of the present system rather than changing the system itself. While I believe the former to be important, I think that the latter may be just as urgent. Rightly or wrongly, the present system is viewed by many as unduly adversarial, on the one hand, yet often ineffectual, on the other, particularly for the almost 65 percent of Manitoban workers who are not organized, but also for organized workers who face workplace changes or job losses over which their union has little or no say.

I do not think this system is going to survive that long into the 21st century. I cannot see the year 2050, when incidentally I turn 100, sadly that means I turn 50 this year, but I cannot see this system anything like what we have got today. I think what is happening is that we have this seesaw battle, and this is increasingly the case across Canada, where the left-wing government enacts pro-labour legislation, the right-wing government enacts anti-labour legislation. This is not healthy. It is not good for anybody.

I also do not think Manitoba would be particularly well served by trying to emulate jurisdictions like Ontario and Alberta. Both may enjoy superior economic performance, but this is not without important social costs similar to those for which the U.S. has become famous. Both also enjoy a number of economic advantages which Manitoba does not enjoy, but more important, Manitoba has a very different social, historical and political context than do these provinces. As I have argued in other work I have done, this context does not lend itself to a U.S. style approach. So any attempt to emulate these developments is simply likely to fail. There may be a number of reasons for this that I will not go into, but simply labour strife. You may or may not like it, but that is what you are going to get.

So there is need to search out an alternative which is more suited to the Manitoba context. Ideally, this would protect the right of workers to meaningful representation without unduly harming employer competitiveness, yet it would also foster, hopefully, a more productive relationship between the parties.

I believe that to establish this alternative might require some form of commission or inquiry where rhetoric is replaced to the extent possible by fact based on research findings and the experiences of other nations. As an example, we might benefit from considering the British labour law reforms enacted in 1999, and which I referred to earlier. These are probably going to be a pending disaster for the British labour movement for a bunch of reasons. I have written on this in England, and everyone tells me I am wrong, but I am just keeping my mouth shut and saying, well, maybe I am.

There are a number of reasons it might not work. There are also a number of things in this legislation which might in fact work much better here than actually I expect them to work in Britain. First of all, the British reforms provide all workers in union and non-union workplaces with the right to be accompanied by a legal representative during grievance or disciplinary procedures. The intention is that unions will provide this representation even in workplaces where they are not recognized for purposes of collective bargaining. Notably, the U.K. has, for a number of years, already had a code of practice

which employers are expected to follow in the case of discipline or dismissal, and failure to follow this code car mean an unjust dismissal finding in an industrial tribunal hearing, which is a process slightly similar to what we have in a few Canadian jurisdictions.

The tribunal system has not worked well in Britain–okay, I will skip on–but it could easily be replaced with some sort of arbitration procedure. I do not think employers are going to impose a law which is based on ensuring fair and equitable treatment. I certainly hope not.

Second, the British reforms, coupled with European union directives, provide workers with a number of consultation rights. One of these, because there is a market failure in terms of training, is that the employer needs to consult with the union once every six months over issues of training, subject tc fairly substantial penalties if meaningful consultation does not occur. There are other directives, and I will skip over these, but I would urge you to take a look at what I have written here.

There is also the possibility that I have here that people on the Conservative side will not like which is to restore the right to strike during the term of an agreement. I have reasons for that. Unions negotiate extremely elaborate provisions for fear that management will try to do something during term. If you have some alternative mechanism, you do not need these incredibly bureaucratic and flexible agreements to be negotiated in collective bargaining. You may not want the right to strike, but there may be other mechanisms which you could use. They have the right to strike in Britain, for example. It does not seem to be a big problem.

What I am basically advocating here is universal representation, some form of information sharing and some consultation rights, which to me would go a long way to ensuring that the system serves non-union as well as union workers and that unions where organized are able to develop a more proactive and ideally less adversarial role. I believe both would not only be beneficial to workers as individuals, but also that they could foster more productive relations between unions and employers.

To conclude, much of what I have said is sketchy and much of what I have in here is sketchy and requires closer scrutiny, but my underlying purpose has not been to generate concrete recommendations but to suggest that we consider going beyond business as usual, making Manitoba a leader in the area of labour management relations in North America rather than a follower. Surely this is where the opportunity for a Manitoba advantage truly lies, but more important it could simply make Manitoba a better place to live and work. Thank you.

Mr. Chairperson: Thank you very much for your presentation here this morning, Mr. Godard.

Ms. Barrett: Yes, just two comments. Sketchy, eh? Okay.

Mr. Godard: I would not want a journal reviewer to review it.

Ms. Barrett: I think the definition of "sketchy" in a legislative committee sense at 3:15 in the morning and "sketchy" in the sense of a journal article expands the bounds of sketchy.

Two comments. One, I really appreciate the research that has been done and the background that is available through your footnotes and your notations very much. Secondly, your suggestions, your ideas for new ways to look and think, I think you have made some very, very intriguing suggestions and ones that I look forward to fleshing out a bit in the future, just finding out more about them, very exciting things. Thank you very much.

Mr. Schuler: John, thank you very much for your presentation. You sort of see a theme developing when you hear multiple presentations. I think one of the things that certainly I have seen is there is a concern, exactly what you spoke about earlier on in your presentation: One government comes in, it swings one way; the other government comes in and we swing the other way. That is not healthy nor is that good for business nor labour in the province. I think some of the things that you have raised in your presentation certainly are thought provoking. You are right. We cannot continue to just swing

back and forth. I think perhaps a bit more time should be used. Business and labour should be brought together in a meaningful way, given time to find out where common ground might be to solve some of these things. Again, thanks for your presentation. I do not know if you want to comment to that.

Mr. Chairperson: Mr. Godard, do you wish to comment?

Mr. Godard: Sure. I think consultation between the two sides, if you will, would be very fruitful. I am always wary of assuming that you will get consensus, but I think it is very fruitful. I think there are some grounds to really sit down and think about how we can kind of get past what I have called it in one paper, the class divide in this province. So, yes, I agree with you.

I also think one thing which we are missing, if I might add, is that there is a distinction between protecting the right to join a union and have meaningful representation and the issue of union power. I think when you are tinkering with labour law you need to make that analytical distinction, because I do not think anybody would disagree with the former. I think the concern seems to be mostly over the latter.

Mr. Loewen: Thank you, Mr. Godard. I appreciate your paper. I echo the comments of my colleague for Springfield, a lot of useful information. I particularly appreciate the fact that you have offered some out-of-the-box thinking in terms of solution, and particularly you and Mr. Mitchell have offered that. We appreciate it.

There was a time maybe when I could read a paper at 3:30 in the morning and pass a test the next day, and I think I am well beyond that. So hopefully at some point we will have the opportunity to analyze this in a little more detail and maybe have a little more time to put a little more coherence to some of your thoughts. I am sure it would be worthwhile studying in the future. Thanks again.

* (03:20)

Mr. Chairperson: Mr. Godard, any comment?

Mr. Godard: No, that is fine. It is just, caffeine pills as an undergraduate used to do it.

Mr. Chairperson: Thank you very much for staying with us this evening and for your presentation.

Mr. Godard: Thank you very much.

Mr. Chairperson: The next presenter on our list is Lou Harris. Is Lou Harris in the audience this evening? Lou Harris?

Floor comment: He is not here.

Mr. Chairperson: Lou Harris will be dropped from the list. The next name on the list is Mario Javier. I hope I have pronounced that correctly. Please come forward, sir. Do you have a written presentation for the committee members?

Mr. Mario Javier (Private Citizen): No.

Mr. Chairperson: Please proceed.

Mr. Javier: My name is Mario Javier, and I am just presenting. I am not representing anybody else or anything. I work in the Health Sciences Centre, the Children's Hospital, and I just want to represent here as a worker, not of any vested interest on the labour side or on the business side.

Good evening. I guess it is quite hard to follow an academic when you are just a common worker. I do not have much research. All I can tell you is my experience in the workplace and what the workplace looks like.

How can you really solve this paradox? Everyone who presents here seems to be right in what they are talking about. The business people who present seem to be opposed to the labour's suggestion and labour seems to be opposed to the business counterpart, but in reality these are all business. There is no difference. They are all cagers, captors of people who can work for them.

Business seems to be very concerned about the community and the economy, and they are right. Labour seems to be very concerned for the rights of the worker, and they are right. It is their

best interests. So I stuck it out in here until three o'clock in the morning. I just worked 16 hours and then came here to present. It is like watching the South African movie, *The Gods Must be Crazy*, you know.

Where does Bill 44 stand in all of this? My best guess lies on the vested interests of the two parties that are fighting a round here. The real workers do not really have a say in this bill.

To relate my point on this, I would like to tell you my story. I came here to Canada in 1976. I was employed in the municipal hospital for one and a half years, and automatically I became a member of CUPE. I had no choice. As soon as I was employed, I was a member, which is fine in some ways, because during that time I think my salary was only $2.70.

Then I transferred to Health Sciences in 1979, and I was never bothered about the union dues. I paid my 1% dues, and I did not care. I guessed it was just part of the tax also. Then I thought it was in 1980 when I was invited to attend union meetings. I kept on watching those people who were involved in the union. Since I am an ethnic boy, I had some influence on the ethnics that I carry, so I am being used as a helper when they want to be elected, but then every time I help somebody it seems that my grievances are only heard whenever an election is coming.

So I think it was in 1996 I ran for president of CUPE 1550. This is the first time that the members of CUPE 1550 went to vote in droves. We have 2000 members. We normally get only 100 to vote for president. This time at least we reached more than 500; 25 percent of the people voted. I became president, but I was not their boy. That was the problem. I was an outsider. So in the first few months since I was just studying the union business, doing some of my research, even though I am not an academic, I had to follow all that they suggested. But then, since I was elected by the membership, I also had a responsibility to those people who voted for me and, of course, the workers as a whole.

Our argument actually did not start after. It actually started as soon as I got elected as president. When I moved to the office, all the financial records that were supposed to be presented to me were missing. I reported it downtown. They said that I am to focus on the future and never mind the records of the past. I agreed. In the later part of the year, accidentally, the owner of the building where we were renting introduced himself, since I am now the president, that, oh, your boys hid some of the boxes that you had upstairs down in my sub-basement. I would like you to see it because if there is a flood it might get flooded. So I found the missing books.

After I found the missing books, I made a report to the membership about the anomalies that happened in my local. Two weeks after, my local was under administration, and I was kicked out as president. I tried the Labour Board. The Labour Board said the problem of the local should first be made with the local, then your divisional, then your national, and then if you cannot finish it with the national you have to go to CLC. Of course we also had the Canadian Federation of Labour, which is totally dependent on the contributions of these big unions.

Now, my story is not finished yet. They put my local under administration. They selected a president that they wanted without an election. They promised me that I can run in the next election if I choose to. So what is one year that I will lose? I know I will win the election again. Now, when the election came again they made sure that those people that I reported made a case against me in such a way that within the constitution of our union I can not run again in the next election, but that is not the case.

They told me two days before the election, they assess it first. If I am going to lose the election, they let me run. If they figure out I will lose, I can run. If they figure out I will win, I cannot run. Two days before the election they told me I cannot run. They told the membership two days before the election I cannot run. So what am I going to do? I contested it again at the Labour Board. That is stupid. I am not stupid, but I do not have the money. If I go to the Labour Board without a lawyer I am finished. I am finished.

You figure out, it is not through yet. I waited for another two years. This time I made sure that

everything is won. So we have an election just this year, February. They imported somebody from Ottawa to guard the election. All the people that I carry won. The boy who carried them lost. My scrutineer was not let inside. This is what you call democracy. My professor in political science warned me of that when I was in the Philippines. Do not trust people who preach democracy too much. They are dictators.

This is the free, union democracy. Not all the unions. Of course there are some unions, and I figure out some of them are really concerned about the workers, but sometimes I kind of think of myself as, you are on the bottom of the pecking order, not only that you are just a plain worker, you are also an ethnic. We people fight. No violence. We cannot do it here because you people are civilized, but it is also sadistic.

Now we go back to Bill 44. Bill 44, my friends, was supposed to be at least consulted. A bill, before it can get out of the caucus, sometimes it lasts a year. This bill seems to be going so fast. I thought it would at least be September before I stick it in here till four o'clock. No, it seems to be being rushed to appease the labour, but the labour does not work for the worker. I am very sorry to tell you that. This is my experience, and it is very common. Then you can say now to me, what about that legislation that you can decertify? Yes. I cannot do it in my local, because I have 2000 members.

* (03:30)

I tried it in a smaller local in Seven Oaks. They did try to decertify on the day of the election. First, it is the card that you are proposing under Bill 44. It is the card. Do you know what happened to the card? All you had to do on the card is, question one, get that member who signed it and tell them you did not sign it. I will send you to a conference in Ottawa. Once the Labour Board heard that I did not sign that card, but why is my name there, you lost. That is all you had to do.

Who has the money? The common worker does not have the money. So we tried to decertify the other way. On the day of the election, on the day of the voting, the common worker does not have the car to pick up those people who are on compensation and who are on sick leave. Those people who tried to decertify lost, because if you are on compensation, you are on sick leave, you depend on the union. This is why I tell you the workplace is different. When you are unionized you actually put a barrier between the employer and the employee for a cohesive relationship to move forward. That is what is being lost of being unionized. You actually cannot move forward. All the time you are having a tug of war.

I just relate you my story because I feel that you are rushing your bill. You should really have some consultations like Mr. Godard suggested. You should have at least lasted a year in office before you even touch labour, because a lot of you depend on unions, I know. But, then, make sure that you work for the workers, because some unions do not really work for us. A big union, they are just transmission belts of their employer, especially if they are multinational. The public union that I was president before is actually recruiting in private.

I do not know, but then this is the paradox that we have. It is very hard for the NDP to ignore them. It is very hard for the PCs to ignore the business side of it. But what really is being affected by Bill 44 is not the multinational. The multinational can deal with the province as a whole like Volvo did with Nova Scotia, that CAW cannot get in there for 20 years, and it is done.

Mr. Chairperson: Mr. Javier, I have to interrupt you, sir. The time has expired for presentations. Perhaps you will have a chance during the questioning.

Ms. Barrett: Thank you. I appreciate your having remained here and shared your experiences. As you have known, there have been many people who have shared their experiences, their personal experiences, over the last number of hours in these public hearings. I appreciate your sharing yours with us tonight. Thank you.

Mr. Schuler: Mario, during these committee hearings, we have had several instances where individuals have come forward and given passionate and heartfelt presentations. You have

come up with the line, why the hurry, why the rush? I have heard it said from the business community. I have said it. Many politicians have. Many people in the community have said it, but nobody said it as well as you did. Thank you very much for your presentation.

Mr. Chairperson: Thank you very much, Mr. Javier.

Mrs. Smith: Thank you this evening for your presentation and for your tenacity at staying here until twenty to four. I was very moved by your presentation because I felt as if it came from the heart and also it came from the knowledge that you had and the experience. I was very interested in your comment about Bill 44. What do you think if Bill 44 went through now without any significant changes? Would that be helpful at all to the workers in your work environment? What kind of an atmosphere do you think it would create between the workers and the employers?

Mr. Javier: As I have told you, for multinationals and for big businesses, I do not think there will be much effect, because with multinationals and big employers like government, unions actually serve as a transmission belt to them. The worker actually is a caged bird by the union.

* (03:40)

One thing that will be most affected by this bill is the small businesses, those people who employ 10 people to less than 100. These people are those people who actually make your economy really move, because multinationals you cannot really trust. Once they say no to you they will go to Calgary. It is those small investors that will be affected most, because some people actually close their business just because of unions.

You have a lot of research on this. I can also attest to you that unions in a bigger workplace like ours in the Health Sciences actually manufacture parasites. I do not want to say that word, but those people just take advantage of all the benefits. Those good workers end up doing all the work. The worst thing about the parasite is this. They are the ones who are so close to the bosses that actually those who work hard get a double jeopardy. These people actually are also the ones in the union, the ones who are always in the conference. May I repeat that if you are in a small business, let us say you employ 20 people, it is very easy to unionize you. All I have to tell one or two of you is that I will send you to Montreal to a conference. Why not? It is free. The four of them will join and, bingo, your business is gone.

You guys are working in a paradox. You rush it. I thank you.

Mr. Chairperson: Thank you, Mr. Javier, for your presentation this morning. The next presenter is Thomas Novak. Is Thomas Novak in the audience? Please come forward. Since there are two of you, would you identify yourselves for the record please, and if you have a presentation, we will distribute it to committee members.

Ms. Margot Lavoie (Manitoba Oblates-Justice and Peace Committee): I am Margot Lavoie.

Mr. Thomas Novak (Manitoba Oblates-Justice and Peace Committee): And I am Thomas Novak from the Oblates-Justice and Peace Committee.

Mr. Chairperson: Could I stop you there for a moment please. Ms. Lavoie, I think it is, could you spell your name for the record please.

Ms. Lavoie: L-a-v-o-i-e is the last name, and Margot has a "t" at the end.

Mr. Chairperson: Thank you very much. You may proceed when you are ready.

Mr. Novak: We realize it is very late, but we thought it was because the churches over the last more than a hundred years have had so much to say on these issues it was important that we put on the record some of what church people, church leaders have said on these issues. Thank you for your patience even so early in the morning. It is a time when monks are getting up to pray already.

Ms. Lavoie: To many observers it seems quite amazing that a few relatively minor changes in

the labour code could stir up such passionate and vociferous debate on both sides of the question. It might be, though, because the question of work and the remuneration that men and women get for their labour is one of the most fundamental questions of human life. How communities resolve these questions determines whether or not women, men, and their families will live in dignity and, even in many parts of the world, whether they will live at all. Our attitudes to work, remuneration, and the rights of workers and employers also reveal how each one of us sees the world, our beliefs about the meaning of human existence, and our relation to the earth.

This is why over the past hundred years the leadership of the Christian churches have spoken out so often and so forcefully on these questions. In the Catholic Church the most famous statement on the rights of workers dates back to Pope Leo XIII, who, in his 1891 encyclical letter, Rerum Novarum, supported the right of workers to unionize and called down the wrath of heaven on those who would hold back just wages from those in their employ. In the same letter Pope Leo addresses the fundamental dignity of workers. It is shameful, and I quote, "it is shameful and inhuman," he writes, "to use people as things for gain and to put no more value on them than what they are worth in muscle and energy." Leo XIII is addressing a fundamental question which remains at the very heart of debates about the rights of workers even today. That is, are workers, as stated in most textbooks on economics, essentially units of production or are they something vastly different?

Mr. Novak: With the rapid movement toward economic globalization, the question has become all the more pertinent. In the economic bibles of the new economy the primary commandment is to maximize the profits of the owners, particularly of the shareholders. These owners and shareholders can no longer even be called employers, as very few of them will ever meet those in the employ of the companies which they own or in which they invest, let alone get to know the conditions and the particular needs of their families.

Managers of the new economy know that the future of the companies for which they work, and, indeed, their own employment and well-being, rests on their ability to out-compete all other companies in the rush to maximize profits. The wages and conditions of workers become one small component of this global game of Monopoly. In short, employees are no longer conceived as human beings with dreams of their own, with families to feed, and with dignity to be maintained and enhanced. Because the fundamentals of economic globalization have become so all pervasive, similar attitudes have come into the thinking of even small family owned businesses. In the new global economy, these local enterprises are forced to compete with multinational Goliaths. The intense competition of the new economy means that a few more cents per hour on the paycheque of an employer might endanger the very survival of the enterprise, especially when so many businesses are now essentially competing with multinational companies who are able to pay starvation wages to employees in sweatshops in Mexico or Indonesia.

However, we are not here today to deliver a lesson on economics. There are many in this room who have been much more qualified than we are to do that. However, as people of faith, as representatives of ancient traditions of spirituality and ethics, we have felt compelled to be present here today and to speak out forcefully as have so many other people of faith over the centuries, to proclaim once more the most essential truth of the Christian message and of all the great religious traditions. That is, in whatever economic system we live, the life of every human being is worth as much as the whole universe put together, that no company, no government or economic system must ever be allowed to strip any human being of his or her dignity in the name of any other value.

Ms. Lavoie: For this reason, Christian church leaders have often and clearly expressed the fundamental principle that the rights and dignity of workers must always take precedence over the wants of capital owners and shareholders. This is for at least two different fundamental reasons. First, because in the Christian understanding of the world, in sharp contrast with the fundamentals of the theology of global economy, the needs and rights of the weaker must always be valued over the stronger. So Jesus declares that it

is the poor who are blessed and who must be valued most highly in the Christian community. So his mother, Mary, exalts in God, who has brought down the powerful from their thrones and has lifted up the lowly.

* (03:50)

The second reason is found in the very nature of human life. In the Christian understanding of what it is to be a fully human being, we are each and every one of us born to work, that is, to harvest the earth and its resources, to share the fruits of our harvest with others, especially those with less capacity than ourselves, and to transform the surplus fruits of our harvest into things of beauty. In this way, we become co-creators with the Creator, God. We each participate in the life of the divine Creator and in so doing become aware of our fundamental and inalienable dignity of human beings.

In the Christian world view, work is not about units of production. It is, above all, about people discovering and maintaining their own human dignity and the dignity of those who are dependent on them and their work. Christians believe that it is the role of a just and effective government not only to maintain the conditions that make the economy run smoothly but to ensure that those who are at the bottom of the economic system can participate in that system with dignity.

Mr. Novak: Over the last hundred or so years, it has become clearly recognized that unions play an essential role in maintaining the dignity of working people. Neither Leo XIII nor John Paul II are known to be members either of a union or the NDP, yet both have spoken very forcefully against what they see to be the shortcomings of socialism. Both of them have spoken forcefully about the essential role of unions in the building up of a more just society, of a community that is striving to ever better reflect the image of the Creator God who established the world on a foundation of justice and love.

So, in his recent encyclical letter, *Centesimus Annus*, Pope John Paul II has written: "The attainment of the worker's rights cannot, however, be doomed to be merely a result of economic systems which on a larger or smaller scale are guided chiefly by the criterion of maximum profit. On the contrary, it is respect for the objective rights of the worker–every kind of worker . . . that must constitute the adequate and fundamental criterion for shaping the whole economy . . . "

The minimal amendments to Manitoba's labour relations laws, proposed in Bill 44, appear to us to be no more than a very small step in achieving the Christian view of an economy where the dignity of its least powerful participants is given the highest priority.

Mr. Chairperson: Thank you very much for your presentation, Mr. Novak and Ms. Lavoie.

Ms. Barrett: Just a very brief comment. I know it is late and we have been sitting here for a long time today, and we sat here yesterday as well, but I do not think that is the reason why I am feeling like this is probably one of the most powerful presentations on any piece of legislation that in my 10 years in the Legislature I have been privileged to hear. In these two pages, you have encapsulated just an enormous amount of thought and a different vision than what we have heard, but yet in not so different a vision in many ways from what we have heard in our public hearings so far.

I just want to thank you very much for sharing this very powerful and wonderful statement with us.

Mr. Novak: Thank you very much.

Mr. Schuler: Mr. Chairman, throughout the last two days now we have gotten presentations that bring a real unique and different perspective to this committee. Certainly you have brought a different perspective. Who would have thought when this whole process started that we would even be going into areas like you have brought up today and certainly brought to our attention? We appreciate that very much as a committee.

I would like to thank you for having the fortitude to stay till five to four in the morning to present. Clearly this was very heartfelt. When you stay to that length to make a presentation,

clearly it is something that you mean and feel very deeply about. Thank you.

Mrs. Smith: Thank you for your presentation and for the fact that obviously the great faith you have is coming forward in the feelings that you have about very practical things like Bill 44. I am quite familiar with the Scriptures myself and in there nowhere have I seen the word "unions" referred to. However, I think the essence of what you are getting at is the fact that we are our brother's keeper, and we need to work together and ensure that people who are oppressed or whatever, it is up to all of us to work hard to do that.

I had one question for you. I am just curious. How would you tie this in specifically to Bill 44, the union itself? Where would that–

Mr. Novak: I think that what we are talking about is what one of the previous speakers this morning pointed out. We are trying to address appropriate balance of power and making sure that those who have very little power normally in society, who have very little voice, have a greater amount of voice than society normally gives them. In an ideal society, everyone should have equal voice and be equally valued. We do not live in that ideal society yet. I am not an expert in labour law so I do not intend to speak to the specifics of the Bill. I leave that to your own intelligent analysis.

Mr. Sale: Briefly. Brother Novak, can you reflect, from the perspective you reflect in here in this presentation, why is the fear so palpable in regard to this bill from the business community in your view from a theological or whatever perspective you choose?

Mr. Novak: I am not a psychologist either. I do know that there have been studies done when people's positions are threatened in any way, that people can become quite desperate. The old Levi Strauss study shows that.

I have dealt with many people who are not unionized and I have heard their frustration. I have heard from them how frustrated they feel in the workplace. I have been associated with people who have tried union drives and have been defeated by very powerful employers, even in small shops. I can sympathize with some employers who feel they might be threatened by a union, but yet they still have far more power than a little worker earning the minimum wage who is trying to support a family of three or four at home on $4 or $5 or $6 an hour. There is a great imbalance of power there, and as Christian people following in the footsteps of Jesus as the best we can, we must speak up for those who are at the bottom end of that power imbalance.

Mr. Chairperson: Thank you very much to both of you for your presentation here this evening, for staying with us.

Mr. Novak: Have a good night.

Mr. Chairperson: Good night.

The next presenter on the list is Herb Schultz. Is Herb Schultz with us this evening? Mr. Herb Schultz? He is not here. That was the first call for Mr. Schultz. The next name on the list is Doug Stephen. Mr. Stephen is not here. His name will be dropped from the list. It was a second call. The next presenter will be Larry McIntosh. Is Mr. McIntosh here, please?

Mr. McIntosh: Yes.

Mr. Chairperson: Please come forward, sir. You have a presentation for the committee members in writing, sir?

Mr. McIntosh: Yes, I do.

Mr. Chairperson: Thank you. Please proceed when you are ready.

Mr. McIntosh: Good morning.

Mr. Chairperson: Good morning.

Mr. McIntosh: Thank you. When I suggested to go last on this issue, I actually wanted to hear as many views on all sides of this issue, and I was hoping that if I put myself out of the way, we could hear from more people that have lives that have to go home at night. I was not expecting for there to be a competition who went last, so I am generally a leader but not going downward. At any rate, I am glad I do not have a PowerPoint presentation, because if we would dim the lights

here, I would have a real fear of what might happen. You have created a bit of a problem for me. I cannot decide whether I am going directly to the office or I am going to go home and change my suit, then go to the office, but we will work that out.

They say never be the 60th presenter on an issue, but that is where I am tonight roughly. Hopefully there are some new issues, some new things that I have brought forward here that will illuminate a few things from my perspective.

Thank you for allowing me to make my presentation on Bill 44. Firstly, I want to remind you that I am here as a private citizen; however, I would like to take a minute to give you some of my background. My bio is attached to my presentation for your information. I was born and raised in Toronto. I started my career with Dylex Limited, Canada's largest specialty retailer, and worked with them for 18 years. I was a vice-president with Dylex before I went into the vegetable business. I have been with Peak of the Market for almost seven years as their president and chief executive officer.

* (04:00)

I am very involved with several organizations in the community, including chairman of the Manitoba Chambers of Commerce, director with the Manitoba Business Leadership Network, the Winnipeg Harvest Food Bank, the Canadian Produce Marketing Association and the Canadian Chamber of Commerce. I am also a former director of the Agri-Food Network of Manitoba and a former president of the Manitoba Food Processors Association.

I am active with all these organizations. They are all volunteer positions. I work with them because I feel I can make a difference. I have lived in 13 cities and 4 provinces and have travelled extensively on business and pleasure from coast to coast. Having given you this background information, you are probably asking yourself what has this to do with Bill 44. My answer is: I love Manitoba. I love Manitoba.

I have lived and travelled right across Canada. Manitoba, I truly believe, is the best place to live in Canada, bar none. We all should be proud of that. I spend a lot of my time promoting our province. After you get past discussions about mosquitoes and the cold, you can actually talk about the great things we have to offer. Most of us are in this room because we deeply care about the province we live in. No matter what political party you represent, I know you want our province to move forward and be stronger. I have been asked by a lot of people why I am wasting my time on Bill 44. The Government has already made up their minds. Call me naive, but I am going to try to make a difference here today.

Bill 44 has been a very emotional issue for many. I want to say right now that my comments are not anti-government or anti-union. Peak of the Market, as a matter of fact, is a unionized company and has been since the 1960s. We have never had a strike or a lockout in all that time. I would like to believe my relationship with the union is good because I truly care about the people I work with. I know that each and everyone of them has contributed to make Peak of the Market the success it is today.

Bill 44 in its current form will have an effect on our province. Unfortunately it will not be positive. I keep hearing the phrase, "the sky is not going to fall if Bill 44 is passed." I agree. Life will continue. However, we will lose opportunities for Manitobans, especially for our children. Let me give you an example of what I mean. In the 1980s, I sat in a boardroom of Toronto with my employer at the time. We had decided to open our first stores in Manitoba and had told our real estate department to find 12 locations. We hired a local law firm to give us information on local laws and regulations. The first thing the firm pointed out to us was the anti-business labour laws that were in place.

When we did a comparison of the laws of the time to Ontario and Alberta, we decided only to open the locations we were already committed to. Three stores ended up opening in Manitoba. We decided to open up the remaining nine in Alberta. Did we go to the Government and complain? Did we go to the media and tell them our expansion was downsized? The answer to both questions is no. Why? Because we did not want to burn our bridges. Decisions like this

happen all the time, but we do not read or hear about them. New businesses decide not to locate or expand due to reasons like Bill 44. These decisions lose us opportunities, which obviously translates into lost jobs. My opposition to parts of this bill is not to do with the Government, labour, unions or business. It has to do with jobs.

A strong economy creates more jobs and pushes wages up. Our economy is doing well, and so are our wages. Industry Canada's *Regional Economic Observer* for the first quarter of 2000 says that wages and salaries increased for the fourth consecutive period and reached the highest growth recorded in 18 years. The highest growth recorded in 18 years. A strong economy creates jobs and increases wages.

We have this now. Replacing the secret ballot process with automatic certification if 65 percent of the employees sign union cards is a definite step backwards. I do not think any of us will recommend electing a government by the number of card-carrying members they have. A secret vote is key to true democracy. In fact, under this proposal, up to 35 percent of employees may not even know about or have a say in union certification. I hear a lot of Manitobans complaining each time there is a federal election that the election is over before it gets to the Manitoba border, and that our votes do not count. That is exactly what we are saying to the 35 percent. Their opinions and their votes are not important. Is this really what we want to be telling people in a democratic society?

It is true that some provinces have a lower automatic certification process. However we are not competing with provinces like Newfoundland for business. We are competing with Alberta and Ontario. We talk about that everyday. Both of these provinces have the secret ballot process. Ten years ago, I believe, there was only one province that did not have automatic certification. The trend is for more democracy, not less.

An employer will accept a union a lot easier if it is voted in by a secret ballot. They know it is a fair and democratic process. To quote from Art DeFehr's letter to Premier Doer: "We accept the right of employees to unionize but find the removal of the democratic right to a secret ballot totally unacceptable." He goes on to talk about balance or imbalance in the law. Again, an employer is much more willing to accept the union if it is done by secret ballot.

If the Government is concerned about employers interfering in the process between the union cards being signed in the vote, then cut down the days between signing cards and the vote from seven to five. I personally do not know of a better deterrent against unfair labour practices than the current ability of the Labour Board to automatically certify a union if the employer interferes with the process. I know when we had retail stores in this province, we would tell our managers and our assistant managers to do absolutely nothing because the fear of any kind of automatic certification, not letting the employees decide whether they want the union, having it foisted on them, that is a serious issue that they can automatically certify, whether the employees want it or not. We were very cautious with that. Automatic certification sends out a negative signal to business looking at our province. Why take a step backwards?

Binding arbitration after 60 days of a strike or lockout. Why would a business choose to locate in Manitoba with binding arbitration in place? Would you want to invest millions or even thousands of dollars here, to be told how to run your business? Binding arbitration effectively does this. Unions and business both currently have very good reasons to settle labour disputes: economics, lost wages, lost sales or lost profits encourage the parties to find common ground. Why change that?

I was invited to attend the Premier's (Mr. Doer) economic summit earlier this year. It was a positive step to get business, labour and government to work closer together to build our economy. I never heard from business, unions or government that labour relations was a problem in Manitoba. Quite the opposite. The focus was economic development. Why would we want to change this focus?

I have sat through three days of presentations. I cannot recall business or labour being really happy with Bill 44. If no one is happy with Bill 44, how can it be good for Manitoba? I have received a lot of information

from a lot of people. I wonder how many had a chance to participate in the consultation process before the legislation was drafted. Why do we have to go so far down the process where minds become entrenched before we can open up the consultation process? Perhaps you should consider withdrawing Bill 44 and let us have a real exchange of ideas and get the labour reform right the first time.

In conclusion, I want to say if Manitoba gets the reputation for being anti-business, that affects all of us, business, labour and unions, all of us. I am a business person in Manitoba and I oppose parts of Bill 44. I guess that makes me nuts and crazy. I have to agree. I am crazy about Manitoba, and I go nuts when I see us not realizing our potential. I want Manitoba to be an even better place to live, work and raise a family. Bill 44 can very easily take us in the opposite direction. Please consider this very carefully when you review this bill. Thank you for your time.

Mr. Chairperson: Thank you, Mr. McIntosh, for your presentation here this morning.

Ms. Barrett: I would just very briefly thank you for your presentation, and you have raised issues that others have raised before, as you know. We both have, as I have said before, the same goal. I love Manitoba, too. We will keep talking. Thank you.

Mr. Schuler: Thank you very much, Larry. I appreciate your presentation. It is colourful and concise. I think if anybody was going to classify you as being either nuts or crazy, it might have to do with the fact that I think all of us got a Christmas card from you a couple of weeks ago. That might have done it, but I do not know.

Floor Comment: It is just early.

Mr. Schuler: Yes, early maybe. I think probably when it comes to promotions, and I still have your pen and your letter with the sticker that you peel off and put in your daytimer reminding us abut the banquet. When it comes to promotion, you are probably one of the best I have ever seen, so when you speak, certainly I find you really do have my attention, and I appreciate this presentation. It is balanced and fair and certainly, as we go through amendments, we will be referring back to this. So thank you very much for sticking it out until 10 after 4.

Ms. Mihychuk: I wanted to ask you, Larry, given that many workers came before this committee and shared with us the frustration that they felt with previous decisions both in terms of labour legislation that was passed in '96 and at other times and with clauses that there were unanimous decisions by the Labour Management Review Committee, both on the management and labour side, that were not adopted, can you explain to me why business would want to withdraw this bill when seven of the clauses have had agreement? Will that not actually inflame the hard feelings that workers have about labour legislation?

* (04:10)

Mr. McIntosh: The seven issues that were agreed on, one could say there was lots of horse trading going on to come to some conclusion and put a package together. The consultation process I think was taken very seriously by unions and by labour. There was a lot of trading to come up with things. To say that business is happy with all those seven, I think that is an overstatement. I think they accepted it as part of a package. When three or five issues come on the table, some of which were on the table before, but three, to a large degree, have come out of left field such as the binding arbitration and the secret ballot, or 65% automatic certification, I should say, business has a problem with that.

Judging by all the people who have come up here and spoken the last few days, are we really solving the problem? I mean, are we just putting a Band-Aid on it and throwing it? Are we getting it right the first time? I think we should take a step back, stop the rhetoric, and really have a discussion and resolve some of these issues instead of doing a Band-Aid solution, which is really a temporary thing.

Mr. Chairperson: Thank you very much, Mr. McIntosh, for your presentation here this evening and for staying with us to this early morning hour. The next presenter on the list this evening is Mr. David Newman. Mr. Newman,

will you please come forward. Do you have a written presentation for the Committee, sir?

Mr. David Newman (Private Citizen): I do not.

Mr. Chairperson: Please proceed then.

Mr. Newman: I am coming here as a private citizen. I have an extensive involvement in the labour relations field over 30 years during my four and a half years as the MLA for Riel and being in the cabinet of the previous government. I have been outside the direct practice of labour relations, but I have continued a great interest in the subject, both as a student and as a lawyer.

I felt compelled to come and make some observations, because over that 30 years I have made presentations to this committee before I had sat in the Legislature myself, and I placed great value as a presenter in this process. When I had the privilege of serving like you, Mr. Chair, as chair of committees like this in the legislative setting, I again had a great respect for the process. I treated it seriously as a presenter. I treated it seriously as a member of the Committee and as a chair of the Committee. I and other members of the legislative committees we sat on were influenced to degrees that we did make amendments because of the presentations we received and had some very considerable debate internally resulting in changes.

For that reason I come with the expectation that you will be doing the same thing. I have great respect for all members of the Legislature. I do not intend to make a partisan presentation, and whatever questions are put to me, I am not going to engage in partisanship. I am going to try and keep this as objective as I can and focus on principles and experience.

I think the biggest issue here is where you draw the line to distinguish ourselves as a little jurisdiction in the world that has a responsibility for labour relations and for protecting the public interest in this province through our government and through your role as legislators. So where do you draw the line and how? I would submit that one thing that you have to have is predictable laws, not uncertain ones, when it comes to this area. You also, I would submit, have to have a process involved in this area of law which has integrity and results in a certain amount of cost-effectiveness for all involved and the taxpayers.

Thirdly, I believe–and this may be a feature which distinguishes my philosophy from some members of one of the parties, particularly here today–very strongly that there must be respect and appreciation for the principle of individual liberty, choice, freedom.

First dealing with the vote issue. I believe that the way that Bill 44 has attempted to change the existing law is a very negative thing, because it is replacing a process that has integrity and acceptance and is good for individuals and their freedom. It is replacing that with something else that is going to cause an uncertainty and a negative influence on individual consent and the integrity of that consent.

The remedy of automatic certification, as Mr. Ziegler knows, we have been engaged in this practice for many years from different sides, and I have great respect for his ability and his union. We have a remedy of automatic certification that deals with employer intimidation in this setting, and I might say that distinguishes us from some other jurisdictions. Ontario and Alberta have, of course, this democratic vote. That is where the competition for jobs and investment comes from. We also must recognize that U.S. investors and businesses looking at setting up in Manitoba have a familiarity with the secret ballot in their work experience and their legal experience in the United States of America.

The second area that I wanted to concentrate on is ordered wages, terms and conditions of employment and justice systems for workers and management rights and freedoms, and I emphasize the word "ordered." We are not talking about an agreement at all. We are talking about an order, or we are talking about a threat of ordered wages, terms and conditions of employment, and an exclusive justice system for employees and the employer and management rights and freedoms. When you have that kind of process introduced in Bill 44, which is not consensual, it is not predictable unless there is a free choice. If it is not consensual, it is not predictable. It is not a cost-effective process. It is

a process that is going to be paid for by the taxpayers not the parties. It is an offloading onto taxpayers, and it also comes in the form of an ultimate order which means it is not an accepted thing. It is an imposed thing. It is not promoting harmonious relations, which is the intent of the legislation.

Can something be done to make the Bill 44 treatment of this acceptable? The goal of the Government, as I understand it, is to establish support and encouragement for ADR, alternative dispute resolution. You could do that if it is consensual, that is both parties must agree to ADR. I would submit, in addition, you would have to make an option to use something other than the Labour Board. If the Labour Board is going to be paid for by taxpayers on a consensual basis that is an inducement for the parties by agreement to use it, but they should be permitted to tailor their own customized ADR by agreement, as well.

You achieve ADR options in lieu of a strike or lockout and encourage a Labour Board arbitration by having the taxpayers pay. That may accomplish your objective of encouraging ADR instead of strike-lockout. Monitoring the cost to taxpayers instead of unions of employers will be a very important thing to be done, and I think it will be done if you proceed with this kind of approach, because this can be an enormous cost, a real offloading onto the taxpayers of Manitoba by unions particularly.

* (04:20)

The third issue I wanted to address was the strike-lockout-related misconduct. I had a very direct involvement in that situation because I represented Trailmobile back in the mid-'90s. It is very interesting because I was quite disturbed to hear the kind of spin that was put on this, and I know this kind of thing is done, and sometimes ministers just get it from staff who really do not know the background and then the Minister does not know the background. I was there. It was very interesting how the labour relations world of lawyers and near lawyers like Robert–we were under the impression, I certainly was under the impression that no Labour Board acting reasonably would have interpreted that legislation as meaning unlawful misconduct would have been removed from consideration in determining whether or not someone would be reinstated or not.

Trailmobile was the case that decided in that I would submit a rational scratched way, and I would say inconsistent which I would have thought were appropriate and respected rules of interpretation of a statute. However, when they did find that this included unlawful misconduct no matter how outrageous, no matter how severe, then it was essential to amend that legislation, which was done promptly by the Government of the day and I might say before I was in cabinet.

To ask the Labour Board to ignore, for the purposes of coming to a decision as to whether someone should be reinstated, the acts or omissions related to a strike or lockout must ignore actions or omissions which are of a criminal nature, of a severe nature in deciding whether to order reinstatement of a dismissed striker, is something that is inconsistent with what is a major deterrent to unlawful activity on a picket line. I would submit that is a positive thing. The threat of losing your job for engaging in unlawful conduct and serious unlawful conduct is a deterrent to that kind of conduct. To do otherwise is to encourage it. In the Trailmobile case, there was a videotaped break and enter of the premises of the employer. That videotape was played to the Labour Board before they made their decision, and of course, it resulted in criminal convictions as well.

I submit there are some less apparent reasons for what I regard as grossly unacceptable parts of Bill 44 that I have referred to. First, this is another attempt by unions–I have seen many over the years in Manitoba, like mandatory first contract and mandatory dues deductions and final offer selection–I submit, to avoid accountability and save expense. I am not in any way criticizing unions for asking for this. They are doing their job, but it is this government that is going to be accountable for the decision they make in relation to this request by the unions. How does this result in lesser accountability and saving of expense? No strike pay after 60 days; strikes will terminate when the union wants them to terminate. Labour Board decision instead of union decision to settle and take responsibility

for the content of the collective agreement. It is a classical result. Unions will allow a board paid for by taxpayers to be accountable for the ultimate decision in these tough cases. You do not have to grieve and arbitrate dismissal situations if the Board is going to ignore unlawful strike activity before the Labour Board. There is no accountability at the ballot box for neglecting minority employees in an organizing campaign and selling memberships without informed consent of signing members. Classical, I mean it is well known to everybody in the field that there is a lot of permissiveness in the content of what is said by organizers to employees.

This is another attempt to experiment in the Manitoba laboratory with a new notion, and this is the arbitration after 60 days, with a view to test it and then expand its usage into other jurisdictions if the Manitoba guinea pigs, all of us, survive the experiment. It is another attempt to use an NDP Government to advance the above union agenda, because this NDP Government succeeded in winning in part because of their partnership with, investment in and work on behalf of the NDP party in Manitoba, another attempt to get better results from union organi-zing and collective bargaining negotiations.

There is nothing wrong with the union leaders trying for all of these things. Employers would probably attempt to advantage themselves in the same way if they partnered with a single political party, which I assert they do not. I assert many curry favour and partner with all political parties, and especially with the one in power, even this one. The important thing is unions, employers and governments each having a role to play in society and playing them well. The guardians of the public interest are the legislators and the Government. Unions are out for themselves and their members. Corporations are out for themselves and their shareholders, creditors, employees, customers and suppliers. The accountability for Bill 44 and every single word and punctuation mark in it falls on this NDP Government and the legislators who are part of that party, not the LMRC, not unions, not employers.

The biggest risk to the public interest, in my opinion, is mandatory arbitration after 60 days on request of a single party. Why the risk? The options for investment and business location, Alberta, Ontario, 50 U.S.A. states with secret ballots, no mandatory arbitration, the right to fire employees who commit criminal acts in relation to their employer and 21 U.S.A. states, including North Dakota and South Dakota, with right-to-work laws.

Mr. Chairperson: Mr. Newman, sir, we have passed the time for presentations. Thank you for your presentation this evening.

Mr. Sale: Mr. Newman, David, we all know you. I am delighted that you chose to make a presentation, that you started off by saying you were going to make it in an unbiased way. God help us if you had made a biased one; an interesting presentation.

I guess the one question that occurs to me is whether in a fundamental way you believe in the absolute right of an individual to attain whatever poverty or state of life, riches or poverty, without any community or any commonwealth around that person to express any kind of solidarity with. It sounded to me like you were taking the view, that absolute view, that kind of libertarian view of individuality, and I wonder if that is your view?

Mr. Newman: The great challenge is for powerful organizations like unions and powerful organizations like employers permit within their framework a sufficient amount of individual human dignity and freedom for them as individuals to fulfil themselves and to express themselves.

The very curious thing about the way law in relation to unions have developed is that there was a movement away from a contractual relationship, which is the individual with the union and all other members, which is the legal characterization of the relationship, a movement away from a contractual relationship that freedom at liberty is secured, is protected into a status relationship. The status relationship takes away an enormous amount of individual freedom and individual ability to control his or her own destiny. So, within just the union side of things, there is an enormous need to understand the impact on the individual members of unions

and prospect of members of unions, and there has been an enormous intrusion, more in Canada certainly than in the United States and more recently in the U.K. and other countries in the world, more intrusion by legislation on the individual ability to fulfil oneself and have individual expression of freedom than in other areas of law.

* (04:30)

Mr. Loewen: Thank you, Mr. Newman, for your well-thought-out presentation this evening. I appreciate you coming to give it. We had an interesting presentation I thought from Grant Mitchell a little earlier on. He gave, I think, some fairly innovative solutions in terms of some of the options that would be available, and they involved the Department of Labour and the Labour Relations Board in terms of alternatives to what is being proposed in this legislation.

I am just wondering if you have any comments on the possible expansion of the role of either the Department of Labour or the Labour Board in terms of resolving some of these issues.

Mr. Newman: The only suggestions that I would have for what I would believe would improve the legislation, one would be to remove mandatory automatic access first contract from the legislation. I carried a brief for the Manitoba Chamber of Commerce and the Winnipeg Chamber of Commerce as an intervenor that went up to the Court of Appeal in relation to that particular aspect of the legislation, and that was the Court of Appeal judge member who called the legislation fascist. I had a dim view of it. I would not have called it fascist, but I had a very dim of that legislation because it does all the negative kinds of things which I have asserted in relation to the arbitration process, which is worse because it is there forever during the relationship. Every time there is a negotiation of a new collective agreement, you face it, so I would urge getting rid of automatic access mandatory first contract in Manitoba. I think that is a penalty imposed on the innocent parties which is unwarranted.

The other thing I would do is I would make the Labour Board the equivalent of a special operating agency. We pay fees for use of our court system. We pay fees for the use of our Public Trustee. We pay fees for the use of the corporations office. They are trying to be self-sustaining organizations. Unions are financed by union dues mandated by law, imposed by government, and why there is not paying pay for using that system that would bring an accountability for its use as well. That is an area where I would move to try and make the system more accountable and also to improve the quality of it, because then it would get more funding. It is not well enough funded to do its job properly. With the more responsibilities that are being imposed on it, the more difficult it is going to find it to do its job well. That would be one way to deal with it.

Mr. Chairperson: Mr. Newman, sir. Thank you. Time for questions has expired. We are over considerably.

Mr. Newman: Thank you. I respect you for staying this late and so conscientious.

Mr. Chairperson: Thank you for appearing before the Committee.

The next presenter on the list is Rod Giesbrecht. Is Mr. Giesbrecht here? Your turn, sir. Do you have a written presentation for committee members?

Mr. Giesbrecht: I certainly do, sir.

Mr. Chairperson: Thank you. You may proceed when you are ready.

Mr. Giesbrecht: Thank you. I am just going to wait while it gets passed around.

I would like to give a little introduction that will replace the introduction you will find in the beginning. I guess I have had a number of hours to sit there in the peanut gallery, and you could have rewritten the whole thing time and time again. You know the irony of it all. People saying, oh, Harry Enns is sleeping again, and that person is now asleep in bed while Harry is here, so you know there is a lot of irony occurs when you are sitting in the peanut gallery.

Anyway, I would like to start by thanking the Committee. It is a wonderful opportunity to

speak to you. We are going to be here to watch the sun rise, and I have not done that with you yet in my life. The issues I am going to address in my presentation are specific to my situation, so there are things that others bring up but again I want to speak from my perspective. I do not suggest that I look at the world through rose-coloured glasses. You know there are some employers there that really need some work, but there are some unions there that need a little bit of work. I am not naive enough to think that the world is a great place, but I am speaking from my perspective, and I am speaking to you, the Government, who needs to make those balancing decisions.

We have been looking at the prism of labour relations, and we have looked at that prism tonight from, oh, history, philosophy, academia, faith, you know, take whichever angle. I want to look at four ways of looking at it, and I am going to address two specifically. The first one I want to look at is management has looked at this prism and it has seen it. Do you know what? I sit at a table; I bargain with six bargaining units. I think I have a little bit of appreciation for management's perspective. There is also organized labour who has sat there, and they have looked at that prism from a different angle.

I have been involved in my local. I work at St. Boniface Hospital. I have been on the health and safety committee. I have been on UFCW on the provincial committee. I have gone around the province promoting the benefits of the labour movement to different school-aged children saying, you know, the union has a lot to say and a lot of benefit that can be derived. So I do not think I am a mile away from organized labour, at least in a little bit of awareness. Now, obviously, I have more to learn, and I do not imply that I am going to speak on their behalf either.

Bernie Christophe, Rob Hilliard, you know, I am one of those 90 000 people they mentioned. I could say I am going to speak on their behalf because I have consulted them as much as they have consulted me before they spoke. I am not going to suggest that I speak for them, okay, but I do have a little bit of appreciation from where they come.

Government: I am an elected school trustee. I have a little bit of appreciation for what you have to do. I come, I get to share one side of a perspective. You need to not throw out the baby with the bath water. That is your job as government, and I get to do that on different occasions, but I am going to let you do your job.

Employees: Mario was quite eloquent in saying do not confuse organized labour with employees. They are two different groups. You know, I contract auditors. I contract architects. I contract all kinds of people in the school board to do work for me, but until they come and ask me, they do not have the right to go and stand there and say I now represent River East School Division because they do not. In fact, I am not even here representing River East School Division because I do not have the blessing of all the trustees. We did not have time to meet. The way the Bill came across, we did not have time to do that. So I am here as an individual in that regard.

Do not confuse the majority. There are some definite exceptions, but do not confuse the calves that work for the unions that came here that suck off the tit of the big cow named "the union" and want to get fat like mom because they do not speak for the workers. I wipe bums for a living at St. Boniface Hospital. I work. I know what that means. So please understand I want to talk from two perspectives, the employee's perspective and from the management's perspective, because the Bill comes to me in this way.

* (04:40)

Settlement of collective agreement by the Labour Board or an arbitrator during a work stoppage. This proposed amendment is of serious concern to me. Under the present legislation a balance exists where an employer and employee share equal powers in collective bargaining. This balance is not to be taken for granted. In my experience as a health care employee, I realize that present legislation in this regard, essential service agreements, in this profession have drastically restricted the rights of the employee.

Arbitration has been used to settle disputes with little satisfaction being experienced by the employees. To bring an arbitrator into a situation is to curtail the rights of the employee. You might respond by saying the arbitrator is only brought in with the agreement of the workers, but I ask you, after two months of job action, is an employee in the best frame of mind to decide what is in their best long-term interests?

Employees tend to follow the recommendations of their bargaining team, and considering they pay union dues for this expertise, this is reasonable, but one must investigate the union's motivation. Employees should not be pawns to be manipulated at will by the powers that be. Who benefits from the legislation in Bill 44? The employers claim that it is not desired by them and they see no benefit to themselves. Employees like myself who have experienced the negative influences of an arbitrator's decision do not benefit.

So who does benefit? These draconian measures, I am led to understand, were generated by the Labour Management Review Committee. This committee is made up primarily of organized labour and management. We have already noted management's position, so that leaves only one party, organized labour.

Organized labour receives millions upon millions of dollars every year from members like me. One of the many services purchased is strike pay in case of a work disruption. By restricting the length of strikes, you reduce the exposure to the costs that unions will experience. Therefore this amendment is self-serving to the unions. Members trust unions to provide professional, measured, expert advice in labour negotiations. By reducing the consequence of the strike option you reduce the necessity for unions to provide the best measured option to employees. This is because they have a reduced stake in the consequences of the strike option when presented.

What do I as an employer think? As a trustee in River East School Division, I am part of a team that negotiates with five bargaining units under The Labour Relations Act. I am told that in almost 40 years, we have had only one brief two-day strike with any of these bargaining units. Our priority is to provide service to our community. There has not been need for arbitration. It is true that neither side has always received the most desired outcome, but the outcome was acceptable. To alter the balance will inevitably change an effective system. Why would an employee group settle when you can see arbitrators awarding sugar-coated plums to teachers, such as three paid holy days, which will cost our school division $900,000 if they decide to exercise their rights, or 90 percent maternity leave, which Fort Garry was just awarded?

Now, if you notice, there appears to be an inconsistency in the argument of my representation of the employee and employer's perspectives. This inconsistency is that both parties believe the other does better in an arbitration situation. A simple man may say that this is balance being expressed, but the truth is that both parties are right. Arbitration is the removal of rights and a curse to everyone involved except for the unions, which can bring in a contract and distance themselves from any blame because any of the problems are the arbitrator's fault.

Arbitration is a failure on the part of the union to deliver what they promised to their members. Arbitration means a union has not been able to negotiate an acceptable contract between the two parties. The proposed amendment serves only organized labour, not employees. For the employees and employers, arbitration is nothing more than a crapshoot and a loathed process.

Discipline and discharge for misconduct during a strike lockout. Bill 44 proposes to repeal existing provisions which allow for an employer to refuse to reinstate an employee for reasons which would constitute cause for discharge if a strike or lockout were not in process. In other words, a strike creates virtual immunity from employment disciplinary sanctions for acts committed during a strike or a lockout. This means employees could assault a member of the public, a child, a supervisor or an employee who disagrees with the job action and be immune from employment sanction. Is a strike a licence to remove civility and consequences for one's actions? Sure, a criminal

penalty remains, but which parent wants a teacher's assistant–this is a hypothetical situation–assigned to their child who has recently been released from prison for assaulting a child during a labour dispute.

The scope of this bill advances the naive impression that what one does when not in gainful employ is of no interest to the employer. People put their lives in the trust of employers and rightfully expect safe service. The present system allows for the Labour Board to review dismissals resulting from actions during a labour dispute. Therefore, the required balance exists to counterbalance abusive employers. This change in legislation is unwarranted. Now I will maybe just add a little commentary. If you want to tell the Labour Board to be a little bit more aggressive, I think that would be in keeping with appropriate measures if you do not feel it is being done, but I do not know if we need a change in legislation.

Expedited arbitration. The expansion of issues eligible for expedited arbitration beyond termination suspension over 30 days is unwarranted. Handling issues expeditiously, while sounding good, does not allow time for either party to prepare its defence. Therefore, the employee is not served well by the union, and the stakeholders in the business are short-changed. So who benefits? Organized labour can once again invest less effort and blame any problems the employee has with the ruling of the arbitrator. Interpretation matters affecting the collective agreement and bargaining unit should be dealt with in the conventional arbitration process where the parties consent, both parties, to the choice of an arbitrator and control the process, thus lending to the legitimacy of the outcome. Obviously, I am hoping that conciliation would first be attempted before arbitration.

Conclusion. Amendments found in Bill 44 do not serve the citizens of Manitoba. The employees and employers are both crushed under the heel of this legislation. The only party to benefit is organized labour, which by requesting the Government to enact such legislation has proclaimed its own shortcomings. Maybe this exercise brought on by Bill 44 has not been unproductive. Sober reflection has clearly demonstrated that the real priority of this government should be to monitor those groups which hang up a shingle claiming to be organized labour but fail to deliver on the promises made to the employees. Should self-proclaimed incompetent bargaining units be tolerated? Obviously, here we see the need for more regulation but not of the type suggested by Bill 44. Thank you. Any questions?

Mr. Chairperson: Thank you very much, Mr. Giesbrecht, for your presentation this morning.

Ms. Barrett: Just briefly, a very interesting presentation, clearly not one that is–your ideas are not reflected in Bill 44, but I do appreciate your having stayed around and given us the benefit of your analysis. As I said, it was a very interesting presentation.

* (04:50)

Mr. Schuler: Rod, thank you very much for your presentation. I do have a question in regard to the discipline discharge for misconduct during a strike-lockout. We have heard in the presentations over the last three days that strikes are an emotionally charged situation, and we have heard where people will say individuals can act irrationally under pressure. How do you respond to those comments?

Mr. Giesbrecht: Thank you. I guess I have sat there hearing person after person say, oh, you know, it was an emotionally charged situation and they are not responsible for their issues. I work in a hospital. You know, people die in hospitals, and there is somebody, an orderly, that has to get on that chest and they have to try to resuscitate that person. That is an emotionally fulfilling time. You say to yourself am I allowed to lose it at this time. The answer is no. So you say, oh, well, that is different.

See, in a strike, you are personally threatened. It is not like you are just in a stressful situation. You are personally threatened. My job also includes restraining people that are not co-operative. That means when the guy comes in with a knife in emergency and starts threatening people, it is the orderlies that need to restrain that person and disarm them. That is personal threat, and I am not permitted to lose my cool

and grab a steel bar and dismember that person. I still must act in a responsible manner because I am a responsible employee.

I do not think I would give people the opportunity to say, oh, I was caught up in the passion of the moment. I am sorry, you have to remain civil. That means you have to do your job properly.

Mr. Loewen: Thank you for your presentation. We heard yesterday from Jan Speelman who professes to talk for 14 000 teachers, although she did admit that she had not really polled any of them. I quote from her presentation that the previous government created an anti-union and an anti-worker climate. You have had experience on both sides of the table. Does that match your feeling in terms of the labour relations climate prior to the introduction of Bill 44?

Mr. Giesbrecht: I guess we have come through some tough times, education that I am involved in, health care that I am involved in. Do you know what? There are a lot of people that say you know, I have been falling behind in my income and it has been a tough row to hoe. We have had to change things, and it has been tough. Labour relations are hard because people have felt a lot of pain over the last umpteen years.

That being said, I really believe that if we all want to sit down together and we want to cry in our beer how bad it is, the world will look more dim. I think that yes, there have been problems. Anyone that says to me I have had stress and we are stressed, hey, I would agree with them 100 percent, but I would also say that unions, particularly to get their message across about how valuable they are, have sold the bill of goods that the sky is falling, and a lot of people are not being encouraged. I hear that from teachers. Yet, when you talk to nurses and you say what do you think of the teachers, they go, they have everything they could possibly imagine. They do not know what it means to take cutbacks, financial, workload changes. They do not know.

I stand on both sides and I say, you know, teachers have had a lot of changes too. They are different. You cannot appreciate because they are not the same. There is that picking at each other and things like that. Will Bill 44 improve anything? Not for the employees. I think that when we settled our last contract at St. Boniface Hospital and got–I will be honest–a lousy deal from the arbitrator, which was recommended by our bargaining unit, when I know the guys at HSC that are doing the same job get bigger shift premiums and get over $1 an hour more for doing the same work, I can tell you, I and the other guys that are with me are saying we are not happy because we believe there should be some equity in the system. We do exactly the same work. How come we are penalized because we work at St. Boniface Hospital?

Mr. Chairperson: Thank you, Mr. Giesbrecht. The time has expired for questions. Thank you for being with us here this morning.

Mr. Giesbrecht: Thank you very much.

Mr. Chairperson: The next presenter on our list is Robert Ziegler. Mr. Ziegler, do you have a written presentation for the Committee?

Mr. Ziegler: Yes, I do.

Mr. Chairperson: Thank you. You may proceed when you are ready.

Mr. Ziegler: Thank you for hearing me at this late time of the morning, early time of the day, whatever you want to call it. I am going to keep my presentation short and hopefully allow opportunities. I just want to give some of the background. I would like to start off and give my background. I was working at a bakery called Empress Foods in 1978 when I got involved in a six-month strike with Canada Safeway. That strike lasted for six months. I was 22 years old at the time, and it was a real introduction for me. I was not a shop steward. I was not active in the union. I did not have any role there. During that time I got married and I saw the effect that that strike had on my co-workers. Some of the people who were the mildest mannered, church-going, would not say boo no matter what you did to them, changed, got active, and did things that they would never do and have not done since. You really do not know what it is like to be involved in a strike or lockout until you have been there. I was there for six months; right when I got married, right when I had bought a house just before that, and to live without a

paycheque, to live without it. You heard some presentations from some people.

Well, since that time, I became a union representative about two years later with the United Food and Commercial Workers in 1980. As well as that, I have been involved in numerous negotiations, strikes and lockouts. As Mr. Newman said, for five years, full-time, I presented Labour Board cases, arbitrations. So I know all the workings, all the problems; I organized. Since that time I am now a vice-president of the Manitoba Federation of Labour. I was one of the people of the Labour Management Review Committee that reviewed this legislation and gave you recommendations on what we would like to do.

As said, I will keep my presentation short, simple, and to the point, because I want to talk about, not the specifics, because they are out there and if you want I can give you the details, but I want to talk about the effect of this legislation on real Manitobans and why we have to make some changes. I just want to quote the last couple of people I think went in a little different tangent, and I think really you want to look at, from the management side, some real perspective on this bill, look at Peter Wightman and Grant Mitchell. Those are the people who have a little bit more practical, and they said this is not anti-business legislation. They talked about unions using a strike for six months. They said it would not happen. I think you want to talk about the people who are using it on a day-to-day basis.

Things I want to talk about, organizing. It is amazing. We have had all this big debate, but it is recognized all across Canada, in every province, and in our charter, people have the right to belong to a union. Why are we having this big discussion?

Why there should be automatic certification–I have worked under both situations with and without automatic certification, both when we had it at 55 percent and then at 65 percent. I have got to tell you, it makes me sick when I hear management in the press saying that this is all about democracy. This has nothing to do with democracy. That is not why management is raising this case. It has been well recognized that management does not have a rule in what an employee wants to do about forming a union. We have not heard any union here or any employee here come and say I was intimidated or I am losing my right to vote. You have not heard employees asking for this change. It is not about democracy. It is about stopping unions from coming in. Who have we heard from? Basically from the management side. It is non-union employers, and they have a fear, and if they were honest they would likely say the truth that they do not want a union in their workplace, and that is why they are opposing this.

Well, why should an employee have to express his wishes twice? When a member signs a union card with the United Food and Commercial Workers, it clearly states in writing, and I am going to read you the words: I hereby further acknowledge payment of the sum of $1 to the above union which sum was made from my own funds, and further that I have signed this application for membership freely and voluntarily after having been provided with information respecting initiation fees and regular membership dues, and further acknowledge that neither the United Food and Commercial Workers union, nor any person acting on behalf of them, has engaged in or committed an act of intimidation, coercion, or threaten to impose a pecuniary or financial or any other penalty to compel to induce me to become a member. Please sign this.

We witness it; they pay a dollar. That is a commitment that they want to belong to a union. Further, after that application goes in, the Labour Board goes into the workplace and puts a little sign on the wall saying an application has been made. If anyone wants to raise an issue such as fraud or intimidation, you can write to the Labour Board. So there is an opportunity if there was any intimidation or coercion. The employee can raise that, and further, unlike what Mr. Green mentioned, there is an opportunity for people to change their mind. After you sign the card, and before the application goes in, if an employee says I have changed my mind, all he has to do is one of two things, contact the union and say: Pull my card, and we have to do it, or contact the Labour Board and say: I do not want my card to stand. If he does either of those two

things, he has the right to change his mind prior to the application going in.

Talk about this democracy. It is interesting that we are saying we are taking away democracy. I have heard some of the people on the left side of the table here–that is the wrong position maybe for their views–say that we need more democracy. Maybe they would like to give the employees the right to vote on what their next wages are. They are not about to do that. Or their terms and conditions. Every employee, there should not be a change in the terms and conditions without a vote by the employees. It is not about democracy. They are about stopping unions.

* (05:00)

There are lots of situations though of why we do not want to have a second vote. You have heard from them. You have heard from those people who were fired. You have heard from the organizers who have had to deal with people who were fired. There is a lot of coercion that has occurred since the removal in 1996 of automatic certification. If you look at the statistics, the number of unfair labour practices has increased since this bill came out, same as what happened in the United States, same as what happened in B.C. There is not one situation where United Food and Commercial Workers has been charged with fraud or coercion by any employee.

I am not aware of one case in Manitoba where a union has been charged by an employee. There are lots of situations where employers have not only been charged but have been found guilty of intimidation and coercion, and more of them since this change came in. That is the effect of this legislation.

As I said, there is only one reason why employers want a mandatory vote and that is to defeat unions. It gives them the opportunity to get involved in employees decisions, which is not their choice. I have seen the increase in the unfair labour practices, as I mentioned.

Really what I want to talk about is the next part, which is the effect on real people. You have an individual like Julie Sheeska who works hard for her employer over the years, works hard, and maybe its another person who has a family, works hard for his family and his children, but simply because they signed a union card or they got involved in union activity they are fired, something they had a legal right to do. They lose their job.

Often they will not get any money for four weeks before you get anything from EI, even if they are eligible for employment insurance. They lose the respect of their family, because obviously they must have done something to get fired. Most people do not get fired for no reason, do they? Even though that is what happened to Julie.

Management says, and I heard this said at the Labour Management Review Committee, we have unfair labour practices to deal with those situations. Mr. Enns said, ah, it worked, we got her back to work. That is not the real story. The truth of the matter was for five months she had no pay. For five months she had to deal with paying her rent and not being able to pay her rent, not being able to buy food. Other people I know have not been able to buy things for the kids. The kids cannot go to a movie. Five months later, yes, you get topped up to EI. There is no compensation for those five months. They have lost their self-respect. They have lost their credit rating. Some of them have lost houses and cars over that period of time. Unfair labour practices do not make up for that, and that is why I say we have to change and go back to a card-check system, and I will leave this with you.

I say, the interesting part, I want to go back to one little thing about the card-check system. We talk about the joys of democracy of a vote. We have a situation where you have 100 people, 65 percent of them sign a membership card which clearly works like that. You go around to a vote, the one that we had last night. Only 60-some-percent of the people actually voted, because it was a food store with part-time people who work all different kinds of hours. Thirty-three people make the decision. One-third of the people decide whether there is going to be a union. Even though you can have 65 percent of them who sign, you have a vote where it is not a majority anymore; it is only a majority of those

voting. This requires the majority of all the people who work. With part-time work, with shift work, with people working more jobs, this is a fairer system to determine the wishes of people, not voting on one day when people may be working somewhere else.

I have three recommendations. The first recommendation, I strongly believe that the automatic certification should be at 55 percent, not 65 percent. That is a clear majority. That is what it used to be. The bottom line is, that is a majority. No. 2, I would recommend that the penalties for unfair labour practice should include punitive damages. You have to be able to make up, because otherwise the employer, as was mentioned by Colin Trigwell: So I have to pay $4,000, but I have defeated the union drive. There have to be punitive damages, and I would suggest that what it should have, if an employer suspended or terminated Julie for five months, that person should lose their employment for five months and see what it is like to live without it, because there have to be punitive situations.

Three, we should change the rights of employers during the organizing drives and campaigns. They should not have the ability to talk to employees during the formation of a union. Again, we have seen the effect of that over the last four and a half years, and it has been negative and it resulted in more unfair labour practices.

The issue of strikes and lockouts. As I mentioned I was on strike for six months when I was 22 years old. As well, I have been involved with too many strikes and lockouts, both with the UFCW and supported other picket lines, to list them all. I do not in any way condone criminal activity of any sort. I do not think anyone from the labour movement does. If someone has, and the employer has the right to go after criminal charges against that person, the court system will deal with that, but I do not believe in double jeopardy and double penalty.

Again, let us talk about real Manitobans. The previous speaker spoke about something, but he has no real experience on a picket line: stupid mistakes and momentary frustration. Someone may have been–and I have seen this and I have been there–on strike or lockout for a month or two months and the manager comes through the line and goes real fast and bumps him and hits him with his car. That employee gets mad, and he bumps the car or he knocks the mirror or he scratches it. Now right away he can be terminated. Under the current legislation it is the same test as if he was at work.

If there was no strike, he never would have done that, never would have happened. After the strike is over you would never have a situation where you would have a picket line and a manager would run into and bump him, but what about balance? What are the repercussions for management, for scabs during a strike? And we heard about that. We heard from Darlene Dziewit earlier, talking about people who had instigated and pushed, and I saw that, I was there, would instigate a situation, or a person who is driving a car. My father-in-law got hit by a semitrailer and got driven five feet in the air.

What are the repercussions to that person? Absolutely nothing. The union cannot file a grievance against that person. The union cannot file an unfair labour practice against that person, so one person can lose their job for life. Then they go to apply for a new job: What happened? Well I was fired because of my activity during a strike. You know how hard it is going to be to get a job then? So there is no balance in the situation.

So I have two recommendations for you. The first one is that the section should be amended as recommended by the labour representatives, and finally, that there should also be a penalty for management, individuals who involve in misconduct on the picket line. If you are not going to remove it the other way, there should be a penalty to management up to and including loss of employment and possibly jail sentences.

On negotiations–I will try and make this very quickly–the situation has changed. We do not have the balance we once had. I have seen over 22 years how picket lines have changed. We have more part-time people, so as the strike begins or lockout begins, the employer goes to a judge and we have an injunction saying that all you can do is you can picket in a small 10-foot

area and you can slow a car down for three minutes. There is no balance. I find it interesting, though. There has to be a better way. Management is saying they want more strikes. Some of the representatives are saying here that it is better to have a strike. Why? Why can we not look at something better than a strike?

Those three recommendations I will leave it on there, the other comments about it. I say that, No. 1, there should be a window prior to a strike, not just as recommended by the labour representatives. There should be an opportunity to resolve it prior to a strike and if that is not the situation, I believe you should have anti-scab legislation in this province because if you have anti-scab legislation, you have balance, and you will not need arbitration. You also will not have picket line violence.

My final point is expedited arbitration, which is not on here, should be extended to all grievances, not just discipline grievances. Justice delayed is justice denied, and you should deal with a person who is waiting a year and a half to find out why he did not get a job that he was posted for.

Those are my comments since I am out of time, and I will go from there.

Mr. Chairperson: Thank you very much, Mr. Ziegler.

Ms. Barrett: Thank you and I appreciate your having waited, and actually I think you were here for virtually all of the public hearing process. Thank you very much for your presentation that outlined as a person who has been a worker and also a person who has worked with organizing through some of the concerns and the issues and the recommendations. A very thoughtful presentation. Thank you.

Mr. Schuler: Thank you, Robert, for your presentation. Being the last one, I take it this is the last one, I would just like to ask you if this is not the last step in labour changes, what would you recommend in further discussions with the Government, what you would like to see its first changes are to the labour bill?

Mr. Ziegler: I believe there are a number of changes that could be made and should be made in the future to make situations more balanced. As I said, expedited arbitration I think can be improved. Not just the process of grievances, but I think we can improve the process of arbitration. I think there has to be better alternate dispute resolution systems. I think FOS worked very well. We have employers in Manitoba who have agreed to it, even though it was gone from the legislation. Some of those employers saw that it works well. Some of the situations, there are numerous other ones, and I think you could have some improvement on there.

Mr. Schuler: In your discussions with the Minister, have you ever discussed with her the possibility of anti-scab legislation for Manitoba?

* (05:10)

Mr. Ziegler: I do not know if I have specifically mentioned it with her, but at the Labour Management Review Committee, that was put forward as an alternative, yes. The issue of alternative dispute came right up at the beginning when we had our meetings. We put a number of suggestions, and through the process that was one of the things that was put forward to her. At least I believe it was, I will have to check.

Mr. Chairperson: Thank you very much, Mr. Ziegler, for staying with us to this early morning hour and for your presentation here this evening.

We have a few pieces of business we need to deal with. For members of the Committee, I will just read this to you. Early this evening it was agreed by this committee that a brief provided by one of the presenters, Mr. Mitchell, be transcribed and included in the written record of this meeting. It was also suggested at that time that all briefs be included in the written record. For the sake of clarity, Manitoba standing committee practice has not been to transcribe and include in the written record briefs from members of the public making oral presentations. Typically the only briefs that are transcribed and included in the written record are those which have been submitted in lieu of an oral presentation. Those briefs are only included with the consent of the Committee.

Is it then the will of the Committee to have all briefs submitted as a part of the oral

presentations this evening transcribed and included in the written record of this meeting? *[Agreed]*

Also, I wish to canvass if there are any other persons in attendance this evening who perhaps wish to make a presentation to Bill 44? Seeing no other presenters, the Committee has heard all presenters who were registered to speak to this bill. Is the Committee ready to conclude public presentations on Bill 44 and proceed with clause-by-clause consideration of the bills?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Mr. Chairperson: What is the will of the Committee?

Some Honourable Members: Clause by clause.

Mr. Loewen: I would suggest that we adjourn and reconvene at some point tomorrow and leave it open to presentation at that point. If somebody wants to present to us–I mean, we agreed to re-evaluate the situation at twelve o'clock. We are a little past that deadline, but maybe we could have the courtesy to at least leave it open, just in case there is anybody who got a little frustrated by the late hour and would like to make a presentation tomorrow.

Point of Order

Mr. Sale: Mr. Chairperson, on a point of order. I believe that there is already a motion to the effect that we would close presentations tonight. It was passed earlier, against the wishes of the Opposition, with a count-out vote, and that is the situation we are in. So I believe that has already been determined.

Mr. Chairperson: Mr. Sale, that is not a point of order, although I would like to remind members of the Committee that there was a motion that was passed, and I would read it back to committee members. I would move "that the Committee sits until all presentations are completed" was introduced by Mr. Smith, and it was passed by this committee earlier this evening.

* * *

Mr. Chairperson: We still need some direction from members of the Committee with respect to concluding public presentations and also proceeding with clause-by-clause considerations of the Bill.

Mr. Sale: Mr. Chairperson, I move that public presentations now be concluded and that we proceed with clause by clause at a time to be determined by the Government House Leader, which is how committee hearings get held.

Mr. Chairperson: Before I get to you, Mrs. Smith, that motion would have to be in writing. While we are waiting for that motion to come–just one moment please.

Mr. Sale: Mr. Chairperson, I move

WHEREAS all registered presenters have been heard, that public presentations on Bill 44 now be concluded.

Mr. Chairperson: We have a motion before us.

Motion presented.

Mr. Chairperson: The motion is in order.

Mrs. Smith: I would like to put it on record that members on this side of the table strongly disagree with this motion. We will be outvoted, because there are more members on the other side of the House. The fact of the matter is that as the Honourable Member for Fort Whyte (Mr. Loewen) put forward, there are a lot of people who have not been able to present. We request that this motion be defeated and that the opportunity be given for people who have not been able to present.

I noticed there was one person from around the Brandon area, and I do not know how they got missed. I know they submitted their brief, but the hour was so late that I think I would give up and go home too. So the fact of the matter is we are requesting that you leave it open one more day and the Clerk's office do phone these people who have not shown up to give them this opportunity.

Mr. Schuler: Mr. Chairman, we on this side of the House certainly disagree with the way that this committee saw closure imposed on it by the Government. I think that is most unfortunate. It would have been much more civilized if we would have had a twelve o'clock closing or we would have allowed individuals who did not want to present late into the evening to have a chance to come again, which would now be later on today. Instead, the Government chose to use its majority. They forced closure on this bill. They have allowed very little opportunity. This is unprecedented, and there were other bills that were brought into this House. To have a bill in six weeks brought to committee, rammed through committee and forced upon the public is most unfortunate. I would expect that at least the Minister of Labour (Ms. Barrett) would show a little bit of courtesy. Though she does not listen, the least she could do is just be quiet and not heckle while members are speaking on a very serious issue.

The issue here is closure. A bill was rammed through the House in six weeks. That is hardly ample time to be able to discuss this. Presenter after presenter came forward and made that case. I think it is very unfortunate. Frankly, I do not care who of the Minister's staff laughs in the gallery, which is also despicable and shows the fact that the Chair does not have control over this particular committee. I think it is disgraceful that the Minister's staff sits and laughs in the gallery about this.

* (05:20)

This is a serious issue. I would ask, Mr. Chairman, that you get the Member for Interlake (Mr. Nevakshonoff) in line. I am not going to sit here at twenty after five and tolerate him still heckling me like that. This is a very serious issue. You used closure to shut down this particular bill, and that is disgraceful. I would say that clearly to the Member for Interlake. I think it is very unfortunate to all people in Manitoba.

Again, we have rammed it through tonight, not giving people the opportunity to come to this committee later on today if they could not stay all night because perhaps they had to go home and take care of families or because they have to work tomorrow. I think this is a terrible, terrible thing that this particular government and this minister has done with Bill 44. They tried to sneak it through through the heat of the summer. They tried to ram it through in six weeks, tried to ram it through committee. I suppose they are going to try and ram it through in the next couple of days. With that, I would like to conclude my comments for the record that no, we do not support closing off presentations.

Mr. Maguire: I just concur, Mr. Chairman, with my colleague for Springfield's remarks in regard to the timing and the process and would wonder that if in another four hours and forty minutes being ten o'clock that there would not be an opportunity for some of the presenters who had not presented to have an opportunity to do that.

I would add to his comments that I could understand why the Government might not want to do that, having brought forth the most vociferous piece of legislation that they have dealt with in this session of the Government. This is certainly not going to be good legislation for the province of Manitoba in the future, but I would beseech the Chairman to consider the opportunities to perhaps allow presenters who are not here to be able to do that later this morning.

Mrs. Smith: Mr. Chair, with all due respect, on a daily basis this minister stood up in the House and literally bragged about the fact that this committee was going to be open and allow people to present. This minister said on a daily basis that this was time for consultation. We have heard from the presentations tonight. We have heard from numerous letters and numerous phone calls that there has not been an open-door policy, there has not been open conciliation, that this minister and this government has not listened to the people of Manitoba.

Now, I do not think this is very funny. I do not think it is a big joke. I think this is a travesty of the democratic process here in Manitoba. We from this side of the House are requesting, in all due respect, that you live up to your word, in Hansard day after day, this is going to be an open process, we will listen to the people.

You shut this committee down tonight, and you know that you did. You did it by insisting

that people stay till 5:30 in the morning to be heard. Nobody who has children at home will stay till this hour. You did it with Bill 42, and you did it again with Bill 44. This is a travesty. I think from this side of the House you can respect the people of Manitoba. You can laugh at us all you like, but you should not be laughing at the voters. You should give them an opportunity. The Clerk's office should be phoning them to give them an opportunity to make their presentation in person.

Mr. Chairperson: Is the Committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: The question has been called. The question before the Committee is as follows: WHEREAS all registered presenters have been heard, I move that the public presentations on Bill 44 now be concluded. That was presented by Mr. Sale. Shall the motion pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Mr. Schuler: Mr. Chairman, a recorded vote, please.

Mr. Chairperson: We have not got to that point yet, Mr. Schuler.

Voice Vote

Mr. Chairperson: All those in favour of the motion, please indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please indicate by saying nay.

An Honourable Member: Nay.

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

Formal Vote

Mr. Schuler: A recorded vote, please.

Mr. Chairperson: A recorded vote has been called. All those in favour of the motion, please signify by raising your hand.

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

Mr. Chairperson: In my opinion, the Yeas have it. The motion is accordingly passed.

We have not quite concluded the business of the Committee, please, if you would not mind, members of the Committee. I know this can be somewhat difficult. Please just bear with us for a few more moments.

I believe that this would conclude the business before the Committee. What is the will of the Committee? Committee rise.

COMMITTEE ROSE AT: 5:25 a.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Re: Bill 44

My name is Ilene Lecker and I have been employed at Marusa Marketing for approximately 5 years. Tonight I come before you to express why Bill 44 is important to me.

In April '99, I was part of a group of fellow employees who helped organize a union in the workplace. Soon after management found out about organizing through listening at private conversations, at break times and lunchtime. They targeted key people and tried to get rid of them through over-monitoring and intimidation. Some scare tactics were used and supervisors were telling employees to look for other employment because "if the union comes in, we will all lose our jobs and the place will close."

Just before the secret vote in June '99, there were meetings held in small groups with management telling how a union would not benefit the workers at Marusa and gave the workers a false security regarding wages and employee rights.

After the secret ballot, someone from the management team even phoned laid off employees at home to see how they voted.

Groups of 30-49 people were temporarily laid off days before the vote because of lack of work in the office. They were told to come back and vote. When some returned to vote, they were told by management that they could only vote during certain hours. When business picked up, Marusa Marketing had placed ads in local and provincial newspapers looking for new employees. Some former employees called regarding the job, and they were told no former employee who was laid off was to be allowed to be rehired. This gave the company a chance to "clean house" and replace people with no involvement with union activity.

If over 60% of union cards were signed from approximately 220 employees, and only 56 people voted for the union in secret ballot, then 76 people were obviously scared and intimidated from management at the time of the vote. Automatic certification should have been given.

Labour Bill 44 is a step ahead. Maybe then labour relations climate would be fair and balanced.

Thank you for your time.

Ilene Lecker

* * *

INTRODUCTION. This report is in support of the proposed changes to The Manitoba Labour Relations Act under Bill 44.

The purpose of Bill 44 simply put is to (1) remove the ability of employers to intimidate their employees in cases where the employees have democratically by a 65% majority voted their approval by signing cards to bargain collectively, and (2) provide a fair and neutral third-party mechanism for resolving costly and intractable strikes or lockout without public pressure for government intervention.

Recommendation #1: That a 50%-plus-1 democratic majority of signed cards be the requirement for automatic certification.

There is nothing in Bill 44 that is out of line with what has existed for many years in one form or another in Canadian labour jurisdictions. One of the most positive benefits of Bill 44 is that it will help to contain the level of confrontation during both certification and the collective bargaining process. Experience has shown that during lengthy strikes or lockouts, the parties often confuse the real issues with those based on personality differences.

Except in unusual cases, Bill 44 will eliminate public pressures for direct government intervention during those critical strikes and lockouts that have a high level of public concern. Bill 44 will also reduce the number of work days lost due to strikes or lockouts.

THE POLITICAL CAMPAIGN AGAINST BILL 44 FAILS. In a free and democratic society such as ours, people operating business enterprises will have many friends who are union members and who may also work directly for unions. Likewise, union members and union leaders will have many friends who are owners of business enterprises. The writer is no exception.

I must tell members of the Committee that many of the business people I talk to are frankly embarrassed by the over-reactive and irresponsible rhetoric orchestrated against Bill 44 from within the Progressive Conservative Party. It is almost as if we are in another provincial election campaign. I also believe many people in Manitoba are also embarrassed by the *Winnipeg Free Press's* one-sided reporting and editorializing on Bill 44. Here are some examples of the one-sided, over-reactive rhetoric found in the *Winnipeg Free Press* pages over the past few weeks: "The right approach, according to our present government is to protect the hothouse plant that is trade unionizm today, and to make it much easier for that plant to flourish, virtually guaranteeing that every union will win every strike."

Winnipeg Free Press Editorial, July 17, 2000

"It's like a freight train headed our way. Dan Kelly of the CFIB said of the controversial legislation." *Winnipeg Free Press* Reporting, July 22, 2000

"That he (the Premier) is harming the province is clear. Changes he seeks to labour

legislation is being watched with trepidation across Canada." *Winnipeg Free Press* Editorial, July 22, 2000.

"There's a real sense of betrayal in the business community," Kelly said. *Winnipeg Free Press* Reporting, July 23, 2000.

"First, Bill 44 is anti-democratic and intimidating to Manitoba workers. Second, it is damaging to Manitoba's economy, and third, it is destructive for the business community." *Winnipeg Free Press* Article, Ron Schuler, Tory MLA, July 26, 2000.

"Less understandable, however, is that Premier Gary Doer did not anticipate the harm this legislation is doing to Manitoba's reputation. --------- Nor did he anticipate the negative signal an outraged business community with allies in school boards and municipal governments send to the rest of the country." *Winnipeg Free Press* Editorial, July 25, 2000.

"The proposals (Bill 44) have created a backlash in the business community and damaging comments in the national press." *Winnipeg Free Press* Article, Peter Holle, July 29, 2000.

"The threat many people see in Bill 44 is of firms and their jobs leaving the province for good, starting a downward spiral that would leave Manitoba depopulated and depressed." *Winnipeg Free Press* Article, Norman Cameron, August 4, 2000.

From the beginning of July and up to the present time there has not been a single letter To The Editor of the *Winnipeg Free Press* that has criticized Bill 44. In fact there have been letters To The Editor defending this bill. It appears that the public and a large part of the business community are not buying into the extreme anti-union rhetoric of the Progressive Conservative Party and the *Winnipeg Free Press.*

In listening to the Winnipeg radio talk shows, it is also apparent that the public and a large part of the business community are not buying into the anti-union campaign waged by the PC Party and the *Winnipeg Free Press.* As a regular talk show listener, I have not heard one caller criticize Bill 44.

On July 25, 2000, the *Winnipeg Free Press* paraphrases Labour Minister Barrett as follows: "Barrett said her government isn't getting many calls from the business owners who fear pending changes-a claim that surprises Dan Kelly of the Canadian Federation of Independent Business."

According to today's (Monday) *Winnipeg Free Press*, it is apparent that the chair of the Winnipeg Chamber of Commerce, Irene Merie is not happy with the escalated level of rhetoric against Bill 44.

I respectfully submit to the honourable members of the Legislative Committee that the public and the business community of Manitoba are not "up in arms" against the modest and balancing act as proposed under Bill 44. The anti-union political campaign waged by the Progressive Conservative Party and the *Winnipeg Free Press* has failed.

I also respectfully submit that the anti-union campaign in large part is masking the Tory party's real motives and strategy to do everything in its power to limit the current provincial government to one term in office.

Recommendation #2: that the Government proceed with Bill 44 as printed prior to August 5, 2000, incorporating Recommended #1 above.

EMPLOYMENT CONTRACTS. The campaign waged against labour legislation exaggerates the impact that the modest changes will have on labour-management relations in Manitoba. I for one hope that it will lead to more employment contracts in the workforce. At the present only between 30 and 35 percent of ordinary Manitoba workers have employment contracts. By contract more than 90 percent of Chief Executive Officers and other senior managers in the private sector in Canada have negotiated employment contracts. Over 90 percent of doctors, nurses, accountants, judges, professional hockey players, et cetera, in Canada have negotiated employment contracts. Indeed one could argue that MLAs and MPs have what is tantamount to four year employment contracts.

In Europe between 80 and 90 percent of the worker under negotiated employment contracts. Why should the ordinary workers in Canada not enjoy the security and benefit of an employment contract?

HISTORICAL PERSPECTIVES IN MANITOBA. The current political campaign strategy waged against Bill 44 is very much in tune and consistent with the confrontational divide and rule political thinking under the Filmon administration from 1988 to 1999. Business verses Big Labour. Ottawa verses Manitoba. Rural Manitoba verses the City of Winnipeg. Northern Manitoba verses Southern Manitoba. First Nations verses Manitoba. The Senior Bureaucrats verses the Civil Service, et cetera.

The City of Winnipeg has been the real casualty under this style of divide-and-rule politics. According to the Conference Board economist John Phan, the City of Winnipeg has had a stagnant population for fourteen years.

Statistics Canada in Catalogue 72-002-XPB reports increases in the following number of workers over 15 years of age.

		(000)		
	REGINA	SASKATOON	WINNIPEG	EDMONTON
1988	147 3	161 1	518.6	614 5
1999	155.8	179 0	535.1	726 0
% CHANGE	5 7	7.8	3 2	18 1

The Average Weekly Earning (Industrial Aggregate) in Western Canada covering the Filmon years is reported by Statistics Canada as follows.

	ON	MB	SK	AB	BC	CANADA
1988	477 70	422 28	409 96	457.48	464.44	460 67
1999	651 54	543 89	542 79	621.99	624.75	610 40
% CHANGE	36 4	28.8	32 4	36.0	34.5	32 5

In 1997 the Conference Board of Canada reported the following Per Capita GDP.

	ON	MB	SK	AB	BC	CANADA
1988	23.163	18,484	18,239	25,298	20,069	20,800
1997	N/A	21.164	21,674	29.271	25,021	24,091
% CHANGE		14 4	18 3	15.0	24.7	15 8

By any statistical measure, the province of Manitoba and in particular the city of Winnipeg did not do well under the confrontational politics of the previous administration from 1988 to 1999. In 1992, the provincial government created 500 jobs limited to students in rural Manitoba at union rates of pay. In 1992, the Filmon administration gave the senior government bureaucracy a massive pay increase (O/C 29) in effect buying their loyalty to help the government decentralize and cut services. In 1993, the provincial government decentralized 800 provincial government jobs to rural Manitoba. In 1995, the government began setting up regional health authorities that would again transfer hundreds of more jobs out of the city of Winnipeg. No one has ever advanced rationale arguments for setting up regional health are bureaucracies. This is exactly what we had in the early 1950s, except that we called them municipal health boards. Other provinces have abandoned the idea of setting up RHAs. From 1988 to 1999, the Filmon administration funded many development projects in bedroom communities outside of Winnipeg at the expense of the city of Winnipeg.

By the mid-1990s, there were literally hundreds of boarded up businesses in the downtown Winnipeg. Downtown Winnipeg was dying and yet during the 1995 and 1999 election campaigns the *Winnipeg Free Press* was reporting on Winnipeg's "booming" economy!

BILL 44. Bill 44 is not ground-breaking legislation. It simply sends a signal that the government is interested in restoring a sense of balance between business and labour. Those who know Gary Doer know that he is ultimately a consensus builder, and very much a pragmatist. He may also be the best negotiator that Manitoba has ever had in a Premier.

It's time to turn down the volume on the rhetoric and follow the advice given by the President of the Winnipeg Chamber of Commerce Irene Merie in today's *Winnipeg Free Press*:" We don't want this thing dragged on. It's time to move on."

Thank you for your interest.

George Bergen

* * *

Re: The Labour Relations Amendment Act (2)

Introduction

The United Steel Workers of America is pleased to provide this brief to the legislative committee on the contents of Bill 44, The Labour Relations Amendment Act.

The U.S.W.A. is a union that represents workers in Manitoba's manufacturing, mining, steel production, grocery distribution, service and public employee sectors.

Bill 44

It is our respectful submission that Bill 44 has not gone far enough in creating a level playing field in the realm of labour relations. There are elements of the Bill that we find appropriate, and others that can be described as a beginning.

Reinstatement Following a Strike or Lockout

We seek a clear return to the status that existed prior to the Conservatives' implementation of Bill 26, their employer planned attack on workers' rights. Many Unions' presentations that have preceded this brief spoke to you on some of the background elements that occur during a strike or lockout. We are going to be more direct and current in our remarks on this subject.

In recent strikes and lockouts, our members have been faced with picketing intimidation, both from management directly and from professional strikebreakers hired by management for only that purpose. How has that occurred you might ask? It ranges from phone calls emanating from the struck/locked out facilities, during working hours, by persons or agents of the employer, to the homes of striking members. Not surprising, but certainly disgusting, these calls were times when the striking member was walking the picket line.

The next question you may ask yourself is 'What possible motivation would the Company have for calling when their employee was walking the picket line?' Let me say that in a recent real-life incident the conversation was to inform the members' spouse that her husband had 3 days to return to work or his 21-year job would be lost forever. It went on to suggest that their standard of living would be lost, that the wife would have to seek employment and that the striking member would, and I quote, "be blackballed from getting a job in this province."

Another obvious question, "Why hasn't this couple showed up to these hearings?" Although it should be obvious, the reason is fear of reprisals from ongoing reign of management terror, even though the strike is over.

The return to pre-Bill 26 legislation would be a minimum change in the eyes and minds of our members.

Certification Vote

Much has been said by the Manitoba Federation of Labour's brief on this topic. We will not plagiarize from that brief. However, we will provide some more real life examples of what occurs during an organizing drive at a work site.

First, and in our minds foremost, is the misconception that workers are somehow goaded, lied to or intimidated by the union organizer into signing cards. For the most part cards signed seeking to certify the Union are done at the home of the prospective members in familiar surrounding where the prospective member can deny access, or ask the person to leave. Some have suggested that cards are obtained in licensed premises. Others that organizers use the line 'There's no cost to you just sign and its over'. That suggestion hasn't been used by our organization nor do we sign members in drinking establishments.

Currently the process requires a vote that takes some time to arrange. During this period management has employees captive for hours where innuendo, coercion and outright threats occur.

Here is an example. In a workplace dominated by minorities and women, an employee, whose older sister was clearly and openly a union supporter, was fired. Her crime? She simply asked for her chair to be returned to her when she attempted to recommence work after the end of her break. Her supervisor was using it to talk with other male employees. He chose to engage in a confrontational dialogue, which denied her the chair and brought her to tears. The chair was

provided to all workers in the area. Her persistence, and reluctance not to work without the chair, concluded with her being terminated for refusal to follow an order to work. The job required people to bend over which caused back trouble, this young woman had experienced such trouble and was 5 months pregnant. She did get her job back, ultimately, but the damage had been done to the whole process of a workers right to freely join a union.

Alternative Dispute Settlement Mechanism

It is the position of my organization that what should be brought in place in this province is anti-scab Legislation. Businesses would have you believe that it would drive away existing employers and scare off potential employers. Nonsense. Has business heard of Bombardier? Of course. It operates in Quebec, a province that has this legislation. Bombardier created 4000 new jobs in the past year. I ask why are they not afraid to grow, in Quebec why are they able to compete in the 'global economy.' The simple answer is that they are a true, good corporation, not a rogue employer.

Conclusion

I ask the government to step forward, address these issues we have raised, and do so in a fashion that restores the balance of power to a more even playing field.

United Steel Workers of America

* * *

Re: Bill 44

Introduction

The Manitoba Restaurant and Foodservices Association and the Canadian Restaurant and Foodservices Association are strongly opposed to proposed amendments to Manitoba's Labour Relations Act.

This legislation fundamentally and decisively tips the balance of power in favour of unions, which are now focussing on the service sector for new sources of revenue and members to make up for the decline in their traditional base.

A card-based certification system denies employees their basic democratic right to a secret ballot vote and undermines the collective bargaining process.

The associations are opposed to measures which discourage parties from engaging in responsible collective bargaining. First contract arbitration, and the extension of this concept to labour dispute resolution have precisely this effect. The binding arbitration provision shifts the responsibility of resolving labour disputes to Board officials and away from the negotiating parties. It represents an unprecedented, unwarranted and undesirable intrusion by government into the collective bargaining process.

Today's increasingly competitive marketplace requires sensible, balanced and flexible labour laws. The proposed changes will increase regulatory disparities between Manitoba and neighbouring jurisdictions and thus erode Manitoba's ability to compete and attract new business investment.

Certification Votes (Section 40)

The associations strongly oppose using a card-based system for union certification believing that a government-supervised secret ballot vote is the only fair and accurate mechanism in which to determine the true wishes of employees.

Trade union claims of employer interference with a secret ballot vote process are both ludicrous and self-serving. First, The Labour Relations Act already gives the Labour Relations Board the authority to hold a quick vote after a certification application has been received as well as the authority to remedy any serious unfair labour practices by employers.

Secondly, there is no obligation on the union organizer to inform employees in advance about the rules of certification and the significance of the signed card in the certification procedure. Because a union organizer's goal is to obtain as many signed cards as possible, it is unrealistic to expect that the organizer will voluntarily provide a full and balanced account of the individual's right to accept or reject the union's campaign. The union can make whatever statements it chooses about the employer, including

commenting on the financial viability of the business. However, efforts by employers to advise employees of their rights or provide information about their business are labeled as "interference" by unions.

The secret ballot vote is the only fair process in a democratic environment. It allows employees to make an important decision free of peer pressure and intimidation from both employers and unions.

The secret ballot vote respects the intelligence of employees to make reasoned judgements and improves the degree of choice which employees exercise in the certification process. Legislative changes must enhance not diminish this freedom of choice.

A secret ballot vote leaves no doubt in the minds of employees, who do not support the union, as to what the majority wants. With a card-based system there is always significant doubt about whether the cards accurately reflect the degree of support the union has among employees. In too many instances, employees claim they didn't understand the meaning or effect of the card and signed it. Other employees sign the card in response to peer pressure. As a result, the collective bargaining process is seriously undermined. On the other hand, the unequivocal results of a secret ballot vote produce a decisive and unassailable outcome for both employers and employees.

Interim Certification (Subsection 39.4)

The proposed provision requiring employers to commence collective bargaining for a bargaining unit that is undetermined is fundamentally flawed and extremely problematic for employers.

The technical requirements of certification cannot be met until the bargaining unit is determined. By attempting to fast-track this obligation of certification, employers will be forced to bargain collectively before it can be determined if the bargaining relationship has a basis in law.

It is unfair to impose huge costs on employers for legal counsel and management time when the thresholds for certification have not been met and potentially will not be met. This provision could also result in a fragmentation of the workforce. For example, bargaining for employees who may not be covered could create status for some employees that doesn't exist. Hours of work, wage structures, disciplinary processes and leadership issues within the workforce would all be affected.

Binding Settlement Process During Labour Dispute (Section 87.1 and 87.2)

This proposed provision represents an unprecedented intrusion by government into the collective bargaining process. It adds extensive powers to the Labour Relations Board with no right of appeal. Employers in Manitoba are already disadvantaged as a result of mandatory first contract arbitration, which allows unions to guarantee certain working conditions to employees during a certification drive through an arbitrated settlement. Unions will now be able to make similar guarantees to employees in subsequent contract negotiations by budgeting for a strike that is guaranteed to last no longer than 60 days. If a union is successful in negotiating a generous settlement for one restaurant, the union can almost guarantee the same working conditions to employees in a similar restaurant through mandatory first contract arbitration. The Labour Board and arbitrators are bound to consider the terms and conditions of employment negotiated through collective bargaining for comparable employees performing similar functions in the same or related circumstances. This may work in heavy equipment manufacturing but in the restaurant industry very few establishments are unionized. The lack of historical precedent in the restaurant sector makes it nearly impossible for the Labour Relations Board, or an arbitrator to impose realistic and workable agreements.

The negotiating parties know the economic circumstances of their relationship best and what trade-offs make the most sense. The Labour Board or arbitrator cannot be expected to fully understand the operating realities of the restaurant business and other businesses in the province. Nor can they be held accountable if the rates of pay or working conditions create problems for the business' continued operation.

Access to binding arbitration effectively removes the incentive for parties to engage in responsible collective bargaining. Section 87 provides unions with a powerful tool to deploy as leverage against an employer who is unable to agree to union demands at the bargaining table. If the union has a strike fund which will last 60 days, it can sustain a work stoppage to support demands which may exceed an employer's ability to pay. In this situation, an employer is confronted with a lose/lose situation: accept unreasonable demands in order to avoid a costly and disruptive work stoppage in the short run or incur those strike costs with the possibility that an untenable settlement will ultimately be imposed anyway.

This runs counter to the objectives of good labour relations legislation which should encourage mutually acceptable agreements.

Reinstatement Following Strike or Lock-Out (Subsection 12.2)

The associations strongly support the existing provision regarding reinstatement of employees following a strike or lock-out. This provision is essential to discourage undesirable picket-line behavior and prevent situations that occurred under previous legislation where employers were required to reinstate employees who committed illegal activities during a labour dispute. Under no circumstances should employers be required to reinstate employees guilty of strike-related misconduct such as violence and property damage. The current legislation was designed to protect employees from any repercussions arising from exercising their legal rights not illegal behavior. The existing provision makes this important distinction.

Appointment of Mediators (Section 95)

The associations believe that the responsibility of resolving industrial disputes is best left to the negotiating parties. Mediation and arbitration services should be accessible but the choice of whether to use any of these dispute resolution methods should rest with employers and trade unions and not be required by any provision in the Act. The negotiating parties should be assessed equally for these services. The associations have no objection to a three way split in costs between the employer, the union, and government.

Expedited Grievance Mediation/Arbitration (Section 130)

As above, the associations believe that government intervention in industrial conflict should be the last recourse and support the existing provision, which limits legislated procedures for mediating/arbitrating grievances to truly urgent cases.

Ratification Votes (Section 69.1)

Since all members of a bargaining unit would be subject to the working conditions in the collective agreement, it is only fair that all members of that bargaining unit would have an equal vote on the ratification of a collective agreement. The associations support retaining the existing contract ratification vote provision.

Last Offer Votes (Section 72.1)

Giving the Minister of Labour the power to order a vote on an employer's last offer gives employers and employees some recourse when the union refuses to take an employer's last offer to the membership. This ensures employees, whose livelihood is most affected, make the ultimate decision. This approach is supported by the associations.

Union Accountability (Section 132.1)

The associations believe that union activities should be open and visible to employees. It is agreed that it is unnecessary to tie up the resources of Labour Board staff to administer the filing of financial and compensation statements provided that a requirement remains for unions to make this type of information available to union members upon request. In addition, the associations believe employees should have better access to other fundamental information about unions. We question why employer decision-making and activities are held up to such close scrutiny while union decisions are not. Corporations are required by law to be accountable to their shareholders, however,

unions are not required to be accountable to their members.

Workers considering union membership must have access to basic information such as the responsibilities and obligations of union memberships and the cost of union dues. A mandatory standardized union membership form is recommended which would include information on the certification process, employer and employee responsibilities, initiation fees and the cost of annual dues. This requirement is essential if government insists on eliminating the secret ballot vote.

Union Dues for Political Purposes (Section 76.1)

Our associations strongly object to the undemocratic and undesirable situation whereby employees are compelled to fund a political party against their wishes. Employees must have the right to choose if a portion of their earnings will be used to support a political party-

Manitoba's Foodservice Industry

Manitoba's foodservice industry is a huge contributor to the Manitoba economy representing 3.9% of the province's GDP ($1 billion in foodservice sales) and 6.3% of employment with approximately 34,000 full and part-time employees on its payroll. It is composed of a variety of sectors including liquor-licensed restaurants, quick service restaurants, hotel foodservice, take-out, institutional feeders, clubs and caterers. The industry is dominated by independent, locally owned companies with a high proportion operated by families. Independents comprise 61 % of the foodservice businesses in the province.

The foodservice industry workforce is diverse with 48% of its employees in management and skilled occupations. The industry also includes a large numbers of unskilled and semi-skilled occupations, providing entry-level employment to thousands of Manitobans and part-time jobs for thousands of students.

The Associations

The Manitoba Restaurant Association (MRA) represents over 500 members throughout the province of Manitoba of which over 85% are smaller, independent businesses. Our organization is incorporated as a non-profit organization, which dates back to the early 1970's. We are funded by membership fees and income form trade shows and festivals which we operate.

The Canadian Restaurant and Foodservices Association (CRFA) is the largest hospitality association in Canada representing 15,000 corporate members controlling more than 45,000 outlets. CRFA is a trade association established to serve and represent owners and managers of foodservice operations. Members include restaurants, quick service establishments, hotels, caterers, institutions, educators and foodservice suppliers. Approximately 75% of CRFA members are independent businesses, with the remaining 25% being regional and national chains.

CRFA was founded in 1944 and is incorporated as a non-profit organization without share capital. The association is funded by membership fees and non-dues income from member services and trade shows.

Manitoba Restaurant Association
And
Canadian Restaurant and Foodservices Association

Re: Bill 44

My name is Bob Stevens and I am the President and CEO of the Manitoba Restaurant Association. Thank you for allowing me to present here today.

My comments will be concentrated on one item in Bill 44 which creates the largest concern for my members. This is the 65% automatic certification proposal.

I have yet to get an answer to the troubling question of why this part of the code is being changed at all. Since the advent of the secret ballot clause in 1996 we have seen more certifications than we saw before the change. One would think that, based on the statistics, business should be the one fighting for the

change, but the harsh reality is that business can more readily accept a secret ballot vote where 50% plus 1 vote for the certification than they can accept a 65% sign up rate that is obtained by uncontrolled methods. The closest I get to an answer is that it is being changed to create a balance between business and labour.

I fail to see how moving away from the fundamental principle of democracy can be classified as balancing the power. Under a democracy every government allows all sides to present their case to the people being affected by the outcome of the decision. This allows them to make an intelligent informed decision and they are allowed to express this opinion during the secret ballot process which protects them from repercussions from either side. Automatic certification would allow a union to go into an operation and solicit 65% of the workers to sign up without the company being aware that it is happening and without their democratic right to present their side of the story. This is totally unacceptable in today's world.

One has to go no further than the advertising campaign launched by the MFL and comments made by President Rob Hilliard to understand why there is a need to allow both sides to present their cases and to allow a secret ballot vote to express these wishes.

I am proud to be one of the "crazy people" in the "lunatic fringe" as Mr. Hilliard refers to us and I am also proud to be a Manitoban and I want to see it continue to grow. My industry relies heavily on strong economic growth, tourism and the ever elusive disposable income. If the business people in Manitoba are perceiving this legislation to be bad for business in Manitoba you can be assured that businesses across Canada are looking at it the same way and will be making their expansion decisions based heavily on the labour climate here.

My members invest hundreds of thousands of dollars to millions of dollars into setting up their restaurants and into training their staff in order to be successful in today's competitive world. We employ approximately 35 000 full and part time workers who are perceived to be minimum wage workers, but who in reality earn closer to 10 or 12 dollars an hour when tips are factored in. We have trained and paid these people allowing many of them to go through university and become one of our new generation of professionals and in return we have asked them to help us build our businesses. We care about our people, after all this is the hospitality industry, and we don't believe that anyone should have "absolute" control over them and deny them their democratic rights; not even the union. What our businesses must have is control over our investments to ensure that they remain profitable and viable in order to safeguard the employees.

We must be able to present our side of the picture in an open and fair exchange of dialogue and an employee's right to a secret ballot vote must be retained. Please retain the secret ballot provision as it currently stands as changing it tilts an already balanced scale.

* * *

Re: Bill 44

The Manitoba Building & Construction Trades Council consists of 16 affiliated Craft Trade Unions which are actively involved in the Manitoba Construction Industry. Additionally they represent all crafts that work in the industry.

The Manitoba Building and Construction Trades Council, through its affiliates, represents some 5,000 construction workers in the province of Manitoba.

We submit to the Committee the following concerns regarding specific sections of Bill 44, which will affect the construction industry and Construction Trade Unions.

With regard to (Section 69) Ratification Votes

The Construction workplace is not one common workplace but more typically a number of workplaces or project sites where the Employer carries on business.

Construction workers are typically mobile in nature moving from one employer to another as various construction projects progress. The unique nature of the construction industry means

construction workers have no permanent employer.

An industry standard agreement is generally negotiated and ratified in the spring every two or three years. This standard agreement provides both employers and workers the stability our industry requires to proceed with future construction projects.

Collective bargaining may occur with an independent contractor or a multi-employer group. Contractors are often party to more than one trade agreement and are frequently bargaining trade agreements without any employees at the time.

Negotiations can also occur with project owners. Typically these negotiations include multi-trade bargaining and are concluded prior to the project commencing. The industry standard agreement forms the framework of the agreement with specific owner objectives identified within appendices or attachments to the agreement. To ratify these agreements requires the majority of the trade divisions represented to agree.

To "fix" section 69(1) of the Act and restore to our industry a fair and workable ratification process we propose the following:

b) In the case of the construction industry, of the union members in the craft unit, or their bargaining agent.

With regard to (Section 40) Certification Votes

Governments must recognize workers have the right to join existing unions or form their own. Any legislation that hinders this right or artificially establishes barriers to exercising this right is wrong. Presently workers must vote twice in order to secure their desire to form a union. This process opens the door to employer intimidation and influence. Allowing for automatic certification of unions when workers have demonstrated their wish to join a union when 65% or more have signed union cards is returning some fairness to this process. Five provinces, the federal and territorial Governments all allow for automatic certification to take place when 50% + 1 (55% in British Columbia) of the workers have signed union cards. We would suggest Government should amend Section 40 to allow workers to join a union when a simple majority (50% + 1) of the workers demonstrate their intentions to join a union.

With regard to (Section 72.1) Last Offer Votes

This amendment restores some fairness to the bargaining process within our multi-employer bargaining system. This amendment returns to the union membership the right to empower the negotiating committee to bargain, on their behalf, a fair and reasonable settlement. The union's ability to bargain a collective agreement is fundamental to the very reason the union exists. The negotiating committee cannot carry out their mandate when the employer or the Government interferes in the process by determining when a ratification vote should be held. We would urge the Government to repeal all language in Section 72.1 that allows a Minister or the employer the right to order a vote prior to or during a strike or lockout.

With regard to (Section 87) Settlement of Labour Disputes

A strike or lockout is the end result of a bargaining process that has failed. The dramatic negative impact of strikes on our industry has pressured both parties at the bargaining table to bargain in good faith and ultimately reach a tentative agreement. A dispute mechanism to resolve the small percentage of contract negotiations that fail to reach a settlement has merit.

The amendment proposed in this bill does little for our industry in this regard. Sixty days of a continued lockout or strike would be devastating for both workers and contractors in the construction industry. We would therefore propose a more responsive and binding settlement mechanism should be developed to prevent either party in the process from abusing their power.

Implementation of a final offer selection process should be considered.

With regard to (Section 132.1) Financial and Compensation Statements

This onerous, time-consuming and meaningless burden on local unions only served to add

administrative costs to local unions as well as burden the Labour Board with unnecessary paper work that served no one. Government's positive steps to repeal this section reflect the unanimous recommendations of the Labour Management Review Committee. Unions, as always will continue to provide financial statements to their members upon request.

Manitoba Building and Construction Trades Council

* * *

Re: Bill 44

The Brandon & District Labour Council is pleased to have this opportunity to make a brief on Bill 44, the Labour Relations Amendment Act. Bill 44 is a small step in restoring the balance between employers and union members. There are areas of the Bill that the Council finds favorable, others that are beginnings and some areas that need significant improvement.

The past provisions intimidated union workers from striking; the worker feared that his position would be terminated if his actions on the picket line were viewed as inappropriate. As a result, individuals on the picket line or on lock out were subdued by the constant threat of losing their jobs. In short, the employers held more leverage at the bargaining table. What Bill 44 intends to achieve, is a leveling in the balance of power between employers and union representatives.

Another advantage that business holds over labour is the mandatory supervised vote that is currently implemented. Even if 100% of the employees signed union cards, an application for certification must be submitted requiring a secret vote before approval. This procedure gave the employer an opportunity to convince employees not to vote for unionization. Employers even use this time to "weed out" union supporters and fire or threaten these individuals. In order to combat this unfair advantage Bill 44 would, in the event that a majority of the union cards were signed, permit certification without the supervised second vote. Manitoba is one of the only five remaining provinces that do not currently have majority signature recognition legislation for union cards. Furthermore, Manitoba's current bargaining legislations allows employers to use a "take it or leave it" strategy forcing a membership vote on a last contract offer. These voting procedures empower the employer by not permitting the union members to counter contracts with a reasonable offer. While Bill 44 does address the employer's ability to force a contract vote, it does not prevent the Minister of Labour from ordering such a vote.

There are good and bad consequences to non-union members of bargaining units. Outside parties can bring a new perspective to the arbitration process. However, these parties should not be given privileges that are extended to union members because these person(s) do not assume responsibility for their voting actions. Bill 44 would repeal the ability of non-union individuals to vote in union business without taking on the responsibility of being a union member.

One area in which Bill 44 is lacking is regarding union agreements pertaining to the Construction Industry. Construction unions are unique because they are a mostly seasonal industry. Construction contracts are negotiated before the construction season begins, at a time when construction companies may not have any employees. In order to ratify the concern in Bill 44 a clause should be included to allow employees, unemployed union members to vote on contracts concerning the perspective trades.

Many of the repeals and amendments in Bill 44 show promise in the struggle to find a balance between employers and union members. However there is still a great deal of work yet to make collective agreement procedures fair to both union members and employers. Two issues that we at the Brandon & District Labour Council would have liked to see proposed are the issues of anti-scab legislation and majority percentage. Despite a few shortcomings in Bill 44 we feel that this bill will be overall improvement from the previous legislation and hope that progress will continue in the area of union contract negotiations.

Workers' standard of living has suffered under the current legislation therefore there is a need to rectify the imbalance currently in place.

Ron Teeple
The Brandon & District Labour Council

* * *

Re: Bill 44

Personal Introduction

I am a lawyer in private practice in Winnipeg, practicing labour relations for over 20 years. For the past 17 years, I have taught the only course at the Faculty of Law, University of Manitoba, on labour relations. For the past 11 years, I have also presented seminars on labour relations topics to audiences of relatively equal numbers of union and management registrants in cities across Canada from Vancouver to St. John's, a total in excess of 100 such seminars. I published a paper on first contract arbitration and Final Offer Selection in the Canadian Journal of Administrative Law in 1992, after delivering a similar paper to the British Columbia Continuing Legal Education program on labour relations in 1991. I have represented the Province of Manitoba and the City of Winnipeg in interest arbitrations, the Province in arbitrations concerning government employed doctors and engineers in 1983, and the City in an arbitration with the Winnipeg Police Association in 1996-97.

Because there are many representatives of unions and employers who have and will be addressing the Committee from respective perspectives, and can address their concerns more effectively than I could, I would like to speak to the changes proposed in the legislation from an historical and academic perspective, in the hope that this will add something to the understanding of the implications of the legislation for the benefit of all members on all sides of the House.

Although I represent many employers in the Province, and have represented unions as counsel and nominee to interest arbitration, the views expressed in this brief are mine alone and should not be attributed to any of my clients on either side of the labour management relationship.

General Historical Introduction

It is hardly a novelty that governments introduce changes to labour relations legislation that will appear to help one side or the other of the bargaining table. In British Columbia, for example, legislation introduced by the NDP Barrett government in the early 1970s was openly designed to strengthen the position of trade unions. When the Social Credit government of Mr. Bennett came to power subsequently, they enacted an "Industrial Relations Act" which undid many of the changes brought in by the NDP. With the Clark NDP election in the early 90s, B.C. reverted to pro-labour legislation, undoing the changes in the IR Act, and going still further in the pro-labour direction than the Barrett government had gone. Ontario saw a similar phenomenon with the Rae NDP and the Harris Conservatives.

Such pendulum swings have a destabilizing effect on both the business and the union community. Each side must move tentatively in the anticipation that with the next election the rules may be turned upside down. Planning is difficult. Business development and union strategizing are risky.

Manitoba has never had the luxury of the kind of economic strength that would allow it to destabilize the labour relations climate in such a deliberate way. With the election of Manitoba's first NDP government under Mr. Schreyer in 1969, it was anticipated in many circles that changes similar to those in British Columbia would be introduced in Manitoba. In particular, the expectation (of employers and unions) was that Schreyer would bring in anti-scab legislation. Schreyer refused. Instead, he introduced amendments to our legislation more in line with the more moderate aspects of the Barrett changes. After his two terms in office, the PC government of Sterling Lyon served for four years and did not alter the labour relations legislation in any profound way. The pendulum did not swing.

The Howard Pawley government elected in 1981 came closest to emulating the Barrett experiment. In 1982, it introduced first contract legislation that appeared to embrace the principles of Barrett's first contract provisions, but in fact went (possibly unwittingly) much further. In particular, the Board was required to investigate whether the parties had bargained in good faith or in bad faith, but then was to impose a contract regardless!

The B.C. model imposed an agreement only if the employer had failed to bargain in good faith. The fundamental principle was still "voluntarism" - the best contract always one negotiated between the parties. However, if an employer did not in fact recognize the union as the bargaining agent chosen by its employees, and persisted in refusing to bargain in good faith with the union that had been certified by the Board as bargaining agent, then an arbitrated first contract was better than none at all. It was recognized that a union trying to maintain employee support having never achieved an agreement for those employees would usually lose a strike.

First contract imposition was the invention of Paul Weiler, considered by most to be the dean of labour relations, at least from the union side, in this country. He was retained by the Barrett Government to draft the Labour Code, and then to sit as its administrator as Chair of the Labour Relations Board. Under the Weiler Code, only 5 first contracts were actually imposed. In no case was the imposed agreement succeeded by a second agreement. Either the bargaining relationship ended through decertification or the business closed. This was not seen as failure, as the primary purpose of first contract imposition was to induce the employer to bargain in good faith, when it did not in fact recognize the union as the bargaining agent chosen by its employees.

The federal precedent followed that example, i.e., impose a first contract only if the employer failed to bargain in good faith. Federal impositions were also rare, as again its primary benefit was deterrence.

Manitoba was the first to enact no fault first contract legislation. It was a giant step farther, and much more intrusive on the bargaining process, because it was no longer a remedy for the unfair labour practice of failing to bargain in good faith. In the first year (1982), the Board in Manitoba was unsure what to do with the applications it received, because the inquiry into the quality of bargaining seemed pointless. Clarity came with the massive amendments that were introduced in 1984 (following Marva Smith's–now a Provincial Court Judge–White Paper) and became law in 1985. The White Paper was a 91 page overhaul of the entire Labour Relations Act, one of the few such thorough amendments in our labour relations history. First contracts were no-fault, pure and simple. Forget whether the parties had bargained in good faith. It didn't matter. Other jurisdictions have declined to follow Manitoba's lead, with the exception of the Clark government in B.C. However, first contract imposition remains the rare exception to the rule that interest arbitration is not legislated in the private sector.

The other changes in 1984-85 were extensive and fundamental. Certification became automatic, if 55% of the employees in the unit had signed cards. A 45% card count earned the union a secret ballot vote. The Board had no discretion to deny certification where there was 55% support, even if it found an abuse of the process. As an example, the Paddlewheel Queen was certified when nearly all of its employees had been laid off. A tiny proportion of the employees determined the bargaining relationship with most of the employees disenfranchised. The Board said it agreed with the employer's submission that this was an inappropriate time to measure employee support, but felt it had no choice but to certify under the legislation as drafted.

In the legislation prior to 1984-85, certification was not mandatory, even if the union had 100% card support. The Board had a discretion to deny certification, if there were any relevant matters to prompt them to do so. In one application of this discretion, CUPE was denied certification to represent articling students working for Legal Aid Manitoba, despite a strong card count, because of the nature of their employment. But 1985 was the first time that certification became mandatory at a threshold level of membership support. Ontario had a similar scheme under the Peterson government.

Many other changes were introduced in the 1984-85 legislation. Employees had a virtual carte-blanche right to be reinstated after a strike, regardless of their conduct on the picket line. Replacement workers (scab labour) could only be hired for the duration of the dispute and no longer. Several of the strike-related amendments seemed to flow directly out of reaction to a Manitoba Labour Board decision concerning a strike at Greensteel Industries, where only

certain employees were offered reinstatement and permanent replacement workers were hired, and decertification followed the Board's dismissal of unfair labour practice allegations.

Under the White Paper, expedited arbitration of grievances was introduced, similar to the Ontario model, and could be used for any kind of grievance, whether urgent or not. Employees signing up with a union in an organizing drive no longer had to pay any money to join. Certification could be ordered without majority support if there had been unfair labour practices committed, again following the Ontario lead. Unions were guaranteed access to the workplace to administer the collective agreement. The exclusions of managers from the bargaining unit were narrowly defined, and the definition of employee was broadly defined, allowing even independent contractors to be unionized. Remedies for unfair labour practices, and for grievances, were broadly expanded. Management was required to administer the collective agreement reasonably, fairly and in good faith, meaning that every exercise of management discretion, from the imposing of discipline to the granting or denial of a leave of absence, was subject to review by an arbitrator as to whether it was "fair." This amendment was unique to Manitoba, and continued to be so for many years. This innovation has not generally been followed in Canada's other jurisdictions.

While the changes were far-reaching, they were for the most part not precedent-setting. You could find legislation like the new Manitoba provisions in some other jurisdiction in Canada. The labour legislation did not in itself make Manitoba a disadvantaged alternative as a place to do business, to any significant degree more than the presence of an NDP government itself might discourage some right-wing entrepreneurs. The most notable exceptions were the no-fault first contracts, and the deemed fairness provision. But, there was no anti-scab legislation.

One of the items not recommended in the Smith White Paper was Final Offer Selection (FOS). This was a form of interest dispute resolution mechanism that was unprecedented in Canada, but was used by some municipal governments in the U.S. It was a type of interest arbitration where the arbitrator could not pick a mid-point between the two sides' positions, but could only choose all of one side or all of the other. It had the benefit of forcing each side to be moderate, or risk losing the whole package to the other side. It had the effect of pushing each side to compromise to avoid losing the arbitration. It was not in the package of recommendations, but emerged in the draft legislation.

Then-Labour Minister Mary Beth Dolin attempted to defend FOS in the House in 1984, but the criticism surrounding FOS - especially the lack of consultation prior to the introduction of the legislation, and it not having been included in the White Paper - ultimately led to that part of the legislation being removed, "for further consultation."

It was fairly well-known that the main proponent of this FOS legislation was Bernard Christophe, President and Chief Executive Officer of the (then) Manitoba Food & Commercial Workers Union, Local 832, bargaining representative primarily for grocery and hospital employees, but with a broad spectrum of employee representation, and an influential participant in NDP decision-making. FOS had been raised as an alternative when the Pawley government followed the Schreyer lead and declined to introduce anti-scab legislation. Christophe had obtained an FOS clause by consent in one of his larger bargaining units, Westfair Foods (i.e., SuperValu).

On June 3, 1987, a strike/lockout began at Westfair Foods. On June 4, 1987, FOS was introduced into the Legislature by Mr. Mackling. The FOS legislation was still in mid-review by the Labour Management Review Committee at the time, and they were simply informed to end their review as the legislation was being introduced, regardless. The reaction to the FOS legislation was immediate and strong, with the Opposition and the press dubbing it the "Bail Out Bernie [Christophe] Bill." The criticism was loud, and came from a surprising variety of sources: Opposition, business, media, ... and unions! A large number of unions attended committee meetings to object to the intrusion this legislation imposed on the fundamentals of collective bargaining. The legislation was

enacted anyway, effective January 1, 1988, after the 18-week Westfair strike had been settled through mediation.

The Pawley government was defeated in 1988 and Mr. Filmon took over. FOS was repealed in 1990, but by this time the unions which had opposed its introduction expressed qualified support for FOS as an "option." In 1992, labour relations legislation was amended again, limiting the scope of grievance that could be referred to expedited arbitration, increasing the threshold for "automatic" certification to 65% from 55% (and lowering the threshold to get a vote to 40%) and several other less significant amendments. It was minor, not major surgery, as is true for most of Bill 44. There was some fine tuning on first contract impositions, but it was still no-fault. Conciliation was emphasized. The amendments to the LRA in 1996 (effective February, 1997) required certification votes, using the same 40% threshold to earn a vote. Ontario had gone the same route the previous year under Mike Harris.

Overall, the principles of moderation in amending labour legislation were retained. The Filmon Government through its 11 years maintained an express policy of refusing to swing the labour relations pendulum. Labour Minister Vic Toews met with business groups and simply told them this Government was not going to make the mistakes made by both sides of the political spectrum in B.C. and Ontario. David Newman, an experienced and knowledgeable labour relations (management) lawyer was never placed in the Labour portfolio. Caution ruled. No fault first contracts, discretionary certification, deemed fairness in administration and other controversial legislation was untouched.

Under the "quick vote" system starting in February, 1997, unions were almost exactly as successful in organizing as they had been under the 65% system. Fewer certifications required hearings. Fewer unfair labour practice complaints were litigated (usually withdrawn or settled after the votes were counted). Bargaining got under way faster than in the past.

Similarly, the current legislation proposes only to move slightly closer to the part of the spectrum where Mr. Pawley and Mackling were in 1987. It is not a massive shift of power to unions. It may not make them stronger at all. The issue is not whether this legislation is unduly pro-union, but whether it makes sense.

Which brings us to the present Bill 44.

Certification Votes

Given the above historical context, the following are some points to consider on this issue:

1. The 1996 change was not anti-union and the current proposal is not anti-business. They are alternate methods of determining the same issue, but both are legitimate, recognized methods for assessing employee support for certification.

2. On an "outcome" basis, both changes have been neutral. It is unlikely that there will be more certifications with the new legislation, just as there were no fewer certifications under the 1996 amendment.

3. On a "process" basis, the quick vote system, introduced in 1977 in Nova Scotia and now replicated in Ontario and Manitoba has the advantage of giving credibility to the union in the certification process. No employer can doubt the support for the union after a secret ballot vote.

4. The problem with the card system is that only the Labour Board is allowed to know not only who signed a card, but how many. It is ironic, for example, that the current Minister rationalizes the 65% threshold by saying that in every case where the union had 65%, certification followed after the representation vote. This sounds more like a reason not to change the legislation than to change it. The irony, however, is that while the Minister cites this statistic, she is the only one who can find out if it's true! No employer or employee involved in those certifications was allowed to be informed of the support level in the cards, other than knowing that it had to exceed 40% to get a vote. Even that is basically unchallengeable under the process.

5. The reason why it is a "quick" vote (within a week in each of the provinces that uses it) is to avoid employer interference. This can never be done perfectly, but the less time between application and vote, the less opportunity for misconduct. Ironically, under the amendment proposed, there will be greater opportunity for employer interference prior to a vote. The 65% cases were certifications anyway, according to the Minister; the 40% to 65% cases only result in votes after a certification hearing conducted weeks, and often months after the application. This gives the employer far more opportunity to interfere than under the current system.

6. Where an employer becomes aware of an organizing drive occurring, the opportunity to interfere begins prior to the application for certification. There is no way for the certification process to prevent that opportunity, except perhaps with discretionary certification (s. 41), or with the Board having the flexibility to choose a date for assessing support that is prior to the application date, as the Canada Industrial Relations Board has.

7. Unions are also accused of improper tactics (such as Manitoba's Eaton's (Brandon) and MFCW case), both before and after making formal application. Typical tactics include persistence, and especially the representation that admission to membership is "free" prior to certification, but will cost $100 after certification, and "we'll get it anyway, whether you sign or not." Legislation is unlikely to eradicate such conduct entirely, and unions are given a fair degree of latitude to "sell themselves." The Preamble to the Act says that "it is in the public interest of the Province of Manitoba to encourage the practice and procedure of collective bargaining", if the union is "the freely designated representative" of the workforce. This suggests an imbalance favouring certification. The specific provisions of the legislation echo that theme. Unions therefore get latitude in organizing tactics.

8. The promise of the Wagner Act was that unions could achieve recognition without illegal interference by the employer. The American system only modestly fulfills this promise, as employers campaign openly against the union during a protracted 6 week campaign. The unions' success rate in the U.S. is consequently half that in Canada, where employers are not allowed to campaign. To revert to the American system at this time (as suggested in a recent *Winnipeg Sun* editorial) goes against the grain of trade union legislation and tradition in this country since the mid-forties. It is certainly not a necessary step to "keep Manitoba competitive" with the relevant business venues.

9. The quick vote (the current system) has the best of the American system (the credibility and legitimacy attached to the secret ballot) and the Canadian system (testing employee wishes with minimum interference by the employer). Paul Weiler himself, the author of the "pro-union" provisions of the 1973 British Columbia Labour Code (drafted for Dave Barrett), made this exact analysis in a published journal article in 1983 ("Promises to Keep: Securing Workers' Rights to Self-Organization under the NLRA" (1983), 96 Harvard Law Review 1769.) Weiler basically concludes that there are 3 ways to determine support (call them "A", "B" and "C"), with the U.S. system being the "C" or worst and the quick vote system being the "A" or best system. It is ironic indeed that this legislation would move us from the "A" system to the "B" system, according to one of the finest supporters the trade union movement has ever had.

It is difficult to follow what the Government's rationale is on this amendment, other than "back to where we were." The proposed change means more litigation, less perceived legitimacy to the process, more unfair labour practices, later start to bargaining, more cost to the parties ... and apparently, according to the Minister's own statistics, no greater number of certifications. This is reform?

Interest Arbitration

At first blush, the option of arbitrating a protracted conflict to resolution is appealing. Where the parties can't solve their difficulties, a third party can fairly and peacefully deliver a solution. Every work stoppage carries huge costs to everyone involved. Why then have unions, employers, legislators, academics and virtually everyone involved in labour relations rejected this approach for over 100 years?

Interest arbitration is litigation replacing negotiation. If no one else, at least arbitrators and lawyers benefit. If the underlying principle is "voluntarism," defined above as "an agreement reached between the parties is better than one imposed," then arbitration is a bad solution, to be used only in exceptional circumstances, such as essential services. Rather than negotiate to a voluntary outcome, the parties are encouraged to posture to put themselves in the best position for the ultimate hearing. Where arbitration has been deemed necessary (essential services such as police, fire, public schools), the "chilling" effect, the "narcotic" effect and other phenomena that infect this process have all been long noted in the academic literature. Parties do not bargain seriously, and do not disclose their "true" position to lead to a voluntary solution. Opposition to using arbitration to replace the strike/lockout remedy in the trade union movement is deep-rooted and deeply felt. One need only think of the angry reaction of public sector or public service employees when legislated back to work (with arbitration to resolve the dispute) to understand how profoundly the trade union movement has traditionally opposed legislated, arbitrated alternatives to collective bargaining, even in the public sector.

The literature criticizing the arbitration process is voluminous. In fact, it would be difficult to find a champion for it outside those who directly benefit. Even arbitrators themselves state in their awards that the best agreements are the parties' own, and that they will try to simulate or replicate what "normal" bargaining would have produced.

The popular alternative to arbitration is mediation and/or conciliation - the assistance of an outside person who cannot force the parties to any particular solution. The agreement is still theirs, not an arbitrator's. It may be noteworthy that no one has voiced a word of opposition to the expanded use of mediation in Bill 44. The arbitration provision, however, adds the suspenders to the belt.

Why has the labour relations community always preferred the strike or lockout when it has such tragic and devastating consequences? When you start with the principle of voluntarism, then the question becomes how best to encourage the parties to make their own agreement. It is done with risk. It is the very dire consequences of labour disputes that forces parties to make the compromises necessary to achieve settlement. It is exactly because a work stoppage could ruin the employees, the union, the employer or all three that makes settlement a necessity. Parties come to the bargaining table with an opening position (disclosed) and a true position (concealed), where they are prepared to compromise at the 11th hour to avoid disaster. The severity and mutuality of risk in the strike/lockout regime is exactly what makes it work. The absence of risk in arbitration is what makes it fail.

Who has rejected arbitration as the process to resolve interest disputes? The U.S. Congress, Canadian Parliament, the Woods Task Force report (the 1968 most comprehensive study of labour relations law this country has ever undertaken), the NDP labour law reform in B.C. by Paul Weiler, the previous NDP governments in Manitoba (with the exception of the short-lived FOS experiment), in short, every legislature and interest group on the continent. Interest arbitration has generally been limited to where there is no strike alternative because the public consequences of a work stoppage are unacceptable (essential services).

The bargaining process itself is driven by the dispute resolution option that waits at the end. If we see a work stoppage on the horizon, we will do whatever is necessary to avoid that risk. If we see an arbitration on the horizon, we calculate where we might end up, net, after arbitration versus what the other side is likely to offer prior to the arbitration and consider whether to compromise, or to posture. There is little incentive to disclose the true position.

Some specific problems with interest arbitration are:

1. Interest arbitrators typically will not address "language" items in their awards. Realizing what dangerous turf they would be on trying to establish the parties' own working conditions, they simply leave it to the parties to negotiate such changes in their next agreement. Monetary items are much easier to impose in a way the parties can live with. This however eliminates a major component of what collective bargaining is all about. If an arbitrator did dare to write working condition language into the collective agreement, there is not only the problem of interpreting the intent afterwards. There is the fundamental fact that parties who make their own agreements will bend over backwards to prove that they bargained wisely by making their deal work in practice. The opposite is true of the arbitrated settlement: "I wouldn't agree to that proposal, and now I'll show you how it doesn't work." The ownership of the agreement is much more important than the text.

2. Arbitrators tend to choose a "mid-point" between the parties' position, inducing the parties to make outrageous demands to bring the mid-point closer to their desired result. FOS is superior in this respect, as it promises a potential reward for compromise.

3. Some parties (employers and unions) just can't afford the arbitration process. In a highly legalized process, they must retain counsel and in private arbitration, pay their share of the arbitrators' fees. Some simply can't afford it. Small, low-budget operations, often underfunded by government (such as group homes) fall into this category, as do some employee associations.

Alternatives

There are manifest flaws in the present arbitration proposal - employee veto, the "pure" arbitration with no incentive to compromise, waiting 60 days before it can be used (if it's a good process, why not use it from the outset and avoid some of the damage? This is the worst of both worlds, a strike and an arbitration). However, even balancing the legislation to replicate first contract legislation would not alter the fundamental flaw in the legislation - the reduction of risk, meaning less incentive to compromise and the reduced potential for a voluntary collective agreement. First contract could only ever be justified on that essential basis - that it is a first contract, where employers are more apt to refuse to bargain while doubting the union's support and where the union is likely to be at its weakest. No legislature or credible academic has ever ventured further in attempting to justify first contract arbitration.

The influence of the arbitration provision is at the first bargaining meeting, not just after work stoppages have occurred.

If long-term strikes are identified as the problem that prompted this unique amendment, what other alternatives will tend to avoid protracted disputes? I'll suggest a few:

1. Pursue more creative, and coercive mediation models. This legislation offers an encouraging start. Mediators primarily meet with parties together or separately and make suggestions or offer some new thinking, but issuing recommended terms of settlement can often give the parties the inspiration to make the very compromises they need to make, but are unable to make. Getting mediators involved at an earlier stage in bargaining, before positions become excessively entrenched, could be fruitful. There is a wealth of literature on models of dispute resolution that are nevertheless restricted to the parties making their own solution.

2. Legislate a mutual referral to arbitration in a work stoppage. This leaves in the risk (the other party might not agree) while at the same time providing a graceful exit ("we're not caving, we're just following the legislation"). Could the parties do that now? Of course, anything can be done with consent. Do they? No. This might give the necessary extra impetus.

3. Dare I say, put this amendment on hold, study it further and see what fruit the mediation amendments yield. If there is still

a perceived problem with lengthy disputes, consider alternatives at that time.

4. Legislate arbitration on a case-by-case basis. A party can apply to the Minister to order arbitration of the dispute, just like applying for a final offer vote.

   The Minister's last minute alternative of having the Labour Board inquire into the bargaining, and then deciding whether to impose arbitration is better than the original provision, but ought to be based on a finding that a party has failed to bargain in good faith. In such circumstances, the Board likely already has the power to impose an agreement, under sections 26 and 31(4) of the Act. This is also not the type of provision that ought to be introduced at the eleventh hour and then passed, without appropriate review. This does not mean that it is without merit. It just needs careful study, because of the potential impact on the delicate bargaining process.

Conclusion

I thank the Legislature for giving me this opportunity to address the proposed amendments. They have, if nothing else, stirred some stimulating debate on issues on which I thought my fascination was unique. This is a wonderful Province with an excellent labour relations climate (try some comparisons here!), and a fine history of moderation and sense in the formulation of its labour relations laws. This legislation is not, on the whole, a departure from that moderation. It does not, other than in the arbitration process specifics on which there is a stated willingness on the part of the Government to compromise, tip the scales in the favour of labour. The issues are ones of process: how to measure employee support and how to resolve protracted disputes. These are not issues of economic interests. To the extent they are good, they are good for everyone in the workplace. To the extent they are bad, they are also bad for everyone. Please only consider these two questions:

1. Is there something seriously wrong with the current processes that requires change?

2. Will those participating (employees, unions, employers) in the processes that apply after the legislation is in place perceive that they have been served well by a healthy process?

I have little doubt that honestly answering those questions will lead to a good result of which all Manitobans can be proud.

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