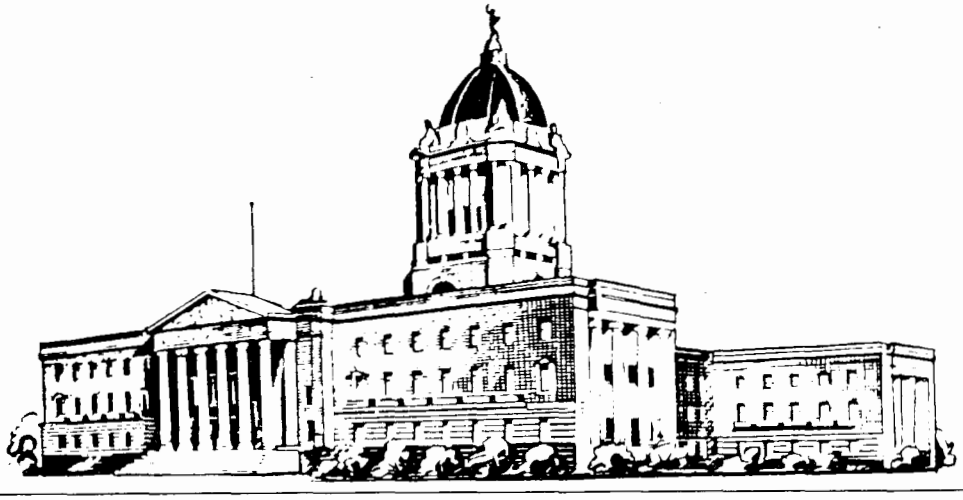
Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

Chairman
William Jenkins, M.L.A.
Constituency of Logan



10 a.m., Saturday, June 5, 1976.

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THE LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON INDUSTRIAL RELATIONS
10 a.m., Saturday, June 5, 1976

Chairman: Mr. William Jenkins.

MR. CHAIRMAN: Committee will come to order. Bills before the Committee this morning, I'll read them out and then I'll ask for members of the audience who may wish to make representation on the various bills. When I've read them out I'll ask you to come forward and give me your name so I can record it.

Bill 14, An Act to amend the Employment Standards Act.
Bill 15, An Act to amend the Vacations with Pay Act.
Bill 16, An Act to amend the Workers Compensation Act.
Bill 57, An Act to amend the Labour Relations Act.
Bill 83, The Workplace Safety and Health Act.
Bill 85, An Act to amend the Employment Standards Act (2).

Now if there are any members in the audience who wish to make representation on these bills would you come forward, give me your name and - at the microphone please.

MR. AKINS: George Akins, representing the Labour Relations Council, we would wish to make representation on Bills 83 and 57.

MR. CHAIRMAN: 83 and 57. Thank you. Next?

MR. CHRISTOPHE: My name is Bernard Christophe. I represent the Retail Store Employees Union Local No. 832. I'd like to make representation on Bill 57.

MR. CHAIRMAN: 57. Thank you.

MR. HUTA: I am Tom Huta representing the Injured Workers' Association and I'd like to make representation on Bill 16 and Bill 83, and also we have several individuals that would like to present their own individual case on behalf of the injuries they received.

MR. CHAIRMAN: Order. We're not hearing individual cases, we're hearing briefs on the legislation that are before the Committee.

MR. HUTA: Yes, but this is dealing with industrial injuries and therefore we feel that industrial injuries have a priority in this . . .

MR. CHAIRMAN: Order please. I'm sorry but that is not the way that the committee operates. When we are here discussing legislation, we're here with the specific instructions from the House for representations on the bills that are before the House. We're not holding an industrial enquiry. I'm sorry.

MR. KEN DILLEN: On a point of order, Mr. Chairman. I believe that people who come forward to speak at the committee are coming here to advise us on the manner in which the Act is applied, and I think that that is, you know, we have no other way of learning whether the Acts that we pass, or are anticipating passing, are acting in the benefit of people, and that I believe that we should hear these people in order that we can determine from their presentations - they will be brief, I'm sure - whether or not the application of our Act really acts in the best interest of all the people.

MR. CHAIRMAN: Order please. Well I'm very sorry, Mr. Dillen we are given specific instructions from the House, we are to discuss these bills and other matters referred. And other matter referred are - or others referred, that is what is before the committee. The Standing Committee on Industrial Relations will meet on Saturday, June 5, 1976 at 10:00 a.m. in Room 254, Legislative Building, Winnipeg to consider the following bills, which I've read out, and others referred. That is the instructions that we have from the House. We are not here to hear other representations on other matters. Order please.

MR. HUTA: . . .on behalf of Bill 16 and therefore you are dealing with . . .

MR. CHAIRMAN: Well if they make their remarks toward Bill 16, fine and dandy, but we are not - . . up the whole Act.

MR. HUTA: Well how are you going to determine whether the Act is in their favour or not, Mr. Chairman?

MR. CHAIRMAN: You can make your representations on the Act the way it is

(MR. CHAIRMAN cont'd) . . . . . stated, the amendments to the Act, not to hear individual cases. I'm sorry.

MR. HUTA: Mr. Chairman . . .

MR. CHAIRMAN: Order please! I am not here to argue with the--(Interjection)-- I'm just telling you what the rules - Order please! I'm telling you what the rules are before this Committee. Now those people who you wish to make representations, if they make representations on the bill as it is set out before this Committee, fine and dandy. But we are not here to hear individual cases on someone's injuries. I'm sorry.

MR. HUTA: Mr. Chairman, may I make a point of order, we were . . .

MR. CHAIRMAN: Order please. Order please. I'm telling the honourable gentlemen --(Interjection)-- ORDER! I'm not here to argue with you, I'm here to interpret the rules as laid down by this Legislature.

Next person please.

MR. DOUGLAS: Bob Douglas, representing the Manitoba Farm Bureau on Bill 16.

MR. CHAIRMAN: Thank you.

MR. DAVID NEWMAN: David Newman representing the Piling Contractors Association of Manitoba Incorporated. Bill 57.

MR. CHAIRMAN: Bill 57. Thank you.

MR. JOHN HENRY: John Henry. Representation regarding the Conscience Clause in Bill 57.

MR. CHAIRMAN: 57. Thank you.

MR. EDWARD MAILEY: Edward Mailey. Bill 57. Specifically the Conscience Clause.

MR. CHAIRMAN: Bill 57.

MR. ALEX PLATER: Alex Plater. Speak on Bill 57, Conscience Clause.

MR. CHAIRMAN: Thank you.

MR. CHARLES BOUSKILL: Charles Bouskill. Will be speaking on Bill 57 on behalf of the Association of Professional Engineers.

MR. CHAIRMAN: 57.

MR. BOUSKILL: 57, Mr. Chairman.

MR. CHAIRMAN: Thank you.

MR. WILLIAM WILBERFORCE: My name is William Wilberforce. I will be speaking to the amendment to Bill 57, the Conscience Clause.

MR. CHAIRMAN: Wilberforce?

MR. WILBERFORCE: Yes.

MR. CHAIRMAN: Thank you.

MR. NORMAN PLATER: Mr. Chairman, my name is Norman Plater. I'd like to speak on Bill 57.

MR. CHAIRMAN: Thank you.

MR. LORNE ATKINSON: Lorne Atkinson. I would like to speak on Bill 16 for the Manitoba Farm Workers' Association. The Compensation Act.

MR. FRANK FOWLER: Frank Fowler, representing the Roadbuilders and Heavy Construction Association of Manitoba. Speaking on Bill 57.

MR. CHAIRMAN: Thank you.

MR. ABE DUECK: Abe Dueck. I or my colleague, Harold Jantz wish to represent the Mennonite Central Committee on Bill 57.

MR. CHAIRMAN: What was your name again, Sir?

MR. DUECK: Abe Dueck or Harold Jantz.

MR. CHAIRMAN: 57. Thank you.

MR. GRANT NERBAS: My name is Grant Nerbas. I am an employee of Canadian National Railways and I wish to speak on the amendments to the Workers Compensation Act.

MR. CHAIRMAN: 16?

MR. NERBAS: 16, yes.

MR. CHAIRMAN: What was your last name, Sir?

MR. NERBAS: Nerbas N E R B A S. Could I have just for my information the hours of these sittings.

MR. CHAIRMAN: 10:00 to 12:30; 2:30 to 5:30.

MR. NERBAS: Thank you.

MR. RON HABKIRK: Ron Habkirk of the Steelworkers to speak on Bill 83.

MR. CHAIRMAN: Bill 83.

MR. ART COULTER: Art Coulter. Manitoba Federation of Labour to speak on Bills 14, 15 and 16 and 57, 83 and 85.

MR. LEN WINDER: My name is Len Winder representing the Mechanical Contractors Association. I'm only going to talk on Bill 57.

MR. CHAIRMAN: Thank you.

MR. EDMUND CASE: Edmund Case, and I'd like to present myself under the Workers Compensation Board.

MR. CHAIRMAN: Bill 60. What was your name, Sir?

MR. CASE: Edmund Case.

MRS. ROSS: Mrs. Ross. I'm speaking for my husband on Bill 16.

MR. HUDAK: My name . . . Hudak. H-U-D-A-K. I want to speak on Bill 16.

MR. W. JACKSON: My name is Walter Jackson and I want to speak on Bill 16.

MR. CHAIRMAN: What was your last name, Sir?

MR. JACKSON: Jackson.

MR. CHAIRMAN: Thank you.

MR. M. MUSHUMANSKI: Mike Mushumanski. I'd like to speak on Bill 16.

MRS. REID: Mr. Chairman, I'm Mrs. Reid, representing Stephen Melnick on Bill 16, please.

MR. CHAIRMAN: What was your name again, Madam?

MRS. REID: Mrs. Irene Reid.

MR. CHAIRMAN: Thank you.

MRS. N. GALEVICH: Mrs. Nellie Galevich, G-A-L-E-V-I-C-H. I would like to speak on Bill 16, please.

MR. CHAIRMAN: All right, thank you.

MRS. M. KUTRYK: Mabel Kutryk, I want to speak on behalf of my husband on Bill 16.

MR. CHAIRMAN: Kutryk, was it?

MRS. KUTRYK: K-U-T-R-Y-K.

MR. CHAIRMAN: Thank you.

MRS. O. NEUFELD: Mrs. Olive Neufeld, Bill 16. I'd like to speak on behalf of my late husband.

MR. R. BENNETT: Richard Bennett, I'd like to speak on Bill 16.

MR. V. SOBKOWICH: Vic Sobkowich, representing the Winnipeg Builders Exchange on Bills 57 and 83.

MR. L. PRESTON: Lloyd Preston, I'd like to speak on Bill 16 pertaining to the Workers Compensation Act.

MR. H. ZASITKO: Harry Zasitko, I want to speak on Bill 16, Compensation.

MR. GREEN: Mr. Chairman, in view of the fact that there is a great many individuals on Bill 16, it would appear better if we heard the others first so that these people who are less in number would not have to wait for those who are more in number. That is my suggestion.

MR. CHAIRMAN: Is that the will of the committee? (Agreed) Mr. Paulley.

MR. PAULLEY: Mr. Chairman, if I may, during the last number of days I have received a number of correspondence addressed to me personally primarily dealing with, as a matter of fact practically all dealing with the conscience clauses in the legislation. I did not have the time, neither could I read the correspondence because of an eye condition, I thought though it would be proper for me if acceptable to the Committee, and understood by the writers, if I merely tabled these letters with you, trusting that the people who sent them would acknowledge that they were received in good faith and that in due course I hope to answer each individually.

MR. CHAIRMAN: Thank you, Mr. Paulley. I can add a list of my own.

MR. PAULLEY: Yes. Well then possibly, Mr. Chairman, I was not aware of that but being the Minister of Labour I thought mainly they were directed towards me. Maybe then it should be understood that recognition has been made at this Committee hearing of these letters and that they have been received for the information.

MR. CHAIRMAN: That being the case then I will call on Mr. Akins, appearing on Bill No. 57, and if you wish you can also make your brief at the same time on Bill No. 83.

MR. McKENZIE: Mr. Chairman, on a point of order, would it be all right if the people at the back come up and sit on some of these chairs at the side here.

MR. CHAIRMAN: I have no great objection one way or the other. I mean if people want to sit up in these chairs, the people that are standing, I don't think members of the committee would object. Some of the people that are standing at the back if you like to come and use what few chairs there are along the sides here, you're quite welcome to do so. Proceed, Mr. Akins, Do you have a copy of your brief?

MR. AKINS: Gentlemen, I have filed copies of my brief with the secretary and they could be distributed.

MR. CHAIRMAN: Fine. Thank you.

BILL 57 - AN ACT TO AMEND THE LABOUR RELATIONS ACT

MR. GEORGE AKINS: Gentlemen, on proposed Bill 57.

There are many changes in the proposed legislation which will, in our opinion, have an adverse effect on the conduct of labour relations in this Province and which will serve to increase the tensions between labour and management, which are already far too high.

We realize, however, that once a bill is introduced, only matters of salient importance to the public interest will be subject to amendment, especially when the legislation is introduced at a time when the Legislature has already gone into "speed-up" preparatory to adjournment. We feel that there are three such issues that are involved in Bill 57 as proposed.

One of these issues was not mentioned in the White Paper distributed by the Minister of Labour last December and was not therefore subject to representation and debate at the public hearings. We refer to Section 119.1. It is our contention that the wording of this amendment is so broad in scope that it will have adverse effects contrary to the public interest, that were not anticipated by your Government. Further, this provision can be easily overlooked unless clause by clause study of the legislation is undertaken, thus denying your government the benefit of studying timely public reaction.

The effect of Section 119.1 is to make it impossible for any group of firms sharing either common control (shareholders) or common direction (management) from engaging in both unionized and open shop fields of endeavour simultaneously regardless of how related or otherwise such fields of endeavour might be. This locking in of corporate entities, and/or managers, so that once one of your firms becomes unionized all of your other firms then existing or created in future will be treated as though they were a single employer of the employees employed in the associated or related businesses or operations, thus making the collective agreement of the one unionized firm apply to all other firms, regardless of the desires of the management and employees of the other firms, is an insidious and unwarranted invasion of both management and employees basic rights and freedom. The Labour Relations Act guarantees all employees who wish to unionize the unrestricted right to do so. Why then is it necessary to force unionization from the top by provisions of this type rather than from the bottom in accordance with the desires of the employees?

In assessing the merits of this amendment we must ask ourselves the following questions:

1. To what extent should Government, through an appointed administrative agency, have the power of drastic intervention in a corporation's legal and lawful organizational planning, designed to protect its corporate entity or enhance its corporate efficiency and effectiveness within the law?

2. To what extent should an appointed Government agency intervene to force certification of a Union on employees in an open shop subsidiary company? On employers operating on open shop? This question is of critical importance when one considers there are established procedures by which employees can call for the services of a bargaining agent through present certification procedures, and have a vote on the outcome of such actions.

(MR. AKINS cont'd)

3. To what extent can Government justify one of its presumably neutral administrative bodies being placed in the position of becoming an unintentional recruiting agency for the trade union movement through making judgments which would force certification on open shop companies?

4. The housing sector of our industry in Manitoba is largely open shop because union labour has priced itself out of the housing market and is no longer competitive. Much construction in this sector is done by open shop sub-contractors who contract out, or by open shop subsidiaries of unionized companies who must legitimately operate in this fashion to be competitive. How can these legitimate operations be protected from involuntary certification through decisions made by the Board under the proposed provisions of Section 119.1? If these operations are interfered with, what responsibility does Government take for the resultant increase in the price of housing?

5. The same questions as 4 above should be asked with regard to our road building sector and sewer & water sector and about other industries outside of construction (which is the direct concern of our Association).

6. What will be the effect of involuntary certification upon the large pool of open shop rural workers, especially our native peoples, who are at present able to man rural projects with open shop companies as open shop workers? Will they be displaced by urban organized workers dispatched to rural sites through urbanized union organization given the power of union hall hiring? Will they be forced to join a union which cannot give them services for their dues? What effect will this have on the cost of such rural projects?

Finally, it must be clearly understood that many legitimate business reasons exist for entrepreneurs to be involved in several different business endeavours at the same time. These include but are not limited to matters like the following which have no connection with unions and unionization:

i) limitation of liability in high risk ventures.

ii) tax consideration, (both income tax and inheritance).

iii) endeavours to promote employee participation and profit sharing, and also include legitimate divisions of entity based upon conditions of business climate created by the prevailing patterns of unionization:

a) firms organized to operate on industrial construction sites.

b) firms organized to operate in non-union segments of the industry (residential construction, road building, etc.)

c) firms organized to utilize an available labour pool or exploit a special market (which for reasons of unionization or non-unionization or unionization by different organizations is not available for utilization by a parent company).

We concede that, depending upon your point of view, the rationale for the second class of reason for multiple entity may not go unchallenged. To make our position clear we would state:

1. Any creation of separate entity designed to enable the principals to take advantage of a market or business opportunity which cannot be as advantageously pursued with other entities controlled by them is a legitimate business maneuver.

2. Any creation of a separate entity designed to circumvent a certification order or an existing voluntary recognition may be an unfair labour practice. The problem, of course, is that the difference between the "legitimate business maneuver" and the "unfair labour practice" may be entirely one of motive. Motive is difficult to prove and even more difficult to determine without involving intricate rule of evidence, law, and logic involving matters of extreme difficulty even for experienced jurists to handle.

The exercise of this high degree of arbitrary discretionary power requires the competence of the courts of law. In this regard the Legislature should give consideration to the following questions:

Given the current composition of our Labour Board,

1. By what means can the Manitoba Labour Board establish whether the motive of the employer is to avoid certification, the avoiding of a collective agreement, or any other duty or responsibility under this part since these results could well flow only incidentally from a completely different major motive - that of keeping his business competitive.

(MR. AKINS cont'd)

2. What level of training and skill is required to make these complex judgments? Was the Labour Relations Board designed for this level of jurisprudence? Should it be expected to deal with problems of this nature?

In view of the complexity of the questions we have raised we would request extreme caution and in-depth consultation with all sectors of industry and the legal profession to devise effective amendments prior to the passage of this bill. This may necessitate postponement of consideration of this section until a future session of the Legislature.

Our second concern also deals with the suitability of our Labour Board, as it is presently constituted, to satisfactorily discharge the new duties and responsibilities placed upon it by the Act.

Throughout Part 1 of the revised statute (that is Sections 5 (1) to 24 inclusive) the Manitoba Labour Board has been set up as an "administrative" tribunal to hear and adjudicate upon matters formerly to be decided by a judge or magistrate before the "judicial" tribunal of the courts. Decisions of the Board are binding upon all persons affected thereby. Further, no appeal on the facts is provided, appeal being limited to errors in jursidiction, law or breaches of natural justice. Quite aside from the fact that the Courts are bound by precedent and by procedures developed over many centuries to protect the innocent and produce uniform application of justice, while administrative tribunals interpret policy and may apply, without regard for precedent, the individual feelings of the day to the case at hand, thus mitigating against consistent interpretation and uniform application, the current composition of the Manitoba Labour Board is unsuitable to the judicial task being thrust upon them by the revisions to the legislation. This unsuitability arises out of:

i) The fact that the members of the Board are part time appointees only, who continue to owe allegiance to their normal management or union employers. This prevents them from assuming the required judicial detachment and impartiality. Only full time appointment with tenure will correct this situation.

ii) The Board is composed of partisan appointments made equally from the ranks of organized labour and management. Thus only the Chairman can be regarded as neutral or unbiased. At present there is no representative for non-organized labour or for the public sector. Equal representation from all four interested segments would improve balance.

iii) The Board members, by reason of their method of selection, have adequate (if biased) background in labour relations, but are lacking in legal and judicial training and expertise. This could be corrected, at least in part, if the interests represented were changed as noted in (ii) above and persons with the required legal training were appointed to represent unorganized labour and the public sector.

When one examines the composition of the current Board one must wonder that a Board so constituted can perform as creditably as our Board has done. There is no question, however, that the best intentions and efforts of a Board so constituted will fall short of producing satisfactory dispensation of justice under the new responsibilities created by the amendments. In this situation we have three choices:

i) Return the responsibilities to the courts (where they really belong).

ii) Restructure the Board for representation from all affected sectors of interest, appointed on a full-time basis, with tenure and with increased judicial expertise.

iii) Provide appeal to the courts on the basis of the facts as well as of the law to provide protection against error in application by the present type of Board.

Finally, the provisions of Sections 6 (1) and 6 (2), which make an employer automatically guilty of an unfair labour practice if he so much as mentions that he objects to a union or that he prefers one union over another, will, in many instances, create an untenable hardship for the employees they seek to protect, due to the currently prevalent practice of certain Manitoba Unions of:

i) Boycotting the handling of goods produced by rival or non-affiliated unions or by persons electing to operate without unions.

ii) Instituting provisions in their by-laws requiring concerted refusal of their members to work alongside of members of other non-affiliated unions or persons who are not affiliated with any union on pain of severe penalty.

(MR. AKINS cont'd)

iii) The use of nominally informational pickets to coerce persons to join a union or a certain affiliated union.

Unless the affected employees are provided basic human rights protection from the above noted actions, the employee's choice of bargaining agent can materially affect the present and prospective markets of the employer with consequent effect on the employment opportunities of the employees. Surely either the employer should be allowed to freely place information before his employees regarding the possible effects of their choice of bargaining agent or it should be proclaimed an unfair labour practice for unions and their members to engage in the activities listed above.

Our association fears that without amendment upon these points, Manitobans will be forced to endure legislation which is not only inequitable but also unworkable from any practical viewpoint.

Your consideration, even at this late date, of these urgent concerns will serve to avoid problems of the most persistent and severe nature.

Respectfully submitted by Labour Relations Council.

MR. CHAIRMAN: Thank you, Mr. Akins. There may be some questions that members of the committee may have, I don't know. Any questions? Hearing none, thank you.

Do you wish to make your presentation now on Bill 83?

MR. AKINS: I will do that, Mr. Chairman.

BILL 83 - THE WORKPLACE SAFETY AND HEALTH ACT

MR. AKINS: Gentlemen: The Labour Relations Council, Winnipeg Builders Exchange protest with vigor on behalf of its 155 members firms, all of whom are unionized contractors, the introduction of legislation of new and serious import to our industry at a time when the Legislature has already proceeded to speed-up prior to adjournment.

MR. CHAIRMAN: Just a moment, Mr. Akins. Do you have copies of that brief?

MR. AKINS: Copies were filed with the secretary this morning and should be distributed by him.

MR. CHAIRMAN: I wonder if you could just hold it until we see if we can find them.

MR. AKINS: Yes, I will do that.

MR. CHAIRMAN: Yes, we have it here, fine. Could you just hold it until we get it distributed please.

MR. AKINS: Thank you, Mr. Chairman, my voice can use the rest.

I'll begin from the beginning.

The Labour Relations Council, Winnipeg Builders Exchange, protest with vigor on behalf of its 155 member firms, all of whom are unionized contractors, the introduction of legislation of new and serious import to our industry at a time when the Legislature has already proceeded to speed-up prior to adjournment. This tactic of government negates the operation of the democratic procedure of the Legislature by:

a. denying the public an opportunity for examination and representation.

b. denying the opposition adequate time for study and the formation of an informed opinion.

c. denying the Government the counsel and opinion of those parties who will be directly affected by the legislation and who in the final analysis must work with it and attempt to make it work, and who must endure the consequences of its inadequacies.

Copies of this proposed Act were not available to our Association until Friday, June 4, 1976, when requested copies arrived with our morning mail.

Frankly, we have not had time to perform the type of in-depth study that major legislation on such a vital issue deserves. How can the Government justify proceeding in this critical area without informed comment from industry and the public who will be so seriously affected? (In that regard, gentlemen, I will apologize for the typing of this brief. It was pecked out by the two finger method at 12 midnight last night.)

This Act contains 60 sections. Our 155 member firms contend that one day is insufficient time for them to study, consult upon and obtain consensus opinion on these

(MR. AKINS cont'd). . . . . 60 sections. When one considers that by reason of Section 11 (1) the entire cost of financing the services supplied under this Act will be paid by management, through their assessments under the Workers Compensation Act, and that the Government is not required to contribute one penny for safety measures proposed under this Act, this denial to management of the right to study and comment seems doubly unjust and unreasonable.

Section 11(1) - We would assert that safety is the tripartite responsibility of the work force, management and the Government, and as such should be supported and paid for from the General Revenue Fund which is contributed to by all parties representing all three parties of interest. It is unreasonable that one of the parties of interest only should bear the entire expense.

Section 18(1) - The powers set forth in 18(1), particularly when one considers the discriminatory manner with which they may be applied as set out in 18(2), are too all-encompassing to be assigned to the Lieutenant-Governor-in-Council. These provisions allow a particular business or class of businesses to be destroyed, stopped, or terminated at will and without recourse. Where the public safety is an issue such powers no doubt should vest in the Legislature. There their formulation and application are subject to public debate and the scrutiny of the Opposition thus reducing to a minimum the risk of their being directed to private ends or applied with favour or discrimination. The authority to devise and apply regulations of such unusual and exceptional impact must not, in a democracy, be assumed by any authority except the Legislature where all of the people are duly represented.

Section 20(4) - We must protest the reverse onus established in this section. Surely our tradition of justice requires that a person be assumed innocent until proven guilty in criminal cases "beyond a reasonable doubt" and in civil cases "in accordance with the preponderance of evidence". No valid reason exists to depart from these tried and true precepts in this instance.

Section 21 - When regulations are devised by the Legislature and codes of practice based upon them are produced, the standards created thereby should not be subject to variation at the will and pleasure of the director. Surely the opportunity for inequity, inconsistency and even discrimination contained in this provision attest to its undesirability.

Section 37 - The Manitoba Labour Board as presently constituted is not a suitable court of final appeal for adjudicating upon stop work orders. The Board is lacking not only in safety expertise and engineering expertise, but also judicial competence.

The courts lack of special expertise is compensated for by:

a. their special judicial training and competence.

b. the particular safeguards inherent in judicial tribunal procedures as contrasted with administrative tribunal procedures.

c. the established right of appeal to a superior court.

The Manitoba Labour Board enjoys none of these advantages and suffers from other serious defects as a judicial body.

By what logic are our citizens to be stripped of their birthright of appeal through the legal system provided by our democratic inheritance?

Section 39(3) - The remarks applicable to section 37 apply.

Section 42(2) - Construction is a cyclical and unstable field of endeavour and construction employment is inherently irregular and uncertain. Further, the particular skills and areas of special competence vary from tradesman to tradesman within every different trade. We submit that in these circumstances reverse onus is not tenable. For example, on any project when the cycle of work revealed that layoffs were imminent, what a rush we will experience to become involved in safety concerns! The hope that the prospect of proving onus under 42(2) will incline the employer to lay off someone who has not been farsighted enough to equip himself with this protection against the hazards of intermittent employment will be a strong incentive for temporary commitment to promoting safe practice.

Section 43 (4) - The above remarks also apply.

Section 43 (7) - Since we disagree with reverse onus provisions we shall not ask for them to be applied in this case but we assert in passing that if they are applied in 20(4), 42(2), and 43(4) they should be equally applicable to 43(7).

Section 48(1) - The civil damages which could accrue to any stop order or inspection

(MR. AKINS cont'd). . . . . order mistakenly issued under this Act are so heavy that persons should not be able to avoid liability for their actions by merely claiming good faith. Persons wielding the powers created under this Act should, for the protection of the public, be professionally competent to do so and should be liable for the results flowing from incompetence as well as from negligence.

Section 56(1) - The reverse onus in what is essentially a criminal action is offensive to our established legal traditions and an unjust imposition upon the individual.

Section 56(2) - By what right should the Crown be relieved of its obligation to prove the particulars of its charges?

Again, we would assert that the time allotted to us for preparation of our submission was, by reason of the timing of the introduction of this Act, insufficient for the type of in-depth study that this legislation deserves and demands.

Respectfully submitted, Labour Relations Council.

MR. CHAIRMAN: Mr. Akins, there may be some questions some members of the committee may have. I have no one so far. Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I would like to make one or two observations because there is,at least in my interpretation, oblique references to myself as one of the major promoters in this bill and in this concept. I want to apologize - well I don't think I need to apologize to Mr. Akins or anyone else that at the present time I am unable, because of an eye condition, to follow precisely and simultaneously all of the remarks made in the brief presented by Mr. Akins but I do want to take exception to some of the remarks as I heard them.

I heard by Mr. Akins the intimation that this is something new, that due to - as I recall what was said in the brief - the rush of the session, that there wasn't the opportunity of the Winnipeg Builders Exchange or any other organization to give an opportunity to consideration of the legislation and the timing of the production of the bill.

I don't think that I need to recall to Mr. Akins or anyone else who is a keen student of provincial conduct and politics that when the Speech from the Throne was read some months ago - I might say incidentally it's beginning to feel as though it was some years ago - but nonetheless at the time of the introduction of the Speech read from the Throne there was mention of the consolidation of the efforts of the government and its component parts to bring under one umbrella all aspects pertaining to industrial safety.

There has been over the years - and I'm sure Mr. Akins is well aware of it as many others are - that we have not really in the Province of Manitoba as indeed they haven't in other provinces or the Dominion of Canada as well, operated a unified, uniform approach in the most important field of industrial safety. Oh I can appreciate, as one who is of not great wealth or even small wealth, the apprehensions that might be held by some who have aversions as to what might happen if the state takes under greater control the responsibility for safety in the industrial workplace.

I'm sure that members as well as myself in this room this morning are fully appreciative of the fact of the incident at the asbestos plant in Ontario where the plant was closed down because it did appear as though management itself did not appear to give a continental as to the safety provisions for the men. We're aware even here in Manitoba that it was not until after a considerable number of years of agitation - to use that horrible word that is used by labour - that it wasn't until considerable agitation that there was established when the Workers Compensation Fund set up in Manitoba, a fund for the purpose of the treatment of silicosis, and the gradual recognition now in our mining institutions of other diseases of the lungs that are becoming more prevalent as the years go on.

We are beginning to find more and more in the field of the mining industry in the Province of Manitoba as they are elsewhere that a greater concentration has to be made. Efforts have been made in the past by labour to really coalesce with management to overcome these difficulties. We found it necessary only a year or two ago to, by regulation of this terrible thing called the Executive Council or the Lieutenant-Governor-in-Council, we found it terrible to use the power of the Executive Council to pass an Order-in-Council to prohibit as far as humanly possible the workings of two miners in a possible unsafe work condition in our mines in Manitoba. We found that there were occasions where

(MR. PAULLEY cont'd). . . . . miners were refusing to go into what was considered an unsafe workplace.

But the penalty for refusal of going into the unsafe workplace was falling on the party who was doing the refusal, instead of the elimination of the cause of the situation that was prevailing. That is one of the reasons, Mr. Akins, why this piece of literature is before us. It is not something that is just like Topsy grown up through a hat. Over the last year or so in comtemplation of such a piece of legislation we have had experts studying constantly legislation prevailing to industrial safety in all fields of human endeavour and in all climes and countries, the Old Country, New Zealand, Australia, United States, Saskatchewan, Alberta and Ontario. This isn't a pipe dream and it is not something that has just happened overnight may I say.

We have had in Manitoba in the various departments of government in Manitoba, sections who basically and ostensibly had the responsibility to perform the jobs that are contained within this legislation. The objective of this is to domicile them under one jurisdiction so more is known about what the other one has done. It's not the creation, as some might consider, of a new bureaucracy for the Province of Manitoba.

You mentioned other points of the judiciary and their competence and incompetence, I'm not sure which phrase you used in the sense that I have or the paragraph that I have in mind at the present time, of the making amends for the closure of the proceeding of work. We, again, by this terrible maneuver that's possible with government, namely the Order-in-Council, we found that through our industrial safety section which was turned over from the Department of Labour some six or eight years ago to Workers Compensation and they have done a reasonably fair job in the performance and carrying out of those duties, but we found that it was necesary to pass an Order-in-Council to close down the operation of plants because even though they had experts charged with the responsibility of operating the construction that they were still carrying on unsafe conditions despite orders from the representatives of the Workers Compensation Board to cease operation until the unsafe condition was changed. We found that the worker was continuing to perform until such time as this terrible thing called government and the Lieutenant-Governor-in-Council saw fit to pass an Order-in-Council to give to the inspector the right to issue a "desist from operation" order until such time as remedial action was taken to make the construction safe for the worker to proceed. And the appeal, if I recall correctly, was to this incompetent Manitoba Labour Board.

I suggest, and I say this to you, Mr. Akins, I am sure that you would agree with me that we have a mutual respect for each other personally and insofar as our individual approach is in the subject, but I think that you would give to me and trustfully to my colleagues in the Legislature, and that in government, aided and assisted and supported, may I say, in this instance by all quarters of the government that something has to be done in the important field of safety in the workplace. It's something that just simply has not been done to the degree that it should have been done in the Province of Manitoba. If you note the Act, and I am sure you're an avid reader of legislation, Mr. Akins, you will note the Act does not come into proclamation within one year. I have made the statement that within the period of that year it would be the intention of the Minister of Labour to meet with the parties deeply involved to find out and see methodology whereby this piece of legislation can be made as operational and efficient as possible.

You mention a section of the Act, too, and I must confess to you, Mr. Akins, that I have only learned what I am talking about by a tape because I haven't been able to read the paper for the last nine weeks, but I have found out and you make mention of the section pertaining to the cost and the involvement and cost and its imposition on industry. I think that if you will read the Act thoroughly you will find that while there is reference to sections of the cost of the performance under this Act, there is also reference to charges being levied by the Lieutenant-Governor-in-Council in a . . . consolidated fund of the Province of Manitoba. When the costs, and this pertains particularly to the construction industry, became part and parcel of the levy of the Workers Compensation Board against industry, it was after . . . the responsibility was transferred over to the Workers Compensation Board and it became part and parcel of the operations.

Mr. Chairman, I appreciate, I am sure you will all appreciate that I have spoken too long on this particular subject but I do want to say, and it was in reply to the questions

(MR. PAULLEY cont'd). . . . . posed by Mr. Akins in this report, as to the objectives of the legislation, and I felt that it had to be answered in the interest of the action of government and its endeavours in the field of safety.

MR. AKINS: Mr. Paulley himself has said his question is a lengthy one but I have made some notes on the points as he made them, and I would like to attempt to reply to them in order.

On the matter of timing, I think there is a grave difference between discussing something in its generality and discussing something in its particular. In a matter like safety and its generality, what can you say except that you are all for it 100 percent. The timing is referring to the particulars which were only available to us for one day after we made every effort to receive them from the Department of Labour.

Mr. Paulley has commented that the action of the state is necessary for safety, and we have stated in our brief that the state does have a prominent place in matters of the public interest in safety. The points that we attempted to make, and evidently didn't make clearly enough, was that regulations are normally applied uniformly to all people but this Act in Section 18(2) specifically provides that the regulations may be applied in a discriminatory fashion against any particular operation. Now when you do not have uniform application then it becomes necessary that the Act of applying these regulations be controlled by a body like the Legislature where it is open to the public, and public debate and comment by the opposition. I think that's the central tenet of our democratic heritage.

Now unless it be misunderstood I would like to affirm that our organization really stands four square behind safety in efforts to increase safety on the job sites. The remarks that we've made here are all directed towards the administration of this bill and not towards its effect on safety as such.

You commented on the cease and desist order and stated that this was necessary in matters of safety; we are inclined to agree with you that it is. Our only comment in that regard was that the people who issue such orders should be responsible for their actions and that there should be right of appeal to a tribunal of more competence in these matters than the Manitoba Labour Board.

Finally in the matter of financing, Mr. Paulley has pointed out that there is some reference in the Act to levies on the Consolidated Fund but my remark was that the government is not required to finance and those remarks in the bill under 11(2) say that the government "may" but it is not required in any place in this bill to supply any financing towards this important, indeed crucial Act. And I believe that the government should be supplying financing towards something of this nature. Thank you.

MR. CHAIRMAN: Are there any other questions by members of the committee? Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I just wanted to raise a question with Mr. Akins about his brief when he challenges the competence of the Manitoba Labour Board to deal with the matter of safety. I wonder on what basis that the Builders Exchange makes that statement. Perhaps just to extend it, why are they less competent than a court?

MR. AKINS: Well I think that that is largely answered in the brief but it is predicated on the present composition of the board. Now there is no judicial expertise on that board nor is there any particular expertise in matters of safety or in matters of engineering. Now the court also does not have particular expertise in matters of safety or engineering, but it does have the expertise in matters of judicial process and application and training and this makes up for its lack in the other areas. It's like the judge doesn't have to be a murderer to be able to bring down judgment upon murderers.

MR. AXWORTHY: . . . second question but I presume the Manitoba Labour Relations Board by the very nature of its operation having to deal continually with labour-management relations would acquire a high degree of competence and skill and understanding of that particular area at least superior to a court in that many of the objects of dispute would be dealing in the manner of labour-management relations over the question of safety. Presumably that's where their expertise lies.

MR. AKINS: Well this is entirely correct, and you will note that as long as the duties of the Labour Board were concerned with labour relations only that our association

(MR. AKINS cont'd). . . . . has had nothing but praise for this type of setup. But the fact is that right now in both Bill 57 and 83 the emphasis of the Labour Board is being moved out of the labour relations area and into the judicial area, and we maintain that in order to accomplish this the composition of the board must be changed. If it is not changed I predict a complete disaster.

MR. AXWORTHY: Mr. Chairman, what kind of changes are you recommending?

MR. AKINS: Well we outlined them in our proposed brief on Bill 57 where we suggested that the changes should be, that there should be representation not only from organized labour and management but also from unorganized labour and from the public sector, and that when appointments be made the people be appointed that do have judicial expertise in view of the fact that the board is moving into that area.

Now also one of the chief faults with the existing board is that it's part-time and the people who are on it continue to work for their existing organizations. Now if I work for a large corporation I have to pay some mind to their concerns, and if I work for a union, surely I'm subject to strong criticism, if not threat of loss of my job, if I oppose union interests. Now this really makes it impossible for the members of that board to take a truly judicial stand. They cannot remove themselves from partisan concerns and apply themselves to the problem the way a judge does in the courts, and while that may not be so essential as long as they're dealing strictly in labour relations, it becomes absolutely essential once they move into the judicial area.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, just a question as it reflects on the integrity and competence of the members of the Labour Board. You say there is no judicial expertise on the Labour Board. I was a classmate of Mr. Justice Scott Wright, His Honour Alan Philp, His Worship Sam Minuk and Chairman of the Labour Board Murdoch MacKay. They all graduated from the same law school, and I suggest to you that they all have the same judicial expertise, in the same class by the way, in the same class.

MR. AKINS: Mr. Green, I think I note in my formal brief that the chairman is in a different position from the members.

MR. GREEN: You said that there is no judicial expertise on the Labour Board. I repeated the question to you, you said there is no judicial expertise, and I am telling you that all of these four people at different levels of the judiciary, and one is on a quasi-judicial tribunal, all graduated from the same class and it's only my attempt to deal equally with my classmates that I do not indicate that there is possibly more judicial expertise on the Labour Board than in some of the courts.

MR. AKINS: Well, Mr. Green, I think if all members of the board had the judicial expertise of the people you have named there would be no problem.

MR. GREEN: But you said there is none.

MR. AKINS: I stand corrected, Mr. Green, I should have said there is insufficient.

MR. GREEN: That's fine.

MR. CHAIRMAN: Any further questions? Hearing none, thank you, Mr. Akins. Mr. Bernard Christophe. Bill No. 57. Do you have copies of your brief?

MR. BERNARD CHRISTOPHE: No, I don't, Mr. Chairman.

Mr. Chairman, I want to say at the outset that I congratulate this government to bring about progressive amendments to the Labour Relations Act. I think there are many of them which we have been waiting for some time who are now here today. I believe that they're in line with the whereas of the existing Act which is to encourage the process of collective bargaining. I believe it would improve labour relations in the Province of Manitoba. I've been a full-time union representative for some 18 years and I've been involved in the aspect of organizing workers and also negotiating collective agreements. And I can say to this committee and to any one who wants to hear that these amendments to the Act, all the good employers have nothing to worry about. Employers who are prepared to sit down with union and negotiate collective bargaining agreements in good faith have nothing to worry about. All those employers who are prepared to frustrate the collective bargaining process, to interfere with the formation of trade unions have something to worry about, and I think these as I see it are the reasons for many of those amendments.

(MR. CHRISTOPHE cont'd)

I should also add that there is some items, some amendments which I believe on behalf of my organization are not going quite far enough and there are one or two items which have been missed completely which I will speak about.

First of all in regard to the rights now given to the Manitoba Labour Board to deal with many unfair labour practices, I believe this is long overdue. I believe the Manitoba Labour Board is quite competent in dealing with these matters. I think Mr. Green said more competent than the courts, and I agree with that entirely. I, for one, on many occasions have not gone to the courts on matters that we had to go to the courts for many reasons, one of them was a financial aspect of it. When you go to court you have to have a lawyer and you have to pay for one, and as you know their fees are quite high, and I don't blame them for that, I guess they have a good union. The Labour Board on the other hand is a type of board where the ordinary man and woman can appear before the Labour Board and don't need a lawyer. In fact for those ordinary men and women who have appeared before the Board, they know that in many instances the board has helped them and has more or less bent over backwards to assist them in presenting their case, and I hope this board and the composition of this board remains that way for quite some time which gives again a chance to anybody to appear, to be heard and have a fair chance.

I should say also that it is my understanding that matters dealing with unfair labour practices are now dealt with by the Labour Relations Act in British Columbia and I understand it works.

Dealing now in specifics in regard to the amendments. Insofar as item 6.3, there has been no changes in this section.

First of all I should speak on 6.2. I think it's a very important change and a very needed one. In many instances in the process of organizing workers the statement of his employer or someone acting on behalf of his employer is sufficient for some employee not to join the union or to be afraid of joining unions and I think to have a prohibition against this is good. Employers should have no say whatsoever in their workers joining the union of their choice and certainly should in no way, shape or form or inference influence them not joining. So 6.2 is good.

6.3 - I don't know why this ever was in The Labour Relations Act in the first place. I know it has nothing to do with this government. This is a case where an exception is made to the rule whereby an employer can permit a representative of the union to come and confer with him during business hours or talk to his employees or provide for free transportation or permit the union to use his premises. Now of course I believe this to be wrong because if it is done in the process of an organizing drive, this is where an employer can choose a union over another or perhaps introduce what we consider a company union or one influenced by the employer. We had requested previously in our brief that an addition be made to Section 6.3 where all these things can be done but only after certification for the certified bargaining agent or after a collective agreement has been consumed for the holder of the collective agreement.

Now I realize that in conjunction with 6.3 there has been an amendment in 34.3 which deals in part with this. But I suggest to you there appears to be some inconsistency between those two and it's going to be somewhat difficult for the Examiner where he has to consider whether a union has been influenced by the employer and is not fit for collective bargaining. He will consider the extent in circumstances during which the employer gave free transportation or permit him to use the union premises. I'm suggesting that this Section 6.3 should be amended again to make it clear that it only can be done after the bargaining agent has been certified and for the certified bargaining agent or when a collective bargaining agreement exists.

The next item - I can pinpoint three - the extension of the 90-day period during which no strike can take place and no conditions can be changed can be good providing the employers do not use this extension of time not to bargain collectively or for some other reason. I think the Manitoba Labour Board in dealing with that will obviously have to take that into consideration when an employer makes an application for an extension to 90 days, that it's not done for purposes of frustrating the collective bargaining process.

(MR. CHRISTOPHE cont'd)

In dealing with Section 12.1 which has not been amended, again we're disappointed here in that it is all right for an employee to refuse to do a certain job that would facilitate the business of another employer who legally has been struck elsewhere in Canada but not under the same roof. We have allocation within our union where there are three unions under the same roof, with the same employer and they have three separate collective bargaining agreements. Legally if one of those unions go on strike they could not avail themselves of the provisions of this Act because it is not another employer but the same employer. Therefore if they were refusing to perform some work by their co-workers who work side by side with them who are legally on strike, they would be in violation of the Act and could not avail themselves of that provision. We have suggested as an amendment that it be "the same employer or another employer". We believe that would have taken care of it.

I already spoke about the Section 12.2.3.4 in that it's a referral to the Manitoba Labour Board and I think it is good and long overdue.

Now I'm moving along. Section 21(4) 22, 23, 24 and 25 of course is also new and dealing with the amendment needed to have the Manitoba Labour Board deal judicially with the orders and the matters that we'll have to deal with in the future.

Section 26(d) is very good. It does impose a penalty on persons or individuals who have been found guilty of an unfair labour practice and has to pay that individual, the aggrieved individual or the victim, $500. I think it is good and hopefully it will be there to act as a deterrent for those who want to violate the Act and I think it's intended to do this.

The next, 22(6)(e) is also good in that it gives the rights of the Labour Board to order "cease and desist order" which was not there before and that also is to be commended.

The next section I would like to deal with is Section 26.2. I realize here that in order to remove from interference in the three months prior to the expiry date of a union agreement, within the last three months, the possibility of an application for decertification of certification be made, that the open season or period has been moved forward three months. I think this is good. There is one major item that has been missed and I appeal to you to do something about it. I'm referring to Section 54.2 which ties in with this one. Section 54.2 says that when a union opens an agreement for revision or sends a letter to the employer saying they want to review the agreement, they in fact terminate the collective agreement. Now we believe this is totally wrong. Because once an agreement is terminated then anybody can apply for decertification or another union can apply for certification or more so in the process of collective bargaining the employer can change working conditions, can change wages, can do many things and they have done so. Now, again I repeat I appeal to you to do that.

There has been some protection given after a union has been certified. There is of course the first 90 days where the conditions cannot be changed. There is a possibility for an extension of 90 days where conditions cannot change and of course under the Code of Employment, which I will deal with, there's also a possibility of a longer period for no change in conditions of employment. But again when a union applies to renew an agreement it terminates the agreement which is not the intention.

I can tell you that as a member of the Woods Committee - I believe in one of their sessions if not in their report - the Woods Committee had agreed that this should be changed. The proposals we had were in our submission. We're not suggesting for a moment that the day after an agreement expires that the union should not have the legal right to strike. We're not suggesting that the employer should not have the legal right to lock-out. But what we're suggesting is this: that when a union has sent a letter indicating they want to negotiate revision of the agreement, that the union agreement in effect or that the working conditions or that the conditions of employment should not be changed until a legal strike has started, until a lock-out has begun or until a union agreement, a new one, has been reached, which I think is the intent. I think this should be encouraged. Otherwise this opens the door to employers to manipulate the working conditions, if not workers, by trying to influence them either to speed up the negotiating of a contract or a poor one or even increasing wages. They can do that now. They can

(MR. CHRISTOPHE cont'd) . . . . . do that the day after the agreement expires. They can do anything they want in spite of the fact that negotiations are in process. So I urge you to look again at 54.2 particularly what happens after an agreement has expired. It's open season. Anybody can apply for decertification, for certification and some have done so. If some employers or a group of employees is not satisfied with the way the collective bargaining process is going they can apply for decertification and it's their ball game. I don't think that's right.

In all the changes dealing with the changes of 35 percent in obtaining a vote either for certification or decertification, this has been changed to 50 percent. I think it's good. In my opinion it has not worked up until now and to have more than 50 percent to apply for certification or decertification is what it should be and should have been. I think it's good.

Section 36.3, the amendment here is also good. I can tell you that because these words were not in the Act. Recently I spent a year and a half doing battle with an employer. We had to go to the courts and even that wasn't satisfactory because one employer, namely, Shop Easy Store, a division of Westfair in Transcona has changed their store to Economart. They just had put a new name on it. They said, well your union agreement no longer applies and that was the end of that for them they thought. Finally after lots of money spent, they finally agreed. But the reason they were able to get away for a year and a half to meet their obligation is because wording to that effect was not in the Act and it's good and I think it will avoid just that.

I think it's really tied up in part also with Section 119.1 which the previous speaker referred to and I think that Section 119.1 is also very good. The employers we deal with, for example, George Weston empire which own Loblaws, Westfair, Shop Easy, Tom Boy, you name it, have a habit of changing the name of their stores whenever it suits them. Recently they have said, well because we have changed the name of the store your collective agreement no longer applies. I'm suggesting this amendment in 36.3 and the one later on will plug this gap and make sure those employers fulfill their commitments.

Item 44(2) is new again here. It indicates of course the time during which application for decertification can be made but no mention is made of this open season after a collective agreement is terminated which is open season.

In dealing with section 47(2) there has been no change there and we are disappointed in that because here in our opinion it is easier to get out from belonging to the union than it is to join the union. Anyone who wants to apply for decertification under this section just has to claim to represent a majority of employees. He doesn't have to collect signatures; he doesn't have to pay $1.00. In fact if you look at rule 16(2) of the Act, Rule of the Board 16(2) I believe, the only thing he has to do is if he believes that some employees support him, he just has to provide a list of names and addresses. That's all. I don't think this is right because this obviously leads to frivolous applications and this should be strengthened to make it equally as tough for people to apply for decertification, as difficult as it is to apply for certification.

Next item, item 62 is good in that it strengthens the amendment there. It strengthens the conciliation officer's rights when appointed to set a time and place for the parties to meet which they didn't have before and I think it's good.

Item 65(3) is related to item 36(3) and that also is good. In the previous one it dealt with a certification that continues if there is a change of ownership,etc., etc. In this case it says that the collective agreement continues and I think it's also good.

The next item I would like to deal with is Item 68(3), the repeal of this particular section, which I think is good, fair and just. There is no reason why people who receive the benefits under a collective agreement should not pay dues. I have always found that - and by the way, I don't disagree with Section 68(1), I agree with it - if they don't want to join a union, that's fine. If they don't want to come under their by-laws, that's okay too, and therefore they don't have to go on strike if they don't want to - they don't have to now anyway - but I believe it unfair and unjust that when employees get the benefit of a collective agreement that they don't pay union dues. This section clearly said that they will have to, I have never found those people who have received benefits - and I think this is the test - who have received an increase in wages as a result of union negotiating them an

(MR. CHRISTOPHE cont'd). . . . . increase, to refuse this increase. --(Interjection)-- Never, never. I have never found them refusing the help of a trade union when they have been unjustly fired, when the union said, we will take up your case, we will go to arbitration, we will spend money to defend you and they were reinstated to their jobs and they have never refused that either, never.

I have never found anybody who shops at Safeway and pick up some groceries say, well we're not going to pay Safeway because we object to their policy, we are going to go and pay the bag of groceries to Loblaws. That is not fair, that is not just. To have a union bargain for them who spends a lot of money to pay their staff, to have experts represent them - and in collective bargaining nowadays, you have to have experts, and if you go to the courts you have to have lawyers and they are experts. And you have to spend a lot of money on that and I don't see any reason whatsoever why some people should object to that; in fact due to, in my opinion, the wrong decision of the courts lately on conscientious objectors, if this was not removed this would open the door for hundreds of people not to pay dues, and it would destroy completely 68(1) or the section which says and where there is an agreement everybody must pay if they want to ride on the bus - to use Mr. James' famous words. If they want to ride on the bus, they must pay.

There are many other places, I guess, unorganized where they can go. I guess if you don't like to shop at Safeway you go to Loblaws, that's fair, but if they get benefits there is no reason why they should not pay. In fact I'll go one step further, I'm sure that some of those people who are objecting also pay taxes to this government or the Federal Government and they know very well that some of those taxes for example may go to support the armed forces who in some cases may defend the country. Now they may object to war but they still pay taxes, and they pay taxes because they are defended, etc., and so on and so forth. I think it's an excellent move; I think it's only fair and only just, but there is a way out which is that they don't have to join a union, and I think that's fair; they don't have to abide by the by-laws of the union, they don't have to go on strike, they don't have to do any of those things.

In regard to the Code of Employment, I think it's certainly a step in the right direction. I would have liked to go one step further, which is compulsory first agreement - it doesn't do that - but I think it is a realistic, it is a very realistic proposal in this way. Again I've been involved in organizing workers for some 18 years, and I can give you a long list of units where we have obtained certification and no agreement. Why? Because the employer didn't want to sign an agreement, because he did everything possible, the hiring of legal expert to delay the signing of the agreement, or made impossible offers or made an offer that no one could accept, and the people didn't want to go on strike. There is some people who think that everybody wants to go on strike, well this is not true. When people join the union in 99.9 percent of cases they are dissatisfied with something, they're dissatisfied either with their wages or many other things and it's only fair and proper that after they join the union eventually a collective agreement is consumed.

But some employers don't want to do that and I can name you cases, The Boyne Lodge in Carman is a case in point, and Mitchell Sporting Store in Brandon, the Coke plant in Brandon, I had one or two stores in Selkirk, Manitoba, where we got certified and had no agreement. These people in a small unit need the union more than any others. Most major units, and not all are unionized, but in the larger group they have more bargaining power. And there are hundreds and thousands of unorganized workers in small units who want help desperately and they go to a union, except they get frustrated because they get no agreement and pay their . . . as a collective agreement.

Now I think this will improve that and hopefully compel employers to negotiate in good faith, because that's the intent, and again, those employers, those good employers who intend after a union is certified to negotiate a collective agreement with the union have nothing to worry about. Those I guess who intend to manoeuvre and delay will, and I think that's good.

In the section dealing with the arbitration 111.1, I think it's also good. It establishes a time limit during which a party can appeal and arbiration award. I believe there was no such limit before, and I think it's very important it be there otherwise again

(MR. CHRISTOPHE cont'd). . . . . the award of the Arbitration Board is frustrated.

111.2 is also good. This avoids and gives the right of an arbitration board where there has been perhaps a problem in the time limit or in restriction dealing with a meeting, not to dismiss a legitimate case taken to arbitration because of straight legal interpretation, and I think it gives it more leeway and I think it's good.

111.3 I think it's also good. I can appreciate the Minister's problem in finding arbitrators and competent ones to act. I know it doesn't exist in Manitoba, perhaps somebody can start one. In the U.S. they have an Arbitration Association of that type and there are some people who consistently act either for union or employers and they are not tinted with any relations or any connection with any management, labour or what have you. I'm not so sure that's possible in this province, but I think if the intent is to establish a list of people who can be suitable to both parties, I think it's good. My suggestion would be, of course, is once this section is enacted to suggest to labour and management that they submit lists, not of people whom they think would be biased to their case, but I think people that could be accepted by both and then people can choose from that list, and I think that's good.

119.1, again I say it's very good. I know they're - I don't see them here today - but partly related to my case of Change of Ownership, and I know in the construction industry they've had problems in spin-off companies. I heard the previous speaker call it management manoeuvres, that perhaps they change companies except in the manoeuvres. Sometimes the union loses out. And I think this will prevent that and I think it's good.

The other item 121.1 also indicates that there is a limitation of time during which an appeal from a decision of the Manitoba Labour Board can be made. I think that is good to have there and that concludes my presentation, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Christophe. Mr. Banman.

MR. BANMAN: Thank you, Mr. Chairman. Through you to Mr. Christophe. I wonder if he feels, and I'd like to ask him specifically to 68.3, the representation he made on that clause, if he feels that because of the decision of the courts about six months ago, if that will constitute a mass exodus of the people seeking this particular exemption under the Act and if it's going to cause hardships to the Manitoba Trade unions.

MR. CHRISTOPHE: Well I think the answer is yes, but it shouldn't have been here in the first place anyway, you know that particular section. I didn't agree with it in the first place; it should never have been there because it wasn't fair to begin with. It wasn't fair for people who receive benefits, who gets the service not to pay, I mean, that's a basic principle of life I guess.

MR. BANMAN: You're aware though that Ontario has the same type of legislation and that out of the 8 million people there there's only been about 125 that have qualified under this section, so I don't know.

MR. CHRISTOPHE: I think that's 125 too many quite frankly.

MR. BANMAN: So basically what you're telling me is that it's your own personal belief that the people who, because of their own personal religious beliefs don't want to join a union, should have to.

MR. CHRISTOPHE: No, you get me wrong. I said they don't have to join a union, they don't have to, I respect that, that's fair. I'm saying that once they are covered by collective agreement, once they start receiving benefits - and by legislation as you know we have to represent those people, we have to bargain collectively for them and that's fine - the least they should do is to pay, to pay the minimum dues which everybody else pays. And yes, I think the court would open the road for frivolous, all kinds of people, who will say, well on religious belief I won't pay dues.

MR. BANMAN: That hasn't been the experience though after the court case though has it?

MR. CHRISTOPHE: Well there's a court case has just recently taken place.

MR. BANMAN: Yes, in January I believe the decision . . .

MR. CHRISTOPHE: And as I say the section there in the Act was unfair in my humble opinion as it were because it wasn't just, it wasn't fair.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Christophe, on the same point that Mr. Banman raises. Isn't there other difficulties involved, not necessarily a mass exodus of people from the

(MR. GREEN cont'd). . . . . union but tremendous resentment on the part of a group of people in a plant that, one or two, or even one, is not contributing to the administration of the activities which they all have to pay for.

MR. CHRISTOPHE: I think there's no question about that, they feel it unfair that they have to pay and this happens all the time. I know it happened prior to this government bringing an amendment to Section 68, it happened all the time because then there was quite a few people who didn't pay and there was bitter resentment, no question about it.

MR. GREEN: Are you aware of Rand Formula?

MR. CHRISTOPHE: Yes.

MR. GREEN: Mr. Justice Rand of the Supreme Court of Canada - I believe a God fearing man - said that the proper formula is that nobody is required to belong to the union but they are required to pay the administrative costs of operating this agency.

MR. CHRISTOPHE: I think that's quite true. I think as you know a lot can be said about the amount of dues, but everybody pays the same. On the other hand if he had to charge an individual person individually for service rendered, it would probably be ten times what they pay in a year, in some instances, in union dues. So it's really a minimum.

MR. GREEN: Could you compare this, Mr.Christophe, or would you agree with my comparison which is more correct, that there were many Quakers, for instance, who objected violently - except Quakers don't object violently - they objected non-violently to the United States Government participation in the war in Vietnam, and many of them refused to serve, as Conscientious Objectors, but they all had to pay the cost of that war through their income tax.

MR. CHRISTOPHE: Absolutely. I tried to illustrate that earlier on as related to Canada; that's quite true what you say, I think it is similar.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, through you to Mr. Christophe. Mr. Christophe, do you, with respect to Section 51 and every employee's so-called right to be a member of a union, do you see any need for any stronger protection in that area against discrimination by unions, against individuals who want to join unions, but are refused admission. And I'm sure that . . .

MR. CHRISTOPHE: Well I say to you, okay, I'm sorry, have you finished your question? I don't know of any. I don't know what union in its right mind would refuse anybody to join a union. I've been working . . .

MR. SHERMAN: Well I can assure there are cases, Mr. Christophe, and surely they've been brought to your attention, because they've certainly been brought to mine.

MR. CHRISTOPHE: I can honestly say I don't know of any and that is, honestly I don't know of any. I don't believe, I most definitely don't believe in unions discriminating against people; I think it's very foreign to the very purpose of unions which is to do the opposite. I really don't know that there is a need to strengthen that because I know very few cases, in fact, I don't know of any cases, I've already said that, so I don't know where and when. The only union I'm associated with, I don't know of any. I'm not saying it doesn't exist, I'm saying I don't know of any.

MR. SHERMAN: So you're satisfied that there's no need for a stronger protection for the individual there.

MR. CHRISTOPHE: That's right. I welcome anybody who would want to join my union, in fact I wish more would.

MR. SHERMAN: Well I don't know that I could identify any cases that's related to your particular union but there are relating to a number of unions.

Now, Mr. Chairman, to Mr. Christophe, I missed a little bit of your comment - my attention was diverted for a moment - a little bit of your comment with respect to the code of employment, and you may have answered this, but I'd like to ask you whether you favour the concept of compulsory first contract legislation.

MR. CHRISTOPHE: I most definitely do. I really think this amendment doesn't go far enough, but I think it's a step in the right direction, and I most definitely do favour a first concept agreement. I always have and I've never wavered in that particular

(MR. CHRISTOPHE cont'd). . . . . opinion because of the employers who do not bargain in good faith, because of employers that once a union gets - first of all they don't accept the concept of the union from Day One. It's very clear, they fight you from the day they hear about it and after they got certified, that's nothing to them, they're going to do everything possible to ensure that no collective bargaining agreement is arrived at. And in some instances it's not too difficult because generally speaking the alternative of course to getting no agreement is going on strike, and people don't like strikes, generally speaking. I don't either, that's the last thing I expect people to do.

Now because they don't have the bargaining power to strike the employer, that's the end of it. And they wanted some . . . they had legitimate complaints, they had some legitimate needs in increase in wages, which never comes. Some of them even lose their job after that, some time later because they were supporting the union at one time. And this happens, you know. And this was one of the most frustrating propositions that unions have run across. You obtain certification and no agreement. Why? That is unfair and unjust. The Act says you can get certified, but there's no point in getting 100 certifications and no agreement, you know. People when they join our union don't want to get certified per se, they want an agreement, they want protection. Well they got none, and I think this code of employment would help, it's a step in the right direction. I think it's something that makes a real problem that has existed for years. I know how frustrated I have been, you know; what do you tell people who join a union? What do you tell them when you sign them up? Well you tell them you're going to sign them up, you're going to negotiate, you know, an improvement in their wage and working condition. Two, three, four months elapse and you get, well, I'm sorry, you know, you have an alternative: You go on strike or you get zero. Well, so you got zero. And I thought this was really unfair for them. Why should people have to hit the bricks all the time, you know, just to make their point? Why should they have to be violent to make their point? If strikes are violent - that's a bad word because not all strikes are violent. I think most of them are peaceful strikes, but why should they have to cease working just to make their point? I think the Act . . . if the Act says, and it does, that it's here to encourage collective bargaining, then there has to be something in the Act that produces this and it hasn't in that area. And I think it's plugging a hole and I think it's good. And as I say a good employer has nothing to worry about. Are there good employers? Well of course there are, but there are also many of them who are not. And I think those have something to worry about, and they should.

MR. SHERMAN: Well would you agree that a compulsory first contract could, taken in a certain perspective, could work to the advantage of the employer just as much as the advantage of the union? In fact, in some cases it could work more to the advantage of the employer, and would you say that you're not concerned about that? I want to change that term . . . not that you're not concerned about it but that you're not worried about it.

MR. CHRISTOPHE: Well it all depends how the wording is. It all depends on how the Act comes out. That's a good point you're making and I think the answer is this: If you provide a period of time, you know, a reasonable one - I don't know, nine months or so - during which, during that time you can legally strike or the employer can lock out, then the union will decide, you know, during that time shall we say there could not be compulsory agreement. Of course, you know this section is not compulsory, union agreement per se. But you're talking about that, so I'm answering your question. If there is a period of time where each of the parties can legally strike or legally lock out, then that's fine because then nothing can be imposed on the other party. However, if after a period of time either the employer is not strong enough to lock out his employee or if the union is not strong enough to strike the strike the employer, then, you know, a compulsory union agreement comes and I think that's fair. In that sense I don't think it will work to their detriment of it.

There is a type of compulsory union agreement in British Columbia and I think it works from what I know. And really the intent there, it's not to have compulsory union agreement per se, okay. The real intent is to compel employers to negotiate in good faith. And I think that's good. Our position, my position is clear: Yes I would like at first compulsory agreement but worded in a certain way so that, as you said, it

(MR. CHRISTOPHE cont'd). . . . . doesn't work to the benefit of the employer necessarily. But it could be accomplished. However as I say, I support this code of employment because I think it's a step in the right direction. I think if it compels employers to sign a collective agreement as opposed to not, I think this is good. It has to be.

MR. SHERMAN: I just have one other question, Mr. Chairman. I'd like to ask Mr. Christophe whether he considers that 6(2), and this goes back to unfair labour practices again, 6(2) "certain actions deemed to be interference", whether you feel, Mr. Christophe, that that restriction which in my view, as I've said publicly, I think infringes on the freedom of speech of an employer, whether that is in the best interests of the individual employee?

MR. CHRISTOPHE: I say most definitely is in the best interests of the employee. I could even say that I think if it wasn't there it would infringe on the rights of the employee to join a union of their own free choice, and they have. You know it is a very critical time when you organize. I don't know if you're familiar with it, but you have a union who start an organizational program and try to organize people, and you have an employer who gave them their job, which is their livelihood - it's very important to a person, his job - and any way that he will even look or even mention or state anything about union, would influence an employee not to join. So all the more restriction for the employer in there is good, you know; employees should really of their own free choice join a union without any interference or statement. I have run into that, I've run into an employer stating that conditions will change and okay you can go but watch out when you come back, and you can't prove it that it's not an unfair labour practice, and even if it is try to prove it before the Labour Board. It's very difficult. However, you know . . . and that has succeeded in stopping organization of unions. It has. I've run into it; I can name you cases. We just didn't have a majority and that was it, that was the end of it. It is that important, it's that critical, and I think that's why it should be there. You know, the employer should have no rights whatsoever, and no say whatsoever in dealing with an employee's right to join the union. This is his own business and that must be protected at all costs. If trade unions are here to stay, if the trade union movement has done some good in this country - and I think they have - I think now is the time and age to accept unions not to tolerate them, you know. And I think that these Acts do that - most employers or some employers still don't want to accept unions, they tolerate them. Well I think that's going one step further perhaps to accept them.

MR. SHERMAN: Would you say therefore that no employer could ever be acting in the employees' interests, in information that he was attempting to convey with respect to that certification procedure?

MR. CHRISTOPHE: Well I'm saying that if it is the case, if it is the case, it's one out of a thousand times. I don't know of any employers who want a union in his plant per se. You know, nobody knocks on my door and says: Hey, why don't you organize my unit. And if he did I would be suspicious, really. The reality of life is that most employers, if not all employers oppose unions, period. They think, you know, this is the end of it, they say we're going to steal their operation overnight, which is totally false. In fact, in some cases it worked to their advantage. But their first reaction is, particularly in smaller units, my God this is it, you know, we're going to go bankrupt tomorrow, we might as well close our doors. And they say so to their employees, that's the trouble. And the employee says, well, you know, he gave me my job, I better not join the union, you see what the boss said. So I think that's needed.

A MEMBER: . . . put me out of a job too.

MR. SHERMAN: That's all I have.

MR. CHAIRMAN: Any more questions? Before you leave, Mr. Christophe, as the Chairman I would like to ask you one question, and it deals with the points that we raised here under 5(1), 5(2) and also with 6(2), dealing with certain actions deemed to be interference. In your experience as a trade union representative and organizer, on 5(2) which gives to the employer the right to join any organization of his choice, be it the Canadian Manufacturers Association, the Winnipeg Builders Exchange, or the Chamber of Commerce, do you know of any case where unions have objected to employers joining such type of organizations?

MR. CHRISTOPHE: No, never, no I certainly do not.

MR. CHAIRMAN: Thank you. Any further questions from the committee? Hearing none, thank you, Mr. Christophe. Next we have Mr. John Huta on Bill No. 83.

BILL NO. 83 - THE WORKPLACE SAFETY AND HEALTH ACT

MR. HUTA: Mr. Chairman, I'm going to be very brief on Bill 83. We would like to express our appreciation as to this Bill 83. It is long overdue and now this may bring about improvements and lessen the injuries on the job. In relation to Bill 83, and due to previous correspondence with Mr. R. Paulley, the Minister of Labour, and the establishment of the Advisory Board, we had asked our Injured Workers Association to submit names of nominees to that Board, which we did. To date that Advisory Board has not been established. We would greatly appreciate and we would request that in establishing the advisory council on workshop, workplace safety and health, and because our Injured Workers Association is so closely associated and are directly involved, and are quite familiar with the well-being of the injured worker and labour force of this province, we feel that the great initial input in establishing this committee be from the Injured Workers Association. And we have submitted the names, and those names will stand.

And also in relation to Section 22(1) in the appointment of safety and health officers that also the great initial input be also from the Injured Workers Association.

And I believe that this Bill 83 will definitely improve the working conditions and when the inspectors, which will be appointed by the government, will see to it that the employment areas will be well looked into and safety will be brought in and hazardous conditions will be done away with. And I believe this has been long long overdue.

MR. CHAIRMAN: Thank you. Are there any questions to Mr. Huta on Bill 83? I know the Committee made a decision that they would hear Bill 16 last, but Mr. Huta is also on Bill 16. Is it the will of the Committee to hear Mr. Huta now on Bill 16? Hear him at the end, fine then. Thank you, Mr. Huta.

MR. HUTA: Do I carry on with Bill 16?

MR. CHAIRMAN: No, we'll hear Bill 16 all at the tail end.

MR. HUTA: Thank you.

MR. CHAIRMAN: Mr. David Newman, on Bill 57.

BILL 57 Cont'd

A MEMBER: Mr. Newman stepped out of the room for a minute, he'll be right back.

MR. CHAIRMAN: All right. We'll proceed then to Mr. John Henry.

MR. HENRY: Mr. Chairman, Honourable Mr. Paulley, members of the committee, I'm here on behalf of the matter of maintenance of a good conscience before God, which enactment of the bill as it is now proposed would interfere with my rights in this regard. In my letter, which perchance some of the members have not had time . . . I'll just mention briefly that at that time I was - that's referring back to Bill 81 - at that time I was and still am employed by the Swift Canadian Company. I've been there for 46 years. At that time when the effective date became close I called the Labour Board to apply for a hearing and I was told by Mr. Jamieson that if the matter could be resolved by mutual agreement between the union, the company and myself, that it would not be necessary to apply to the Board. I acted on this matter in this way and have contributed to the Canadian Red Cross ever since. It was our desire . . . I phoned in at least three times to try and make an appointment with the Board and that's the answer I got. As to the matter of what Mr. Christophe has raised, he made the statement that no one has ever refused union assistance. On at least two occasions, Mr. Christophe and Mr. Chairman, on at least two occasions I was offered union assistance and on both occasions because of conscience and being not in the union, I declined it. In fact on one occasion the union begged me to take up the matter, and I declined it. I could not, with a good conscience, apply to the union if I was not prepared to contribute to it. I do not doubt that there'd be many benefits in the way of wages that have come about

(MR. HENRY cont'd). . . . . through union agreement. I'm not entering into that part as to that. It's simply the matter of contributions to the union. The amount of money is nothing. It's a question of I cannot in good conscience contribute to that which I cannot belong to.

I hardly know what to say exceptthat I feel, gentlemen, that those with whom I walk - I use the plural because it's not only the matter of my own conscience but if I was to join a union or if I was compelled to pay the dues, I could no longer be in fellowship with those whom I'm in fellowship with, to which I consider the greatest . . . my first demand is the maintenance of a good conscience before God. I seek to walk in the light of Scripture, II Timothy 2 - it's in our earlier briefs - it mentions that we are to depart from iniquities. I'm not saying persons are iniquitous but there are systems which are iniquitous. To depart from iniquities . . . and it goes on in the same section to speak of "with those who fear God". I'm not giving exact quotation but that is the suggestion, with those. I'm involved in this matter myself - it's II Timothy 2, have you got a Bible there?

It also raises the question of why we cannot pay the dues. One of the matters is, the Lord Jesus says to his own "You are not of this world". My position and our position is that we desire to walk through this world without being a part of it. We've a very small minority and this government has taken the position of supporting minority rights. We're a small minority but we cannot swing a vote one way or the other because of the fact that we do not vote, and the very fact we are not of the world, we do not vote, so we cannot swing a vote, we cannot influence a government that way. All we can do is appeal to the government to allow us to continue our employment as we see our way before God.

MR. CHAIRMAN: Thank you, Mr. Henry. I have Mr. Green who wishes to ask a question.

MR. GREEN: Mr. Henry, you say . . .

MR. HENRY: Excuse me, will you speak up I'm a little hard of hearing please.

MR. GREEN: Sorry. You say that you have no influence on the government but there is a clause in the existing Labour Relations Act which comes about directly from your influence.

MR. HENRY: When I say that - an influence yes, in this way, and this is what we are desirous of doing now, is persuading the government if we can. When I said influence I was referring to political influence in the way of voting.

MR. GREEN: Now, Mr. Henry, I am a member of the Law Society. Would you say that I should have that same right? That there should be a clause in The Law Society Act which says that if I don't believe in the purposes of the Society that I should have the right to send my contribution to a charity of my choice.

MR. HENRY: I would say that the Guilds Union of all characters should also have the provision that we have enjoyed for the past four years under The Labour Act.

MR. GREEN: I want to get this specific, that I should have a provision in The Law Society Act which says that if I don't want to pay my dues to the Society, I should have the right to send it to a charity.

MR. HENRY: It's not the question of wanting, Mr. Green.

MR. GREEN: Is this contrary to my conscience?

MR. HENRY: If you . . .

MR. GREEN: If I believe that it is contrary to my conscience that the Law Society is an organization that I believe brings about inequity in society, and that it is contrary to my conscience and my feeling of what my responsibility is to a higher authority, that I should have a right to say, or anybody else, that they will not pay their Law Society dues, they want them sent to a charity. Would you say that should be a provision in our Law Society Act?

MR. HENRY: I would say, Mr. Green, Mr. Chairman, and honourable members, that if conscience can be established that it is the primary right before God of a person to be permitted to earn their living in a way which is not detrimental to the rest of mankind but is also in accord with their religious beliefs.

MR. GREEN: So then would you agree, and I really would like to hear, would you agree that a person feeling the same way as you do about the Law Society should have a right to do the same thing as you do vis-a-vis a union?

MR. HENRY: Yes, Mr. Green.

MR. GREEN: And the Medical Association, the medical profession . . .

MR. HENRY: Yes, Mr. Green.

MR. GREEN: And the Dental Association.

MR. HENRY: Exactly.

MR. GREEN: So would you then agree that we should have the same provisions apply to the Dental Association, the Law Society and the Medical Association as apply to unions?

MR. HENRY: Exactly.

MR. GREEN: And if they don't apply to the Medical Association, to the Law Society and to the Dental Association, they should not apply to unions?

MR. HENRY: I wouldn't say that, because for one reason, one thing, Mr. Green, none of our members because of that provision in these Acts can in any way go through for a doctor. We have no doctors registered in Manitoba, we have no nurses, we have no professional engineers where this matter of compulsory membership constitutes work. We have no members none of our members are in it.

MR. GREEN: Yes, but you would agree, Mr. Henry, that this section applies not only to your members but to others.

MR. HENRY: That's right, but I am speaking primarily. . .

MR. GREEN: And you would say that all minority groups should be treated the same? You're not really just speaking for your members, you're speaking for minority groups who have beliefs that they don't want to go against their own consciences.

MR. HENRY: That's right. But you cannot, Mr. Green, belong to a credit union and use your conscience to get out of a trade union.

MR. GREEN: I'm talking about compulsory membership such as we have in the Law Society where I am required to pay them $220 a year merely so that if you happen to get rid of me in government that I will still be a good standing member and be able to earn a living. I have to pay them that fee. And you say that I shouldn't have to if it's against my conscience to do so and that the same provisions as apply to the Law Society Act should apply to membership in these organizations. Thank you.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I just wanted to question Mr. Henry in terms of the implications of what he is saying. I understand what you are saying is that if you are presently employed in a unit which has a collective agreement, and if this legislation comes into effect and you are required to pay dues that you would no longer be prepared to work in that setting? In effect, this will force you out of work, employment.

MR. HENRY: This would force me out of work, yes. If the law goes through, I'd be forced out of work.

MR. AXWORTHY: So that this is the position of the group that you belong to, that for your own particular belief you could not accept employment in any occupation where you are being required to pay dues to a union?

MR. HENRY: It is a question of associations, Mr. Axworthy, not only dues, it 's associations. There are a good many associations which are beneficial, you might say, but we cannot and do not belong to them.

MR. AXWORTHY: Mr. Henry, I just want to ask this question. It is clear that under the legislation you do not have to belong to the association per se, they are just required to pay dues.

MR. HENRY: That's right.

MR. AXWORTHY: You make a contribution. Now is that a difference - I'm not sure if I understand the meaning of your concern about belonging to an association, because you're not required to belong to it at this case.

MR. HENRY: Paying your dues, as far as we're concerned, is tantamount to being in the organization.

MR. AXWORTHY: I see. So you're saying it's a de facto form of membership?

MR. HENRY: It's the same thing, as far as we're concerned, it's the same thing.

MR. AXWORTHY: I see. Thank you, Mr. Chairman.

MR. HENRY: May I just speak to Mr. Bernard Christophe. I hope you accept what I said, Mr. Christophe, because it happened twice with myself.

MR. CHAIRMAN: Mr. Johannson.

MR. JOHANNSON: Mr. Henry, you stated that one of your objections to the present clause in the Labour Act which would do away with that so-called conscience clause is that II Timothy 2 "depart from iniquity" when you use that term are you implying that a trade union is iniquitous?

MR. HENRY: We use that in the broadest sense of the word, all associations that are not in fellowship with ourselves. We are not using that in the extreme word as an iniquitous saying, that it's wrong. As I said earlier, that to us it's not only the matter of trade unions, it's the matter of all associations. We walk separate from all associations.

MR. JOHANNSON: Now I'm still a little confused. I received a number of letters from people who I assume are associated with you and one of the letters referred to avoiding "unclean things" - and again I ask you, are you referring to unions as unclean things?

MR. HENRY: I don't know what the person had in mind in writing but my interpretation of it would be anything that is not consistent with our understanding of the scriptures. We're not labelling anybody as being unchristian, we're not labelling anybody as being unclean or iniquitous.

MR. JOHANNSON: But you and those who have written to me have consistently referred to II Corinthians Chapter 6:14: Be yet not unequally yoked together with unbelievers.

MR. HENRY: That's right.

MR. JOHANNSON: I want to understand your position. Are you telling us that anyone who does not belong to your particular sect is an unbeliever?

MR. HENRY: Once again it would depend on interpretation, Mr. Johannson.

MR. JOHANNSON: Well I want to know your interpretation.

MR. HENRY: My interpretation is . . .

MR. JOHANNSON: You use the term "Those with whom I walk."

MR. HENRY: That's right.

MR. JOHANNSON: Now who are you talking about, who are you walking with? Are you walking with Roman Catholics . . .?

MR. HENRY: No.

MR. JOHANNSON: Are you walking with United Church members, Anglicans? Who are those you walk with?

MR. HENRY: Plymouth Brethren is our . . . the word that is used as applied to us is Plymouth Brethren.

MR. JOHANNSON: Okay. So the only group then who you classify as believers are the Plymouth Brethren, everyone else is a non-believer?

MR. HENRY: Only in the detail of operations. There's many many Christians who do not walk with us.

MR. JOHANNSON: But I want to know with whom you walk? You refer to not wanting to be associated with anyone except those with whom you walk? Now whom do you walk with?

MR. HENRY: Our company, Mr. Johannson, are a company of Christians, we are only about 220 in the city, relatively obscure, we are seeking to move here as we understand the Scriptures, without labelling anybody else as being unclean, without labelling anybody else as being unbelievers. The working out of the Lord's Will to us has become a very fine matter in our life. It's a very difficult matter to explain, I say, I hardly know what to use in the way of words.

MR. JOHANNSON: Okay. Look, I grant you the right to have your belief, and at the same time I want to be granted the right to have my beliefs and not to be thought iniquitous because I have them, and that they may differ from yours. You talk about not wanting to be part of a union of men other than your own group. You are inevitably a citizen of Canada; a citizen of Manitoba; a citizen of Winnipeg; three different levels of government. Do you not consider that that involves you in a union of men?

MR. HENRY: No, because there are certain factors which apply to all men which would not come under the classification of union. You yourself, Mr. Johannson, I don't know what your religious beliefs are, but you yourself would not associate with

(MR. HENRY cont'd) . . . . . certain persons because of - and you might have different reasons to what I have - you would associate yourself with some and not with others, and you'd both be citizens of Canada. --(Interjection)--

MR. JOHANNSON: No, Mr. Chairman, I associate with Tories and I don't even consider them iniquitous.

MR. CHAIRMAN: Order please.

MR. JOHANNSON: But you pay taxes to the Federal Government, the Provincial Government, the Local Government -

MR. HENRY: Sure do.

MR. JOHANNSON: . . . yes, we all do - and I am certain that there are many people in all three levels of government whom you classify as unbelievers or not of your particular faith. Don't you consider that this is a contribution to the organization which contains people whom you disagree fundamentally with in terms of religious beliefs?

MR. HENRY: No, Mr. Johannson, because we support government. We have a weekly prayer meeting on Monday nights and invariably this government is prayed for; the Federal Government is prayed for; all phases of government are prayed for from the Queen down. --(Interjection)-- Yes, the NDP Government is prayed for. It was prayed for that it would bear with a few Christians desirous of moving here humbly. The prayers went up last Monday night that this government would listen to our request. Pardon me, not Monday night, because we didn't know about it - Friday night, Mr. Chairman, and this morning as well. We were together this morning at 6 o'clock.

MR. SHERMAN: We do that in caucus.

MR. JOHANNSON: Mr. Chairman, Mr. Henry states in his letter to us that he was employed and still is employed by Swift Canadian Company which is a corporation which would have a wide variety of shareholders, some of whom I'm certain would be not of your faith, some of whom would be unbelievers, not even Christians. You also work beside people in Swift's who are not of your faith, who are unbelievers. Now, do you not consider that this yokes you unequally to unbelievers, in those cases.

MR. HENRY: No, I don't, Mr. Johannson. I might answer this question also, that I and none of our company can be shareholders in a corporation for the same reason we cannot belong to a union. But working alongside of a fellow employee, my desire is to work alongside my employees, is to move in such a way that I can be commended by them, that I can move in such a way that because of my beliefs that I do not raise any hackles with them. I went through the organization of a union, I knew what it was to be ostracized. I'd walk into a room, everybody would walk out. I'm thankful to say today that to my knowledge the majority of the employees recognize that I'm a peculiar person.

MR. JOHANNSON: You as an employee of Swift's Canadian contribute financially to the company, otherwise they would not employ you. Again, I would ask you, you are making a financial commitment through your work to that company which consists largely of unbelievers, people who do not have the same faith as you do. Don't you consider this to follow within that statement in Corinthians II.

MR. HENRY: No, Mr. Johannson, a fact I said earlier, we are in this world, we cannot cut ourselves off from the world. We're in the world, that our desire is not to be of the world, there's a little difference in the two words. Mr. Green's the lawyer and he'd understand the difference between being "in" and "of". There is a difference.

MR. GREEN: Don't give me too much credit . . .

MR. HENRY: To be in a thing and to be of it is two different matters.

MR. JOHANNSON: Just one final question, Mr. Henry. Again, I want to go back to the statement you made about "those with whom I walk". There is a concept, I think, in Christianity of Brotherhood, the Brotherhood of Men, do you consider all men to be your brothers or do you only consider those who belong to the Plymouth Brethren to be your brothers?

MR. HENRY: I'd have to say in that regard that I could not call a person "brother" who did not associate with myself in communion.

MR. JOHANNSON: Okay, thank you.

MR. CHAIRMAN: Mr. Barrow.

MR. BARROW: Thank you, Mr. Chairman. You said you're quite contented to pay your dues to a charity of your own choice, such as the Red Cross. Well, many strong union people also donate to the Red Cross, so you know it's not a hardship or it's

(MR. BARROW cont'd) . . . . . not something extra. Instead of donating to the Red Cross would you consider it legal to donate say to a strike fund?

MR. HENRY: To a strike fund would be to the same as to a union.

MR. BARROW: You wouldn't draw any difference between the two?

MR. HENRY: I would.

MR. BARROW: . . . be between the strike fund and the union in the same?

MR. HENRY: No.

MR. BARROW: It used to be the same as paying to a union.

MR. HENRY: Yes.

MR. BARROW: Do you know there's a society that believes that the world is flat? Did you know that?

MR. HENRY: I've heard of it.

MR. BARROW: Do you think they're right?

MR. HENRY: No.

MR. BARROW: You don't

MR. HENRY: No.

MR. BARROWS: Well, I don't think you're right either. Do you agree that the union has made life better for the average working person over a great deal of hardships through the years - people have died from union groups, been crippled, people have suffered from malnutrition - to form a strong bargaining unit to make life more pleasant. Do you accept that?

MR. HENRY: I do. I could not be in the packinghouse industry for 46 years . . .

MR. BARROW: Without knowing that?

MR. HENRY: . . . without knowing that.

MR. BARROW: Yes. Now don't you think that everyone, regardless of their beliefs or conscience, and some have more conscience than others, should help to defray the expense of this effort?

MR. HENRY: Well, I'd have to answer that in the same way as I did before, Mr. Barrow. I'd have to answer that in the same way as I'd answered before. To contribute to and belonging to is the same thing.

The government four years ago recognized this matter in the introduction of 68(3). Mr. Pawley recognized this matter and we were thankful for it, and our only desire is that it would be continued on the same basis.

MR. BARROW: That's one mistake the government made.

MR. HENRY: I beg your pardon?

MR. BARROW: That was one mistake the government made.

MR. HENRY: Well that's your opinion and we were thankful for it.

MR. CHAIRMAN: I would like to ask a question of Mr. Henry . . .

MR. SHERMAN: Mr. Chairman, on a point of order, I may be wrong in this assumption, but is it not correct procedure that if the Chairman - certainly there's no reason why the Chairman shouldn't ask questions.

MR. CHAIRMAN: Well then I would have to leave the Chair. Will you take the Chair Mr. Shafransky?

MR. SHAFRANSKY: Mr. Jenkins.

MR. JENKINS: Mr. Henry you state in all fairness - and I have your letter here - that you can't belong to a union because - and I believe in some of the letters I received - it was an iniquitous and unclean organization. And I respect that statement of your conscience, but can you in all good conscience then accept the fruits of this unclean and iniquitous organization when they at the bargaining table gain increases in pay? Do you donate those to charity the same way as you donate your dues?

MR. HENRY: No. I would have to say as to that matter, Mr. Jenkins, that salaries, whilst they are negotiated by the union in many cases, are received from the company. What I said earlier, as to that which would bear particularly upon a union, as a union benefit, I have declined. Wages . . .

MR. JENKINS: You don't consider then the gain in wages per se by a trade union operating in Swifts, a difference of 25 cents an hour increase would not be unclean?

MR. HENRY: I wouldn't consider it, no. Once again it's a very . . .

MR. JENKINS: How can you in all good conscience if you can't donate money to this organization because you figure it is iniquitous and unclean, and this iniquitous and unclean organization has gained for you 25 cents an hour increase, how can you in all good conscience - do you have two separate consciences?

MR. HENRY: No, we have one conscience, Mr. Jenkins. What is received from the government, what is received from the companies is one thing, what is received directly from a union I'd have to decline.

MR. JENKINS: You also stated, Mr. Henry, that you do not believe in belonging to an association. Do you not consider the church that you belong to an association? How can you in all good conscience belong to that church?

MR. HENRY: Because we are bound together by one common bond, and in that way it's an association of ourselves of one common bond, one common thought.

MR. JENKINS: Do you not think that when you are employed at Swifts that you are working in one common bond for your employer?

MR. HENRY: Only in the sense that I'm an employee of the company - as to an association, no. I'm an employee of the company, not an associate.

MR. JENKINS: But you're an associate of your work members in the workforce.

MR. HENRY: I'm working with them, I'm not associated except to the extent that I'm with them as I do my work day by day.

MR. JENKINS: Thank you, I have no more questions.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Henry, I just want to pose this question, that since the enactment of this Act, my information is that it has not been made use of - and I'm not going into the reasons for it - by Plymouth Brethren at all, but has been made use of by other religious groups that did not put the arguments that you are putting.

MR. HENRY: As I mentioned earlier and I put in my letter, we sought to have a hearing before the Board in 1972 and Mr. Jamieson - there were four of us affected then, there are three now; one has since left the employees' union, is married, so there's three of us now and all three were in the same position that we were advised to work it out with our - I believe Mr. Paulley is aware of that.

MR. GREEN: And the fact is that that particular union of employees after discussing it with you, came to an arrangement which made it possible for you to live within your conscience.

MR. HENRY: That's right, and I thank them for it.

MR. CHAIRMAN: Any further questions? Mr. Banman.

MR. BANMAN: Thank you, Mr. Chairman, through you to Mr. Henry. So in essence what you are asking the committee here today to consider is not the denial of any other person's rights but that your rights as a minority group be maintained.

MR. HENRY: And anybody else as a minority group, including ourselves. But also our desire would be that anyone who maintains as good conscience before God and can use conscience - as the Act reads now, all we're seeking is the Act to be maintained as it is now, no change in the Act without discriminating as to persons.

MR. CHAIRMAN: Any further questions? Hearing none, thank you, Mr. Henry. The hour being 12:30, Committee rise. We agreed that we would come back at 2:00 o'clock to give us more time to hear briefs, so Committee is adjourned until 2:00 o'clock. Members can leave their papers here if they like, the rooms will be locked.