Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

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

8:00 p.m., Monday, June 7, 1976.

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THE LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON INDUSTRIAL RELATIONS
8 p.m., Monday, June 7, 1976

MR. CHAIRMAN: Mr. William Jenkins.

MR. CHAIRMAN: Committee will come to order. Mr. John Huta. Bill No. 16.

BILL NO. 16 - AN ACT TO AMEND THE WORKERS COMPENSATION ACT

MR. JOHN HUTA: Mr. Chairman, honourable members of the Industrial Relations Committee, Honourable Mr. Paulley, and guests. We have on numerous occasions presented briefs to this Committee on Workers Compensation Act, because we feel that drastic changes are required in order to update this Act.

This Act is long overdue and amendments to the Act are very very necessary to help alleviate the problems or the conditions that exist at the present time. The Injured Workers Association feel that the recommendations made in Bill 16 to amend The Workers Compensation Act have many merits. But with reference to Section 31(2) it is felt that there is discrimination shown and the last paragraph of this section which states: "But this section does not apply in respect of the person who is receiving compensation for a partial disability where the impairment of the workman is less than 10 percent."

If I may add to that we feel that by having this section not one claimant who is on rateable pension qualifies for any increases whatever. There have been increases in 1972, 1974, and now hopefully we'll have some increases in 1976, and these claimants do not qualify for any of the increases.

We are of the opinion that this last paragraph as quoted should be deleted entirely, Section 34(1) subsection 3, this section is acceptable to us up to in respect of the pre-existing or underlined condition and the balance which reads: "But no compensation may be paid for any period prior to July 11, 1972," should be deleted entirely. We feel having added the last line of this section takes away what has been granted at the beginning of the section.

Section 52 of the WC Act states that medical reports are privileged communication of the person making or submitting the same and unless it is proved that it was made maliciously, it is not admissible as evidence or subject to production in any court. Therefore, if the person does not see the report it is most difficult to prove that the report was made maliciously unless the claimant was permitted to see it. This association strongly emphasizes to the Manitoba Government that legislation be introduced and passed to allow the claimant and his or her representative to have access to the complete file when preparing appeals through unfair settlements and decisions of the board.

We will quote Mr. McRuer's recommendation on the administration of the Workmens' Compensation in Ontario on the right to know. He states: "We believe it is a matter of basic right that each appellant", in the words of Mr. McRuer, "should be entitled to know on what material the decision and . . . is right is based. The current passage of keeping the appellant ignorant of relevant facts regarding the case cannot in our opinion be sustained on any justifiable grounds.

We do not question the right of the professional men making their report to the board without negligence and in good faith to the protection the law affords him. But we ask the question: Why should a member of the enumerated professions be protected against actions based on negligence with respect to reports to the board while they are not protected and making a report to the patient for his insurance company?

The exception in this section unless it is proved that it was made maliciously is not very meaningful. It would be most difficult for a workman to prove that a report was made maliciously unless he was permitted to see it. We agree that it fails to affect the intention of the McGillvray report. Medical reports should be made available and the section should be redrafted to give a protection to the authors of the reports that against vexacious claims but that otherwise they be made available to the affected parties.

I would like to quote a small paragraph from the Tribune which was published by Mr. Lloyd Axworthy on Tuesday, February 25th, 1975 in regard to the right to know: "The right to information is a vital requirement for today's citizen. Many decisions are taken behind closed doors. Vital data is locked away. Actions are taken on the basis of knowledge that is not available to the ordinary citizen. As a result we are faced with a

(MR. HUTA Cont'd) . . . . . myriad of government activities that are explained only in self-congratulatory press releases and yet the impact can become disastrous. In many cases our elected representatives are powerless in face of the closed bureaucratic shop."

In 1972 legislation was introduced and passed changing the Medical Board of Reference to Medical Review Panel. This may be all right for cases that have already been established and are receiving permanent partial disabilities or total permanent disabilities. But undisputed cases this does not help to establish a claim.

In order to establish a disputed claim the real merit and justice of the case has to be used and the medical reports from Day One of the accident be reviewed and not new medical evidence. How else could you do it? You have to go to the first report of the accident and follow it up. The case has not yet been established, and by asking the doctor for new medical reports, in our opinion, is the most ridiculous way of handling it. How can the doctor state the case? If he is a new doctor he will have no knowledge of the accident. Therefore, it is most important to review the old medical evidence in order that a case may be established.

The board instead of dealing with the original injury have formed the habit of assigning new claim numbers so that the worker, the attending physician, and everyone concerned is confused over the whole situation when recurrence of the injury occurs. In doing this the body corporate takes advantage of the situation by claiming it has no bearing on the original injury and claim it has stemmed from a pre-existing condition. Certainly it is pre-existing as far as the recurrence or aggravation of the original injury is concerned, because it has arisen from the original injury which the board has originally approved.

In July 1972 Section 34(1) subsection (1) of the WC Act was introduced and passed covering pre-existing conditions, but only those after the said date, but those which the board had ignored to recognize prior to July 1st, 1972, this section does not cover those cases. Therefore, to correct a serious situation without discriminating injuries prior to July 1st, 1972, the section needs to be amended by inserting "retroactive to the date of the original compensable injury" and benefits be based upon potential earning capacity at the time of the original injury, taking into consideration the present earnings of the individual.

The fact remains that just because the doctor cannot find the cause of the problem, particularly in the area of back injuries, does not mean that there is nothing wrong or there is no injury. Medicine as a profession does not have the answer to all the ailments that people bring before them. Advances are being made in medicine, as in other fields, every day and some day they may have the answer and find the causes of the medical problems that the injured workers come to them but only to be told they could find nothing wrong, or that it is all in your head.

What really distresses us is the fact that the worker can produce a whole body of evidence and yet he cannot prove it. So he's like the other unfortunate gentleman in that his diagnosis will be proved on the autopsy table. We contend that the mental, emotional and physical ailments are so closely connected that we are sure that most doctors would find it difficult to be able to separate them and these three factors have a relation to the injury. We feel that neurosis, psycho-neurosis, and emotional distress, usually result after an injury affecting the worker, and family problems result because the board denies the claimant compensation benefits. Unable to find or even hold a job due to physical disability, which is all contributed by the accident and the three factors mentioned above play a very large role in the claimant's life. We feel that provisions within the Act should include neurosis and psycho-neurosis as diagnosed caused by the anxiety of being physically injured, unemployed and unable to support the family. That should also apply to situations where the mental disorder has been caused by job tensions, family problems, and the inability to obtain or maintain employment due to physical disability.

There should also be consideration given to a worker's life expectancy, general damages, pain, suffering, loss of wages, chances of advancement he would normally have had he not been injured, disrupting his normal every-day activities. Mental, emotional and physical ailments are so closely interrelated and it is very difficult to differentiate among them. Such claims should be made retroactive to the date of the original compensable injury and the compensable rate based upon potential earning capacity of the present time.

(MR. HUTA cont'd)

Section 51(1) of the WC Act gives the board exclusive to restriction and action or decision of the board thereon is final and conclusive and it's not open to question or review in any court. We feel that the decision of the board thereon should not be final and conclusive, but should be open to question or review in any court, and the proceedings by or before the board should be restrained by injunction, prohibition, or other process or proceedings in any court, and is removable by criteria or otherwise into any court, Mr. McClure says. Administrative tribunals are clearly effective on low cost delivery mechanism but equally clearly their power should not be absolute.

We believe the courts should play a role in the areas of law and jurisdiction, that laymen should have the right to apply to the court for an order directing the board to state the case if it refuses to do so. If I may clarify at this point that we don't mean when say "court", take a case to "court", we don't expect any measly little case to take to court. All we are concerned with are those that are old cases and have been under dispute for many years now. We feel that these cases if the board cannot prove themselves on it, then this is where the court should come in on the point of law and jurisdiction.

In Great Britain under Industrial Injuries Supplements to the Workmen's Compensation of October 1973 it is stated: "You and your employer settle your compensation in the way laid down by The Workmen's Compensation Act. Firstly, by agreement or failing that by arbitration or utlimately by decisionof the courts. This covers as far back as January 1, 1924, retroactively and if you are suffering the loss of earnings allowance will be paid. For this purpose your loss of earnings will be calculated by comparing earnings in your pre-accident job with your own earnings during a corresponding period in some suitable employment or business. If you had reasonable prospects of advancement at the time of the accident this will be taken into account. Generally any dispute about whether a workman has a right to weekly compensation benefits must be decided in the manner laid down by the Workmen's Compensation Act. That is, normally by arbitration, proceedings in the county or sheriff's court, or medical practice are involved by the medical referee. The benefits are not liable to income tax and they need not be declared in your return of income. The rates of benefit are now reviewed annually, the weekly rate of the allowance is that of the 100 percent disablement pension payable under the Industrial Injuries Act you are being paid."

This is a form of an insurance scheme where an employee is paying his share of the premium as well as the employer. Where here in Canada the Workers Compensation Board treat the claimants as welfare cases which makes it very difficult to receive benefits from the body corporate.

There are five different Acts dealing with Industrial Injuries. They are:

1. The Workmens' Compensation Acts 1897, 1900, 1906, 1925 to 1938, or any contrasting out scheme duly certified under any of the above Acts.
2. The Workmens' Compensation Act, war editions, Acts, 1917 and 1919.
3. The Workmen's Compensation Supplementary Allowance Act, 1940.
4. The Workmens' Compensation Temporary Increases Act, 1943.
5. The Industrial Injuries and Diseases, (Old Cases) Act, 1967.

There are other benefits for people with low incomes to which you may be entitled.

Furthermore, during the court procedure full compensation benefits are paid to the claimant if a decision was based on the mistake the decision on your claim may be reviewed.

In March of 1972 the Parliament of Ontario introduced and passed new civil rights to protect all people of Ontario and that they may appeal any decision of any board, tribunal or commission in any court of law. There are eight rights listed but we are concerned with the eighth because we want the right to a written decision with reasons. It states: No. 8. The right to a written decision with reasons upon request. This is the most important . . . we feel that every citizen cannot know whether he has been dealt with fairly by a tribunal until he knows the reasons for its decision. Also if there is the right of appeal to the divisional court or another body, a citizen has a difficult time in deciding whether to appeal or not, if he does not have the tribunal's reasons for its decision.

(MR. HUTA cont'd)

These bills are not designed for lawyers but are designed to establish and ensure the rights of individuals wherever they come into contact with the many administrative processes of modern day government within the jurisdiction of the Legislature. The approach which we have taken when ensured that the individual will not have to maintain his rights but that the system itself will maintain those rights and permit the type of fair administration which will not make any defence upon the individual himself, but it must be clearly understood that the citizen does not lose his civil rights protection before the tribunal if he does not have a lawyer with himself. The purpose of the review is to make the status conform as far as practicable with the recommendations of the McRuer Report which essentially sought to protect civil rights of citizens in their dealings with tribunals.

In New Zealand under The Accident Compensation Act, the claimant has a chance to appeal the decision of the board, tribunal or commission to independent authorities.

No. 1. Any person who is dissatisfied with the decision of the commission or of any member, officer, employee or agent thereof, or of any committee appointed by the commission, may apply to the commission for a review of that decision in any case.

No. 2. The commission may from time to time appoint suitable persons to be hearing officers for the purpose of hearing applications for review that are made to the commissi on.

No. 3. On the completion of the hearing officer of any hearing, he shall forward to the commission a written report of his findings together with his recommendations and shall at the same time send a copy thereof to the applicant.

No. 4. Every notice shall contain information as to the applicant's right of appeal under this Act.

No. 5. There is hereby established an appeal authority to be called the Accident Compensation Appeal Authority, who shall be a barrister, or solicitor of the Supreme Court of not less than seven years practice. This person shall be appointed by the Governor-General on the recommendation of the Minister of Justice and shall hold office for a term of three years.

The Secretary for Justice shall designate an officer of the Department of Justice to be registrar of the authority and shall provide such secretarial recordings and clerical services as may be necessary to enable the authority to discharge his function.

Every appeal against a decision of the commission, or a hearing officer, shall be by way of rehearing. Where any party is dissatisfied with any order or decision of the Accident Compensation Appeal Authority, that party may with leave of the authority appeal to the Supreme Court against an order or decision.

If the administrative division refuses to grant leave to appeal to the Court of Appeal, the Court of Appeal may grant special leave to their appeal.

The decision of the Court of Appeal on any appeal under this section or on any application for leave of appeal, shall be final. Subject to the provisions of this action the case shall be dealt with in accordance with the rules of the court.

Therefore we have outlined the provisions under which the cases are dealt with in other countries, and we feel the Manitoba Government should follow same and update their WC Act and the civil rights program to meet the needs of our modern day society, ensuring that every citizen of all the countries is justly treated. If it requires that our laws have to be changed well then that is what should be done.

The WC Act and the civil rights are so far outdated that there is no way in which the citizens of our country can be protected against malicious acts of the boards, tribunals or commissions. Let us forget the dark ages of 1916, we have to face up to the modern day society. In our opinion most injured workers are unable to return to their former jobs, former type of employment after an accident due to physical impairment. They lack the skill, education and command of the English language which would enable them to function effectively in a less manual job. This association supports the right of each injured worker to be truly rehabilitated so that they can obtain employment wherein they can function at their maximum capacity.

We hereby request the Manitoba Government to approach the Research Department of the Department of Education together with the Rehabilitation Department of the

(MR. HUTA cont'd) . . . . . Workers Compensation Board to study the educational needs of the injured workers with a view to recommending if deemed advisable the creation of practical jobs and language training programs which would upgrade the skills of injured workers and enable them to function effectively in our society. This program is presently very effective in Ontario.

The trade labour unions are in full support that the handicapped be encouraged to organize and bargain for themselves. In order to organize properly and work efficiently we need financial assistance to help those who depend on our services, which are unique and not done by any other organization.

We feel that the Manitoba Government should help us organize properly and work efficiently by supporting us financially in order that we may fulfill our endeavours by helping those who depend so much on our service.

We also feel that section 31.1 of the WC Act should be amended and changed to read: "that payment on permanent and partial disabilities where the impairment of the workman does not exceed ten percent is also entitled to any increases granted under this Act, and updated to pensions and increases granted accordingly. These claimants have been completely forgotten, where their standards of living are getting smaller and smaller. We feel that their pensions should be increased on the same scale as others. All pensions should be updated and reviewed annually. Upon conclusion this association feels and requests the Manitoba Government to update the WC Act and the civil rights program to ensure the citizens of this province their full protection in our modern day society.

"Furthermore we feel that the Manitoba Government is responsible for the injured workers of this province and therefore should endeavour to help them financially to organize and bargain for themselves in order they may face up to the problems placed on them by the Workers Compensation Board."

Just as Mr. Paulley said in an interview on Monday, March 1st, 1976 and I quote: "But to go back to the laws of the jungle, in all due respect to my colleagues, is not the answer."

We're only asking for justice, nothing else. Is it too difficult to give justice to the cases under dispute and deal with them on real merit and justice of the case?

Section 51.4 of the WC Act - a notation to the above. I haven't got copies made of this but if need be I can produce them.

In addition to the above, Mr. Chairman, I wish to express my disappointment in Bill 16, that it does not provide or does not make any provision for a better appeal system. Under the present appeal system the WC Act is judge, jury and prosecutor in their own cause. We always have to go before the same people who perpetrated the Act in the first instance and there is no way these people are going to reverse their decision. I feel, and I strongly recommend that we should have an independent body that we may appeal to if the decision is not favourable.

Mr. Chairman, my case is 17 years old and I have explored all possible avenues of appeal open to me without success. Therefore I feel it is extremely important that we have an independent body that we may appeal to. The Board will not hear my case any more unless I present new medical evidence. I have presented new medical evidence on many many occasions but the body corporate overrules all medical evidence. Mr. Chairman, I feel that in my own case it is not the question of new medical evidence the Board has all medical, chiropractic and even efficiency reports from work, letters from Public Service Commission, all in my favour, but it is the question of establishing an old disputed case, and in order to establish my case the old medical evidence from Day One has to be taken into consideration. This is where the independent appeal body would come in and they would have the opportunity of reviewing the old medical reports and unless we do review and take the old medical reports, an old disputed case can never be established.

Mr. Chairman, I was asked to take my case to Mr. A. R. Wright, Mr. Paulley's assistant, which I did, and I have taken new evidence from a medical doctor; Dr. Broder on January 29th, 1974, had stated low back pain and systems first appeared in 1959. On August 28th, 1974, Mr. Art E. Wright, Assistant to the Minister of Labour stated: "You keep repeatedly referring to new medical evidence placed before the Board on your behalf which suggests that your present back problem is related to your original

(MR. HUTA cont'd). . . . . injury of 1959. If you are referring to the statement signed by Dr. Broder on January 28th, 1974, I would point out that Dr. Broder did not state that your present condition was related to your accident in 1959. In answering the question shown on No. 11 on the form, Attending Physician's statement. No. 11. Symptoms first appeared or accident happened - the doctor filled in the date as approximately 1959. I suggest to you that Dr. Broder was simply reporting the history of your ailment as you described it to him."

This is true, Mr. Chairman, I have described it to the doctor as the date I suffered original injury. I, Mr. Chairman, am not going to lie about it, I am not going to . . . pardon me. I am not going to lie about it nor am I going to . . . I'll start over again. I have described it to the doctor as to the date I suffered the original injury. I, Mr. Chairman, am not going to lie about it, I am not going to nor have I any intentions of covering up for the Board or anybody else. I have told the doctor the truth and furthermore, Mr. Chairman, if the doctor did not have any substantiating evidence to support it, he would not put it down, but because he had full knowledge of the injury, and that is why he had filled it at 1959. I believe, Mr. Chairman, that Mr. Art Wright is insinuating that Dr. Broder would falsify his statement that my condition was the result of my 1959 injury, and that is ridiculous on behalf of Mr. Wright.

I believe, Mr. Chairman, Dr. Broder and myself deserve a public apology from Mr. Wright. He is in no position to make such a statement as he did. In other words he made a statement that I twisted the doctor's arm to put down 1959, and that is very very wrong because I had no intentions of doing it, nor did I do it, because I did not twist his arm. He had the company file from Dr. Ellis and therefore he just followed what the file had, and therefore I feel that he had no business to put that in a letter. And if anybody cares, here's the letter, if anybody cares to read it.

Furthermore, Mr. Chairman, the Board repeatedly states they have reviewed my file and that there is no medical or chiropractic evidence to have the Board change their previous decision, and I want to tell the Board that they are not reviewing my file, they are only passing a decision which was given some 17 years ago by someone who did not review the file, only passed on a decision which was originally made. On February 7th, 1969, Mr. W. Elliott Wilson, Chairman of the WCB stated: "Inquiries have been received on his behalf from interested parties, both political and non-political at the municipal, provincial and federal levels. This has led to a build up in material which does not readily lend itself to synoptic review." Mr. Chairman, this statement only proves my point, that they do not or did they ever review when I asked for a review, that they reviewed my case.

Mr. Chairman, I'd like to quote a paragraph from a letter which I had received from Mr. A. R. Paulley on July 24, 1963. He himself felt that the Board was short of the responsibility, and this only further supports the need of an independent appeal body to examine into these cases. He stated: "This is a case on which I had correspondence with the Board last year. At that time it appeared no further action could be taken regarding the accident of Mr. Huta in 1959. However, I am now in receipt of new information which would indicate that this case should be reconsidered."

Furthermore, on February 21, 1969, Mr. Sidney Green, who is now an MLA stated: "Although no reasons were given we would presume that the decision was based on the fact that the incident giving rise to the recurrence of your back problems was not reported as quickly as the board thought it should be. Needless to say, this decision is in our opinion highly unjustified but there appears to be no recourse."

I believe, Mr. Chairman, the quotations stated above proves the fact that a different appeal system is drastically needed so that we can appeal to an independent body which will sit down and review all medical evidence on file.

I would like to go a little further, Mr. Chairman, and say a few words as to the attitude of the administrative staff of the Board which is another area that should be explored and new legislation passed. I had gone to the Board on different occasions because I was sent by my doctor to have the Board's medical doctors see me and the condition I was in, which I did. I had introduced myself at the reception desk and I had asked to see Dr. McNichol. I sat in the waiting room a couple of hours waiting for Dr. McNichol to see me. Dr. Corrigan came up to me and wanted to know who I was

(MR. HUTA cont'd). . . . . waiting for. I told him I'm waiting for Dr. McNichol. And these are the exact words Dr. Corrigan told me, I should go home because Dr. McNichol, nor I, nor anybody else wants to see you. You better go home. I was sent home without being examined by any doctor at the Board. Furthermore the abrupt attitude of Mr. Mike Miles, Assistant Rehab. Officer is unbelievable. He will not stand to listen what I have to tell him but hangs up on you.

Mr. Chairman, I believe that some new legislation in this bill has to be introduced to improve the inhumane attitude of the existing WCB. The board will not hear my case any further unless medical evidence is produced. The doctors are fed up with giving new evidence. They have simply ran out of patience with the Board. I believe, and I am of the firm opinion that the Medical Department of the Board are falsifying the reports that come to the Board.

I would like to quote from a doctor's report which states, "Onset of pain and paralysis was in 1959 following an accident at work, and the patient reported that this condition had grown progressively worse since that time. He reported that he had seen several orthopedic specialists but obtained no relief. In my opinion this patient is unable to work as prolonged sitting or standing and light manual labour only serves to aggravate his condition. I seriously doubt that he will ever be able to engage in any type of occupation since the problem is getting progressively worse."

The present government has introduced and passed two new Acts, the Autopac and the Criminal Compensation Injuries Act, and under both these Acts the provisions have been made that decisions could be appealed to an independent body if the decision is unfavourable and only under the Workers Compensation Act that the injured people are denied the right of Canadian citizens. Under any (?) other Act of the Legislature are the citizens of Manitoba denied the right of appeal. I am denied this right as a Canadian citizen and I feel that I am being discriminated in exercising my right as a Canadian citizen. The Board will not reopen my case; I have nowhere to turn to; what do I do? Where do I turn? All I ask is for justice and have the right to exercise my right as a Canadian citizen.

Thank you.

MR. CHAIRMAN: Thank you, Mr. Huta. There may be some questions some members of the committee may wish to ask. Hearing none, thank you very much.

Mr. Bob Douglas.

MR. BOB DOUGLAS: Mr. Chairman, there are copies of the submission available. If I may, Mr. Chairman, I'll go ahead.

MR. CHAIRMAN: You may proceed, Mr. Douglas.

MR. DOUGLAS: Mr. Chairman and members of the Committee:

The Manitoba Farm Bureau welcomes the opportunity to appear before your Committee to present the following brief statement which contains certain observations and recommendations concerning Bill 16.

As you are aware, under the current Workers Compensation Act, the coverage of farm labourers under Workers Compensation is not compulsory but may be made available upon application by a farmer employer. The Manitoba Farm Bureau has previously expressed the opinion that farm people generally are not opposed to the provision of insurance coverage of farm workers against possible accidents at work either through the provision of Workers Compensation scheme or equivalent insurance plan.

However, in many situations it may not be the intention of any given farmer to hire any labour at all during the year. However, through a variety of circumstances it may be necessary for him to do so. It would appear to us that it would be unrealistic and perhaps unfair to expect farmers who do not generally have employees and then unexpectedly need to hire a neighbour or a retired person for a few days to apply for Workers Compensation for coverage of such persons. We would suggest that such a situation contains the potential for monumental headaches in terms of the administration involved, both for the Workers Compensation Board and for that group of farmers who do not have established payroll procedures. In this regard we strongly recommend to you that consideration be given to making the coverage of farm labourers under Workers Compensation an optional choice up to a limit of 25 days or $1,000.00 of salary, whichever is reached first. We feel very strongly that if Workers Compensation is made

(MR. DOUGLAS cont'd). . . . . mandatory even on very casual farm labour, many farmers will either risk operating outside of the law or will simply make arrangements which will make the casual uninsurable.

If Workers Compensation coverage of farm labourers is made compulsory through the adoption of Bill 16, it will be vitally important that adequate information regarding the regulations and procedures be brought to the attention of farmer employers over a fairly extended period of time.

Under the Workers Compensation Act as it now exists, coverage for farm labourers is provided at two cost levels depending upon the type of operation involved. The rate of $2.75 per $100 payroll for general farming, livestock and feed lot operation, production of sugar beets, potatoes and special crops, dairy farming, custom harvesting and P.M.U. production. The rate of $1.10 per $100 of payroll for poultry farming, fur farming, landscaping, hatchery operation, beekeeping, mushroom production, greenhouse, nursery and market gardening operation. We are of the opinion that if Workers Compensation coverage is made mandatory for farm workers, a review should be made concerning the premium rates with the objective of lowering such rates to reflect the much broadened base in the number being covered.

If mandatory coverage of farm workers under Workers Compensation becomes a reality through the adoption of Bill 16, it is vitally important that the appropriate mechanism be put in place to ensure effective representation of the interests of farm employers relevant to decisions which affect them.

We again appreciate being given the opportunity to express some of the views of farm people relative to proposed Bill 16.

All of which is respectfully submitted by the Manitoba Farm Bureau.

MR. CHAIRMAN: Thank you, Mr. Douglas. There may be some questions that members of the Committee may wish to ask. Are there any members wishing to ask questions. Mr. Graham.

MR. GRAHAM: Mr. Chairman, through you to Mr. Douglas, has the Farm Bureau had ample opportunity to discuss this at several meetings or was it just the result of one meeting of the Farm Bureau?

MR. DOUGLAS: No, Mr. Chairman, we've had plenty of opportunity. We had an indication it was coming and in fact through the office, last year we prepared a memorandum and did a summary of all the workers compensation legislation in all the provinces and did a summary and provided that for the member groups, the various commodity groups, and so from September last year it's been under consideration.

The thing we are a little bit disappointed in is, particularly since it received second reading and went to committee on March 23rd, it took this long to get to committee and the way the committee went on Saturday and today, it was difficult to get a farmer representative to come in and be here not knowing when he might get on to speak to the committee.

MR. GRAHAM: A second question, Mr. Chairman, through you to Mr. Douglas. On your Manitoba Farm Bureau, how many of the comments that have been submitted to your committee have come from actual farmers themselves, and how many from others that are closely associated with the farm industry?

MR. DOUGLAS: Mr. Chairman, I'm not sure I understand the question but if I do correctly, comments were retained about December last year and that we have had two drafts of this brief before every commodity group in the province, and the result here is the result of the feedback that's come from those two draft submissions.

MR. GRAHAM: Mr. Chairman, I know that the Farm Bureau represents many aspects of the farming industry; I just wondered if Mr. Douglas could give us some broad figures on the percentage of comments that were made by actual farmers themselves.

MR. DOUGLAS: Well the majority were, Mr. Graham. The question is that some of the companies with us, Manitoba Pool and the United Grain Growers, and so on, some of their staff were involved at times to consult about the policy position we should adopt but basically all the decisions are really made by farmers. There is no one on our board who is not a farmer.

MR. GRAHAM: I realize that but we also know that the various organizations, such as Manitoba Pool and United Grain Growers, which you mentioned, have also

(MR. GRAHAM cont'd). . . . . circulated similar pamphlets amongst their membership trying to elicit the information there. Now is that collected and brought forward as representing their groups or has it been more or less individual submissions?

MR. DOUGLAS: Mr. Chairman, it's difficult for me to tell but as far as I know they have and I don't know of anything - we had some direct representation from some farmers in the province who were concerned and raised a number of questions, even up as late as two weeks ago, with me about the safety aspect in the workers compensation and I think there's a process being going on that is helpful, and that is that farmers really haven't understood what workers' compensation is all about and I have had a difficult time working on their behalf trying to explain what it's all about and how it operates, and a great many misunderstandings, and I just shudder a little bit about what is going to happen when this is going to be put into place by the government. And it's primarily that group of farmers who don't generally hire employees and then all of a sudden find themselves with the basis of having to have a man hired because they are sick or their crop came on quicker than they expected, and so on, and they need help, then they really, to be within the law as we see the amendments, have to then apply for workers' compensation and get it into being, and they are the people that become annoyed at the kind of red tape, and so on, and we said, well maybe the way to work it is make some minor provision that you don't have to be covered up to a certain extent, and so on, and that's why we were suggesting the $1,000 was an easy way to check it. We are not suggesting they should be out as long as they intend to stay as employers, we just say that kind of provisional basis.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, through you to Mr. Douglas. Mr. Douglas, has the Farm Bureau had any consultations with the Department of Labour on this subject?

MR. DOUGLAS: No. Consultation with the Department of Agriculture.

MR. SHERMAN: The Department of Agriculture. Was the Farm Bureau asked for any comments or input into this concept before the proposed legislation was prepared by the Department of Labour or the Department of Agriculture?

MR. DOUGLAS: Well there was some discussion with the Department of Agriculture and I can't always be sure, Mr. Sherman, when my president or one of our board might have talked to someone. You can't really tell. But in terms of an official communication from the organization, no, except the informal discussion with the Department of Agriculture, I know that went on.

MR. SHERMAN: How long would that have gone on?

MR. DOUGLAS: Most of it was last November and December. And we did have another meeting with Mr. Uskiw on April 19th of this year when we raised this question, our problem of administration, he suggested to us it wasn't a problem because the government didn't intend to bring the Act into being even if they adopted it in this session and we were trying to to explain to him that wasn't the issue and tried to impress upon him the problem of the one. The person with the full payroll procedures, there's really no difficulty in workers' compensation bringing into being; it's that person that doesn't generally have employees that we feel the problem is.

Mr. Sherman, can I make this other comment. You see the only province that has workers' compensation for all farm employees is the Province of Newfoundland, and it's really no issue in Newfoundland because there's really no farm workers.

MR. PAULLEY: Joey Smallwood.

MR. DOUGLAS: Well only the fellows who worked on Joe Smallwood's hog and poultry operation, but it really isn't applicable. The difficulty is that here we did have one discussion, or I did, with Workers Compensation people themselves and I think I disagreed with them on it, the fact that in the Province of Ontario that workers' compensation applies to farm workers only in the harvesting sector, not in the total sector.

MR. SHERMAN: Well just a question arising out of your preceding answer, Mr. Douglas, through you Mr. Chairman. Did I understand you to say that in your consultations, your latest consultations with the Minister of Agriculture, you were given to believe, or you got the very clear impression that the provision contained in this legislation, on this particular point was not going to be proceeded with at this time or

(MR. SHERMAN cont'd). . . . . would not be enacted in the legislation this year.

MR. DOUGLAS: Well I think Mr. Uskiw was trying to make the point that - now he didn't say it was not proceeding in this session, he was making the point that even if it was passed in this session it wouldn't come into effect for some time, and that's the reference we make in here in the submission, that we think we have to take a period of time for farmers to understand what it is and how they get into it. They are all hung up, Mr. Sherman, on the fact that they think there is going to be a monthly deduction the same as there is for the Canada Pension Plan, and they are very annoyed about that. They don't want to get involved in that and I have spent I don't know how long trying to say no, no we don't work that way in Workers Compensation.

MR. SHERMAN: Well did you get any . . .

MR. DOUGLAS: Mr. Uskiw was misunderstanding what we were concerned about and when we got through to him I think he was sympathetic and understanding of what we were trying to get. But you know I'm not sure he convinced his colleagues in this case.

MR. SHERMAN: Well did what you were trying to get include the $1,000 or a minimum 25 working days request that is contained in your brief here?

MR. DOUGLAS: Yes.

MR. SHERMAN: Okay, thanks very much.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, to Mr. Douglas. Are you not aware, Mr. Douglas, that despite your suggestion that the Farm Bureau has only been talking with the Minister of Agriculture, that talks also have been taking place with the Minister of Labour, which Minister is charged with the responsibility of the conduct of the Workers Compensation Board of Manitoba and the reporting of the same to the Legislature? Are you not aware?

MR. DOUGLAS: Yes I am, Mr. Paulley.

MR. PAULLEY: That some consultation together with representatives of the farming industry have been taking place, that we did have a meeting here, I would suggest, within the last two or three . . . no it wasn't the last two or three weeks because something happened to me after that but prior to going into hospital for an operation we had a meeting in the Cabinet room to discuss the problems of farm labour, the application of The Employment Standards Act --(Interjection)-- Pardon?

MR. EINARSON: I thought you were going to say Farm Workers Association.

MR. PAULLEY: No, no that came up slightly later, Henry. The question of the application of The Employment Standards Act and also Workers Compensation, to the agricultural industry of Manitoba and that after a discussion of about an hour or an hour and a half or so, that it was agreed that following the session, if indeed this session ever terminates, that there will be consultation with the various farm groups in the Province of Manitoba, the Department of Agriculture and the Department of Labour. That at that particular meeting it was pointed out that under the present Workers Compensation Act there is a provision for voluntary coverage by a farmer for himself or herself and the workers of that farm, at their cost on an assessment basis, and that before we could proceed to apply the principle of Workers Compensation to the whole of the agriculture industry in the province, that a study had to be made by actuaries as to the cost and the methodology of the assessing of the costs of Workers Compensation to the workers in the agricultural industry. And further to that, in our discussion it was agreed in the lack of this information that at this particular session of the Legislature that there would be clause in the bill - eventually turned out I believe to be Bill 16 - that there would be a section pertaining to the application of Workers Compensation to the agricultural industry in the province to come into effect on proclamation, and that the reason of that particular section in the Act only coming into effect on proclamation was to give an opportunity to a joint statement made by Mr. Uskiw, the Minister of Agriculture and Mr. Paulley the Minister of Labour, an opportunity to meet with representatives of the farming industry in order to consider difficulties in the application of Workers Compensation to the farming industry and in addition to that, and aside at the present time because we're dealing with Workers Compensation and not employment standards, but because of the points raised which came after our discussion, the points

(MR. PAULLEY cont'd). . . . . raised by the Farm Workers Association, that we would also take into consideration in our deliberations a methodology of applying or an application of the basic principles of The Employment Standards Act to agriculture.

But I'll leave that aside for the time being, Mr. Douglas. I go back to my main question: Are you not aware of such a meeting taking place in the Cabinet room, with the attendance of the Premier, Mr. Uskiw, myself and one or two others of our colleagues, dealing with this important matter and that eventually Cabinet, with the approval of caucus, decided and agreed that the clause that is in this piece of legislation under the consideration of the Industrial Relations Committee, was subject to proclamation in order that the agricultural industry and those of us responsible for the operation of government, in this case particularly The Workers Compensation Act, can sit down and discuss reasonable ways and proper methodology of having coverage for those engaged in the agricultural industry?

MR. DOUGLAS: Mr. Chairman, can I respond to Mr. Paulley's question? (Yes) Well first of all the Department of Agriculture were in touch with us on July 23rd last year, asking us to comment and give recommendations on labour standards including Workers Compensation, and we begged the question then and asked for some months to spend some time and I think it was about the last week in November we wrote to Mr. Uskiw suggesting to him that we were now ready, we had a submission drafted and we suggested that rather than meet with him himself we were recommending that he include Mr. Paulley and the Premier if he was available.

MR. PAULLEY: We were both available and there.

MR. DOUGLAS: But that letter went to Mr. Uskiw and we've never had a response to that. In regard to the meeting that you referred to in your office, my representation of any of the organizations in the Farm Bureau, if they were there, did not report to me that they were there, we know nothing about it, except that Mr. Uskiw did say to us on one occasion that he was going to a government meeting, a meeting of his own group, to talk about this area, and you, Mr. Paulley, suggest it's consultation. I'm wondering if you're confusing the Farm Bureau, a group outside as representing farmers and the Department of Agriculture staff who may have been there giving advice. I'm not suggesting anything incorrect but if there was such a meeting that you refer to as consultation with the farm groups, then I would be very interested to know who was there representing the farmers.

MR. PAULLEY: Mr. Chairman, for my friend Mr. Douglas I'll try and get that information. The only major point that I'm attempting to raise at this particular time is that there was a meeting took place in respect of the matter of Workers Compensation and one of the reasons that there is a clause - and the clause you, of course, are here because of, Mr. Douglas, - dealing with an investigation into how it can operate to the satisfaction of all concerned.

MR. DOUGLAS: No, I wasn't aware, Mr. Paulley.

MR. PAULLEY: So if there happens to be, in my mind, confusion, I'm sure you will accept it, confusion because of names of organizations or groups of organizations, I'm sure you will accept it, that we did meet I would say about two or three months ago, possibly a little less than three months ago, with a group to deal with the very points that you're raising in your brief and it is our intention - and I say this not in any propaganda sense - that it is our intention, providing of course the committee passes the legislation, to have consultation with representatives of the farm groups respecting the application of Workers Compensation which as you know at the present time is voluntary, but to have consultation as to its further application. And that is the reason that that particular section - there may be others - but that that particular section only comes into effect on proclamation so that we may have those meetings.

MR. CHAIRMAN: Mr. Banman.

MR. BANMAN: Yes, Mr. Chairman, just a word or two of Mr. Douglas with regards to the payroll rates. Would your idea of creating sort of blend prices, is this what you've got in mind as far as the rates charged? In other words, I appreciate that once all the farmers are brought under this umbrella there will have to be an assessment done as far as the rate structures, but you mention 2.75 per hundred on certain farming operations and $1.10 for others. Is it your contention that you'd like to have

(MR. BANMAN cont'd). . . . . sort of a blend price between the two or . . .

MR. DOUGLAS: No, no, we'd like to have at least three or four but I don't think we can convince Workers Compensation of that. I've been with many farmers to Workers Compensation and one of the difficulties we had over the years is we got farmers that fit into both and therefore about ten years ago I took a group of farmers and we negotiated with the Board. Although the Board wouldn't change the regulation, we did get an agreement with them, and I've helped many farmers set up on this basis, that they kept two payrolls, one payroll for one operation and one payroll for the other and they paid 1.10 on one basis and 2.75 on the other. We didn't make that too generally known but we've been doing that for a long time. But it was confusing to the farmers until you got them on it, showed them how to do it and so on, it was difficult and so on. We'd like to have three or four. We think there's a wide range on the risk incidentally.

MR. BANMAN: So that you feel that certain farming operations that are, should we say, in the high risk category should be paying more and that there shouldn't be a general straight price across the board.

MR. DOUGLAS: I must confess though you must see the other side of it from the Workers Compensation point of view, they're insuring an industry and if they can keep the rate lower on the overall - of course if it's compsulsory it doesn't matter - but we think a big job has got to be done to bring safe practices in and make the farm employer and the employee aware of what they've got to do to prevent accidents, otherwise these rates are just going to go right out of the sky.

MR. BANMAN: And you see one of your biggest jobs is trying to educate the farming populace to administrate their own affairs properly and probably accept the concept, eh?

MR. DOUGLAS: I'm optimistic enough to think we've got to keep trying though.

MR. BANMAN: Yes.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, through you to Mr. Douglas. Mr. Douglas, with respect to the recommended optional choice up to a limit of 25 working days or $1,000 of salary, whichever is first reached, have you established any specific parameters as to what that would be measured against in terms of time and in terms of the number of employers? For example, I presume you're talking about within a calendar year.

MR. DOUGLAS: Yes.

MR. SHERMAN: And I presume you're talking about one employer. Or are you?

MR. DOUGLAS: That's right, one employer.

MR. SHERMAN: One employer.

MR. DOUGLAS: We didn't want to limit it to one employee. If there was a man who got sick and had to have two employees for five days work, we think that still could be exempt. We debated long between the days and the dollars and we liked the dollar thing but we felt we had to put both in because we think it's easier to administrate from Workers Compensation. See, fundamentally as I see it, Workers Compensation can only be enforced in the farm population basically on investigation of accidents. It's totally impractical to try to put enough people on to be calling at all the farms to see they're signed up and so on. It's so costly I just don't see how it can be worked, unless there's some random checking and so on going on.

MR. SHERMAN: Thank you.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Well, Mr. Chairman, I would just like to know if Mr. Paulley could also provide me with the information on who he was talking to in the farm industry, because I'm vitally concerned, so if he could provide me with that information as well as Mr. Douglas I would greatly appreciate it.

MR. PAULLEY: I would only suggest, Mr. Chairman, that I presumed that Mr. Douglas was still deeply involved in the farming industry as such and the group that met with us didn't have on their brochure the name of Mr. Graham, but if I can sort of ferret it all out, I have no objections, because it is our hope, particularly in view of the ever-increasing incident of accident on the farm, to bring about some semblance of protection and compensation for injured farmers, Mr. Chairman, and if we can have the

(MR. Paulley cont'd). . . . . benefit of the aid of Mr. Graham and his group, then I'm sure the Minister of Agriculture and the Minister of Labour will be all the happier. So I'll try and find that information for you, Harry.

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

MR. McKENZIE: Mr. Douglas, how many farm workers are there in Manitoba? Have you got any record of them or are they registered with you or the Department of Agriculture or Manpower, can you give me. . . What is a farm worker?

MR. DOUGLAS: Mr. Chairman, that's what I wanted to ask him because if he told me that definition then you can give some idea. We've done some checking and the best is going back to 1971 census and I did look it up but I wouldn't want to venture a guess here because I'm just guessing. And what '71 is, Mr. McKenzie, I think you realize is the number of people that get identified as farm labourers varies greatly depending on the buoyancy of the farm community. We went through a period in the early 70s there that the farm employee number was down pretty low but now that it is somewhat more buoyant, and I talked to the Farm Labour Pool's managers and they tell me that the payment being made to farm labour is going up, that's really not the problem, now it's to get the right kind of a person into that. And the other kind of reason we don't know is that you get into farms, and I have a number of people on our board who - one has five full-time men, another fellow has had the same man for sixteen years, and that kind of thing, he isn't recorded anywhere as a farm labourer.

MR. McKENZIE: One more question. Of course naturally the Committee is concerned in improving the safety conditions. In my constituency basically if a farmer runs short he brings his neighbour in, or his father-in-law puts the rocking chair to one side and goes out and works on the farm in many cases. Now are we going to have to categorize them or how - I don't understand how we can put it together but maybe you have some suggestions for the committee. Like the neighbour, would he be classed then as a worker while he's a farmer himself, because in many cases that's what happens.

MR. DOUGLAS: This is the way I read the legislation. He'd be classified if he was working on a payroll, and that's what we suggest here, is that if you don't make this change in provision what we find them doing is already talking about how they're going to trade time and all kinds of things, and they won't be covered anyway.

MR. McKENZIE: That's right, when there's no money changes hands, they. . .

MR. DOUGLAS: Well, they'll find a way around it, Mr. Chairman.

MR. McKENZIE: Thank you, Mr. Chairman.

MR. PAULLEY: Mr. Chairman, . . . cover them for compensation as a farm worker if he was injured punching a typewriter or a cash register behind Mr. McKenzie's store barricade, but if we found Mr. McKenzie on the other hand on the top of a threshing machine and got his hand caught in the piece of machinery we could consider him for that purpose of being employed in the agricultural industry.

MR. CHAIRMAN: Any further questions of the Committee?

MR. McKENZIE: Mr. Chairman, I'd like to let the Minister know, I do go out and drive trucks and combines every year.

MR. PAULLEY: That's what I meant, exactly what I said.

MR. CHAIRMAN: Order please. We're not here to question members of the committee, we're here to question Mr. Douglas. Any further questions to the Committee or Mr. Douglas? Hearing none, thank you, Mr. Douglas. Mr. Grant Nerbas.

MR. GRANT NERBAS: Thank you, Mr. Chairman, Mr. Minister and members of the Committee. I have in hand printed form - well, I have to say it represents the best I could do with an hour and a half late Friday night; I make an apology in that it's not typed, but it's printed and it's the best I could do. I won't apologize further.

I'm here on behalf of Canadian National, I am an employee of the railway, and what I intend to do in these three short pages is to look at the amendments from 1972 to date, and most of that is very familiar to you so I won't dwell on it.

Previous submissions, that's previous submissions by the railways, have emphasized that Workers Compensation is a form of protection against industrial accidents.

Amendments in 1972 and 1974, like those proposed in 1976, broaden coverage, increase benefits, upgrade existing pensions and raise minimum and maximum levels.

Dealing with 1972, in that year in respect of the retroactive amendments of

(MR. GRANT NERBAS cont'd). . . . . that year, the Minister of Labour said, and I'm quoting now: "Another provision contained within the Act", that's the 1972 amendments, "Mr. Speaker, is the provision that from the Consolidated Revenues of the Province of Manitoba a contribution to the Reserve Fund of the Workmen's Compensation Act to the degree of $1 million will be paid.

"By this, Mr. Speaker," and I'm continuing the quotation, "we recognize a point raised by the industry on a number of occasions that the whole of the cost of past pensions or past accidents should not be charged to industries operating today. Government in its consideration felt that it would be reasonably fair to accept at least part of costs of the provision in respect of past pensions to injured workmen, their widows and the children to the degree of a million dollars." And I give you the citation of that speech.

And we submit that the Minister was right in 1972 for reasons even more forceful in 1976.

MR. PAULLEY: You caught him at a weak moment.

MR. NERBAS: Well 1972 was a vintage year then. Does anyone have any trouble following the printing? All right.

The Minister was right in 1972 for reasons even more forceful in 1976, namely that Workers Compensation is protection against industrial accidents, not protection against the shrinking value of the dollar or protection against inflation, or protection against yesterday's accidents, it's today's problems that should be covered in a form of protection against industrial accidents.

Turning now to 1974. Legislative changes in 1974 were substantial. In addition to increasing future benefits and upgrading past awards, the ceiling for earnings was raised to $10,000 with an indexing provision permitting automatic adjustment in step with salary increases. Under the 1974 self-adjusting formula the ceiling for earnings now stands in 1976, at $15,000.

Turning to funding. In respect of the 1974 retroactive, that is the upgrading of existing pensions amendments alone, costs to Canadian National exceed $500,000 with no contributions from General Revenues of the province. That's 1974.

What is proposed in 1976 is a further increase in benefits and a further upgrading of existing pensions, and CN can expect, in respect of the upgrading provisions alone, to pay at least double the amount incurred in 1974. The Minister was correct in 1972. We request that the Minister return to the principles that he followed in 1972 and place responsibility for retroactive upgrading costs where he said they belonged, namely, by way of contributions from General Revenues.

All of which is respectfully submitted, Canadian National Railways, and I'm told that Canadian Pacific Railways and Air Canada join in this submission.

A MEMBER: They don't mind this?

MR. NERBAS: They don't mind that at all.

MR. CHAIRMAN: Thank you Mr. Nerbas, there may be some questions, members are . . .

MR. PAULLEY: Hearing that, Mr. Nerbas, of course they saved solicitor's fees.

MR. NERBAS: Well, they think they may have saved solicitor's fees. They may not have. But while waiting my turn I went to the Library and I found a book called Financial Statements of Boards, Commissions and Government Agencies, which on Page 460 and 461 has certain comments by the Auditors and it is very interesting reading. I commend it to the committee, and if I may just take a moment, Mr. Chairman, I'll read a few of them.

MR. CHAIRMAN: How long will it take?

MR. NERBAS: Five lines. "Amendments to the Workers' Compensation Act in 1974 provided for increases to pension benefits effective July 1, 1974. The cost of these benefit increases amounted to $10,197,573 chargeable against the following funds: The most important fund of course is the Class Fund and that received $9,940,500; the Equalization Fund had $52,000 and some; Second Injury Fund $51,000 and some; and the Silicosis Fund $143,000 and some; total $10,197,000. The charge of $9,940,500, $9 million, to Class Funds is to be recovered from the general body of employers by July 1, 1981." And this is the 1974 amendment: "Under the provisions of Section 36

(MR. GRANT NERBAS cont'd). . . . . of Chapter 49 of the Statutes of Manitoba (1974), in 1974 $1,138,701 of this amount was charged against Class Funds, leaving an amount of $8,801,799 outstanding at the end of the year." And that, gentlemen, is an indication of where the charges go when amendments are passed through your committee and through the House. And in my short submission I've indicated where $500,000 of that amount came to rest, namely with the Canadian National Railways.

MR. CHAIRMAN: Thank you, Mr. Nerbas. Are there any questions members of the Committee may have? Hearing none, thank you.

MR. NERBAS: Thank you very much.

MR. CHAIRMAN: Mr. Ron Habkirk.

MR. RON HABKIRK: Thank you, Mr. Chairman, members of the Committee, Mr. Paulley. I'm here today on behalf of the United Steel Workers of America, the Winnipeg Area Council, on Bill 83.

We welcome the chance to come here and comment on Bill 83, The Workplace Safety and Health Act. We'd like to point out to you, gentlemen, that we concur with the objectives of that bill and would like to thank Mr. Paulley for his bringing the bill into being at this session of the Legislature. We've had a very short time to study the bill, delegations before me have all had the same complaint. However, we would like to point out some of the areas that we believe should be given some further thought.

In Section 15(2) we believe that health and safety problems at the plant site or at the workplace are really problems of workers. We believethat these are a workers' problem, the workers are the people who come down with industrial diseases, they come down with all sorts of diseases that no one else seems to get. Also they're the ones who suffer the physical injuries. However, we believe that the Honourable Minister and the Committee would give a chuckle if I came here today and asked that workers be the only ones represented on the Advisory Council, although I believe that they should be. However, I ask you to look very closely at why technical people are on this Council, I believe that this should be basically a labour-management orientated Council and that if technical people are needed to advise they should be hired as consultants to the Advisory Council.

In Section 26(2), we would point out to the committee that it is our opinion that if a situation existed which was of a nature as to involve a serious risk to the safety and health of a person, that a stop-work order should be issued forthwith and not just the threat of bringing one in; if such a condition existed that was any risk at all of the safety and health of the workers, then the officers should immediately put in a stop-work order and let's forget about this warning system.

Section 38(1). I've been told that perhaps I'm whistling in the wind on this one. We've taken note that in the bill there seems to be a great deal of leeway for employers to appeal decisions of safety to the health officers or to the director of the division on matters concerning improvement orders and stop-work orders, whereas a work order can only appeal if he has lost his job or a stop-work order would affect him in his work or he received an order from the officer. It is our belief that there should be provisions made to allow a worker, when an officer has been called to the workplace by that worker to investigate a problem, and if no action is taken by the officer, we believe that the worker should have a right, it should be a basic right, that that worker have to be able to appeal to the director and appeal to the Labour Board if necessary to have his grievance heard. We say this with all candour. I've been told that legally you cannot appeal anything that hasn't happened, but we suggest that the omission of a stop-work order or the omission of an improvement order is something that has happened to the worker, therefore he should be able to appeal it. And we would ask you as a committee to look seriously at this problem before passage of the bill.

Sections 40 and 41. It is our belief that the best way to make a workplace a safe and healthy place to work is to involve workers in the responsibility for making that workplace a decent place to work. We note that Saskatchewan has taken the step by making it mandatory for Safety and Health Committee in all places of employment with 10 employees or more. We believe this is good. No matter how good the place of work accident record seems to be, we believe that Safety and Health Committees should be mandatory at all places of work. We also believe that a training program should be set

(MR. HABKIRK cont'd). . . . . up for said committees to become knowledgeable in their job. And this should be paid out of government funds, by the way, or from the fund that's set up under the Act. And we'd ask this committee to take the necessary steps to ensure that this bill will give the workers of Manitoba the same rights as the workers in Saskatchewan now enjoy.

Section 42. We were taken aback by this section of the Act. We've been told by members who work in the mines of Manitoba that the wording of this section is similar to the wording found in the Mines Act of Manitoba, and that this wording in their opinion has not given the protection that it should to the miners because it leaves too much time for an employer to attempt to intimidate a worker not to use his rights to refuse to do work.

MR. BARROW: . . . explain?

MR. HABKIRK: Pardon?

MR. CHAIRMAN: Just a moment, Mr. Barrow.

MR. HABKIRK: During the time that a worker goes to his foreman or his shift boss, or whatever you want to call him, and tells him that there's a problem here - you know, the way they explained it to me, they tell him there's a problem - there's many ways of intimidation, it doesn't have to be, say, I'm going to fire you or anything like that, the foreman very slyly can say to a worker, "You're going to get the dirtiest rotten jobs that I can find for you," and that is intimidation. And I am saying that the way the Act is written now, it leaves too much time for a foreman to be able to do this, because first off the worker must ask the foreman to look at the situation, he then must ask the foreman for permission to fill out the forms. Now forms, that's a good one, I've always felt that forms were a way of the bureaucracy to continue itself, because as long as there's paper work there'll be a bureaucracy.

We note that in Saskatchewan, instead of having to call an Accident Prevention Officer or Safety and Health Officer to the workplace to investigate a problem or a complaint of a worker, because there is mandatory Safety and Health Committees they ask that the Safety and Health Committee of the workplace come and investigate the problem - and that includes the time when a worker would refuse to do work which he thought was a danger to himself, to his health - and the committee being on the worksite are able to investigate and make decisions on the spot. Well, under the wording of this Act it might take a number of days before an inspector was able to make it to the worksite to make an investigation. We believe that it would be far more workable if a Safety and Health Committee at each worksite would be able to at least take a look at the problem. Perhaps the labour-management might not be able to come to a decision, but I would suggest to you that in a large number of the cases that would come before our committee they would be able to make some sort of a decision to rectify the situation right at the time and right on the spot without having to bring an inspector into the plant. Because I believe the solution to safety and health problems in the workplace must be done by the workers at the workplace, I cannot see a government inspector coming in being able to solve all the problems. We've had that situation in Manitoba for a number of years and it hasn't seemed to work, and that is why we suggest that the wording in this section will not work.

I would like to read to you the section from the Labour Standards Act of Saskatchewan - 68(c) is the main problem, I won't bore you with the complete 68 section, but 68(c): "An employee may refuse to do any particular act or series of acts at his place of employment where he has reasonable grounds for believing the act or series of acts is or are unusually dangerous to his health or safety until an Occupational Health Officer under the Occupational Act of 1972 or an Occupational Health Committee established under the Act", and this is the main point I want to make, "has investigated the matter and advises that the act or series of acts is or are not unusually dangerous until sufficient steps have been taken so as that the employee has reasonable grounds to believe that the act or series of acts is or are not unusually dangerous to his health and safety". We believe that type of wording is superior.

Now if I can just find my spot, we'll be away. We would like to continue on on this section, in particular, Section 43(7). Workers in the Province of Manitoba do not consider matters which affect their health and safety as being a frivolous matter and

(MR. HABKIRK cont'd). . . . . it is an insult to the workers of Manitoba that wording along these lines is put into any law affecting workers' rights in the Province of Manitoba. We suggest to you also, even though the wording of Section 43 is not to our liking, 43(7) endeavours to take all ofthe rights given to him in the rest of this section away from the worker, and we would ask at a minimum that this committee consider the withdrawal of this Section 43(7) from the Act.

In conclusion, I would like to leave a thought with this Committee on this very important bill to the workers of Manitoba, that they are not just dealing with another bill or an Act in the Legislature, but you are dealing with the safety and the health of countless numbers of Manitoba workers, and you, by your action can go a long way to stop the slaughter that is going on in industry inthe workplace today. I would like to thank you for the time you've given me.

MR. CHAIRMAN: Thank you, Mr. Habkirk. There may be some questions. Mr. Paulley.

MR. PAULLEY: Mr. Chairman, if I may, to Mr. Habkirk before he leaves. It's not a question. Have you a copy of your statement, Mr. Habkirk, that I might have?

MR. HABKIRK: I ad libbed a lot, Mr. Paulley.

MR. PAULLEY: Pardon?

MR. HABKIRK: I ad libbed a lot. I was working from notes, Mr. Paulley, I'm sorry.

MR. PAULLEY: You ad libbed a lot. Well, we can get it of course from the tape recorded. I was quite interested, as you can well imagine - not the complimentary parts, the parts dealing with the legislation, but as Mr. Green says, we can get it. Mr. Green, if we can have a guarantee of having it before we deal with the clause sections, I would appreciate it.

MR. CHAIRMAN: The Chair will attempt to get at least one copy for each caucus room and one for the Minister.

MR. PAULLEY: Okay, that's fine. Then I have no questions.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, through you to Mr. Habkirk. Mr. Habkirk, could you tell me why you think that 43(7) takes away everything that the rest of the legislation would give in terms of workplace safety; is it because you think there would be different applications or interpretations of the term "frivolous"?

MR. HABKIRK: Yes, I believe so. I would point out that perhaps what might happen is that a worker who is perhaps overzealous in his wanting to clean up his workplace would perhaps pull this once or twice and the officer or the committee might back him up, you know, say they backed him up. Now I suggest to you, Sir, that perhaps at one time an officer or his safety committee did not back him up, that the employer was sort of getting uptight about his pulling this situation, even though the man was right he might decide to get rid of him and say, "Well due to the fact that the officer or the safety committee do not back you up this time, we believe that you have been doing this sort of thing in a frivolous manner", even though the worker might not be meaning it in a frivolous way, that he was really serious and really believed that the situation he reported and refused to do work which was of a dangerous nature and was a threat to his health.

MR. SHERMAN: Well would you be satisfied with legislation that, say, eliminated that provision in 43(7)? You say you'd like to see that deleted from the bill. Say that provision as it's worded at the present time were eliminated, would you be satisfied with legislation that somewhere in it, under another section, possibly under 53, Offences, provided two-way protection for the worker and for the employer against the kinds of activity, the kinds of resentment and resentful activities that almost every human being is liable at one time or another to be subject to, and some human beings are disposed to? What I'm getting at is, I accept what you say about the particular wording of 43(7). I'm a little concerned that what we're looking at here is a situation where we want safety in the workplace, but people are only people, and there can be individuals who for one reason or another are resentful of other individuals because they misinterpret the way that certain actions have been carried out, or certain instructions have been followed, or certain orders have been given, and there's a possibility that an employer

(MR. SHERMAN cont'd). . . . . could try to implicate a worker unfairly in a situation, there's a possibility that a worker - I think we've got to admit that. I mean, it's not a perfect society, there's no protection built into this bill at the present time for that kind of thing. So would you be satisfied with a change in the legislation along that line?

MR. HABKIRK: Now I've got to really think about this one. If there was provision made that the worker - I'm talking about the person - would not be put out of his job until some sort of a ruling perhaps by the Labour Board. I mean, the worst thing and the biggest disaster that can happen to a worker is one of two things. . .

MR. GREEN: This would have to be through arbitration.

MR. HABKIRK: Yes, but I'm suggesting, Mr. Green, that perhaps if there was some means of protecting the worker to this extent, that until some arbitration board - or in the case of a worker without a union, some sort of other board set up by the Labour Labour Board - had heard the employee's case, then no action could be taken against the employee. I would suggest to you that would be the fairest way, as sort of a third party situation, because I point out to you again that the biggest disaster that can happen to a worker is an industrial accident - I should say there's three, also industrial disease or in this time of high unemployment, or at any time, when that employee loses his job, even, for instance, if an employer could fire at any time any employee for any reason. But I point out to you, if there's a union involved, of course he has to prove that he was fired with just cause, then I would suggest to you that in this area of safety and health where it's so important that the employee's job be protected until such time that, in the case of a union, an arbitration board has had a chance to hear the case; or in the area of an employee without a union, the Labour Board or some other appeal body has had a chance to listen to the case and to make a decision as to whether or not that person had acted wrongly.

MR. SHERMAN: Well I read that as implicit in the legislation the way it's presently worded, Mr. Chairman, but that's obviously a difference of interpretation.

MR. HABKIRK: Only when there's a collective agreement.

MR. SHERMAN: When there's a collective agreement. That still wouldn't get around the term "frivolous", even if we did it the second way you suggest.

MR. HABKIRK: Well, I'm suggesting that if it could be proved that a worker misused this clause in the Act, actually somebody was able to prove that it was misused, then I would suggest to you that perhaps that man should be fired. This Act is to protect workers and if someone is misusing the Act for personal reasons, it must be proved before the person is let go. It should read in such a way - and I'm not a lawyer, perhaps Mr. Green could help me.

MR. GREEN: I haven't helped you up to now.

MR. SHERMAN: He can't help you Mr. Habkirk, let me tell . . .

MR. HABKIRK: You know, until such a time that the worker has been proved to have used the Act for his own personal reasons, not the way the Act is meant to be used to protect the worker, then I would suggest that it could be done in this way.

MR. SHERMAN: Okay. Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Barrow.

MR. BARROW: Thank you, Mr. Chairman. You mentioned during your brief with respect to mines, you mentioned an accident report, just casually, very briefly, do you place any validity on accident records? Pardon me, not reports, accident records, kept by corporations to show the miners . . . Do you place any validity on that?

MR. HABKIRK: Not too much.

MR. BARROW: Not much?

MR. HABKIRK: No.

MR. BARROW: You bring in Saskatchewan legislation versus Manitoba Legislation, do you think there's a vast difference or medium difference, or the same, or do we surpass it, or what?

MR. HABKIRK: When I brought it up I said I believed that there should be committees in every workplace, and there should be a connection, for instance, between the committees as such, and the whole aspect of the safety at the workplace including that point I tried to bring up that the committee are the best people to handle any case, for instance, when a man believes that there is a problem.

MR. BARROW: Is the committee comprised of both staff and labour?

MR. HABKIRK: That's right, evenly.

MR. BARROW: Evenly. You would trust in their judgment to judge whether a place is safe or unsafe?

MR. HABKIRK: I would still leave the man a right to appeal or go to an officer. But in the first instance I would give the committee the chance to deal with the problem. I believe I can trust my fellow workers if, as I said before, some sort of training has been given to them to be able to sort of have an idea if something is safe or unsafe.

MR. BARROW: It's very interesting and I'm interested in the mining element because I've spent a lot of time in a mine.

MR. HABKIRK: Well I believe a miner would be more able to judge if something was safe or unsafe, Mr. Barrow, than some inspector who perhaps has not ever worked in the mine in his life.

MR. BARROW: This is the crunch. This is what I am getting at. Do you realize miners are just ordinary people, they are not a superior race. A person who is very nervous or high strung would think a place is unsafe; a person who is very placid and easy-going would say this place is not bad. You are going to have a variation of opinion on a place whether it is safe or unsafe. You go to a place that's unsafe and work for a week before something happens that pertains to use, pertaining to gas or smoke. It could be a pure time. Well who should judge whether this place is safe or unsafe? You are going to have staff people on this committee. Right? And labour people. Evenly? So what if they have an even division - the staff people say it's safe and the union saying it's unsafe - then what happens?

MR. HABKIRK: Then you have to call in the officer, I'm afraid.

MR. BARROW: He makes the decision regardless if he's a miner or inexperienced or not, he still makes his own . . .

MR. HABKIRK: I guess so.

MR. BARROW: Do you see any difficulty in this?

MR. HABKIRK: Not if the workers have a right to appeal further on as I mentioned elsewhere in my brief. I believe that there should be a right for an appeal to go higher if that officer comes in . . .

MR. BARROW: It intrigues me, this appeal. We get this every day. I've had it where with appeal boards, if you appeal to an appeal board you go on and on and on. It has to be a basic thing. What would you say would be the fairest way to do it? You're talking about safety. When you are talking about safety and even though you are on staff, and you want that place to go, you're hesitant in making it go if there's any doubt whether the place is safe or unsafe. Because if something happened after he said it was safe, of course, you're in real trouble, aren't you?

MR. HABKIRK: I believe, and I believe this to be a true statement, Mr. Barrow, that under the Saskatchewan Act, the wording of the Act, there is hardly any cases - maybe there might be one or two - where a man refused to do work because he believed it to be unsafe. I believe in most of the cases in Saskatchewan the committee is able to make decisions and usually management and the labour members of the committee get together and come to some means of rectifying the situation that the worker is complaining about.

MR. BARROW: They can make you do that on its own.

MR. HABKIRK: On its own.

MR. BARROW: Right. Thank you.

MR. CHAIRMAN: Mr. Dillen.

MR. DILLEN: Mr. Habkirk, I think you will agree, and I want to be sure of my ground, that what this legislation attempts to do is to recognize the sickness in the workplace and correct the sickness of the workplace rather than waiting until the individual becomes ill or injured and try to deal with the injuries or illnesses that occur as a result of a workplace that is unsafe or sick.

MR. HABKIRK: That's right.

MR. DILLEN: Now I want you to tell me, if it's possible, if you know of any areas in and around the City of Winnipeg for example that may pose a threat of heavy metal contaminants to people in workplaces in the City of Winnipeg.

MR. HABKIRK: Heavy metal contaminants. Well I can name you all of the battery plants, etc. These are very dangerous in that area because of the lead. All of our foundries are very dangerous. There should be a thorough investigation of these type of places as working with molten metal and molten metal gives off lead fumes and zinc fumes and all types of fumes which do very nasty things to the human body. We're finding out to our sadness that workers are dying far before the time that they should and are crippled for life in other cases. So these are the types of things we hope that this Act will help to alleviate.

We in the Area Council, at least, believe that we must have committees in the shops with certain rights and certain responsibilities for the simple reason there is not and cannot be enough inspectors to ever come near inspecting every place of work. The formation of committees at these places of work will allow the workers to finally start having some rights and some responsibility in the workplace for the working conditions found therein.

MR. DILLEN: You mention in one part of your presentation that, particularly as it applies to the mines, we appear to be concentrating on conditions that exist underground. I wonder if your group has considered the hazardous conditions that exist in the milling, smelting and refining process and the number of contaminants that exist in those areas as well.

MR. HABKIRK: Well our committee has had all the study materials that have come out. We find that doctors are now beginning to realize that there are some areas in smelters that men should not even be working in. Some of the contaminants that they are getting are causing them to come down, for instance, with certain types of cancer within 20 years and this sort of thing. We believe that these areas, if the workers have a right to have an equal say in how they are to be cleaned up, we would suggest to you this is the only way to go about it.

MR. DILLEN: Then your position is that the committees should be compulsory?

MR. HABKIRK: I do.

MR. DILLEN: Let me see if I get this straight now. You are saying that the worker should have the right to remove himself from what he considers to be unsafe conditions, and we've sort of zeroed in on mining, the underground operations of a mine rather than the surface operations of a mine.

MR. HABKIRK: Not really, Mr. Dillen. It's just that I suggested I have been talking to the miners from the north. I never mentioned that we have also been in contact with the surface workers in the north. There are some very obvious places that are just completely unhealthy to work in. I believe The Pas, and I forget what they call it, the operation up there, I think it's called "the tank house". We understand, although even myself I find it hard to believe, that no one has ever lived long enough to retire. You know when you stop to consider that for a minute --(Interjection)-- Thank you, that's correct, wasn't it? --(Interjection)-- No, I think I got that from one of our staff safety representatives who was up there.

MR. DILLEN: Now what you're referring to is then in-plant environmental conditions that the worker should have the right to remove himself from if he considers it unsafe rather than an obvious hazardous condition as it applies to underground mining operations. I'll use this as an example. Where the sulphur level for example increases beyond the recognized threshhold limit value, that a worker then should have the right to remove himself from that condition until it is corrected.

MR. HABKIRK: That's right. Mr. Dillen, I also say that if there is an obvious, physical hazard then a worker should be able to remove himself from that situation also, whether it be in the mine or above the ground, in any type of a shop.

MR. DILLEN: Thank you. No more questions.

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

MR. BARROW: My colleague brought up the tank house and what he is referring to is the tank house in the Flin Flon area. The tank house is a place that's way outdated. Thirty years ago it wasn't a bad place but now it's an outdated place. What's happened is that sulphuric acid is coming from the fumes . . .

MR. CHAIRMAN: Question please, Mr. Barrow.

MR. BARROW: Mr. Chairman, it's a hazard and it's obvious because it rots

(MR. BARROW cont'd) . . . . . teeth. Now if it rots teeth then evidently it does something to a person's system. So I'll say what you said in the House, I've said it publicly and we got quite a bit of coverage on it, because the condition exists. What happens is the company ignored this until recently. Now the first issue that they made was that they could clear up the conditions but it would be expensive.

MR. CHAIRMAN: Order please, Mr. Barrow. You're making a speech now. We're not here to make speeches; we're here to ask questions.

MR. BARROW: Well my question is this, we had a pollution problem and how we cured it was: cure the problem in two years or else we shut you down.

MR. CHAIRMAN: Order please. You are again making a speech.

MR. BARROW: Mr. Chairman, there's no one out of order more than me and Harry Enns. Thank you.

MR. CHAIRMAN: Are there any further questions? Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I have one further question of Mr. Habkirk. Despite the descriptions of situations that are prevailing and have prevailed in the past, are you and your organization convinced or reasonably convinced that the suggested components within this legislation is an endeavour to overcome the deficiencies of the past and is a step in the right direction despite some deficiencies.

MR. HABKIRK: Yes, Mr. Paulley, we do. But as I said, however - I would like to go back, I've thought of something else on 43. We had people before us, and I was sitting here today and on Saturday, who had a lot of trouble getting their point across even verbally yet they did a fine job verbally. I would suggest to you that they just forget about the whole thing and go back and get themselves killed if they have to start filling out damn forms just for the bureaucrats to study. I really do and I feel very strongly about that point.

MR. PAULLEY: But you're still convinced, notwithstanding that, this is a step in the right direction.

MR. HABKIRK: Oh, absolutely and we've waited a long time. I believe somebody on Saturday said that there was a lot of agitation going on and something would cause a lot of agitation and I think I can truthfully say that the organized labour in this province has done a lot of agitating for this bill and we're happy to see it at long last.

MR. CHAIRMAN: Mr. Patrick.

MR. PATRICK: Mr. Chairman, I have a question for the witness. You indicated that this legislation cannot be enforced from the top because you don't have enough inspectors. It would have to be by safety committees within the workplace. I think your points are well taken, I agree because there is nobody who takes more pride in a place of work than an employee when it has a safety record.

My question to you is on the point where you indicated that you did not wish to have technical people on the committees. My concern would be where you have such things as high frequency motors, loud noises and so on, wouldn't these people be of value because it's during the period of a long time that the effect takes place on the person. Wouldn't these people be of some help?

MR. HABKIRK: What I was suggesting is that basically, you have in the plant - I was talking of safety and health committees made up of equal numbers. I'm talking of this committee also as a committee made up of equal numbers, labour-management people, workers and employers, however you select them. I also suggested that if technical expertise was needed this could be hired. If the committee needed the expertise for instance of an audiologist or some other science say to come in and act as a consultant to the committee, these people could be hired. But we're saying why should these people have a say? I suggested this committee would have some sort of voting procedure with a chairman, if there would happen to be a tie. I've worked on joint labour-management committees by the way and I found that usually we didn't have a tie but after much debate in say 80 percent of the cases you came to an acceptable decision both of management side and the labour side on the joint committee.

MR. PATRICK: Your view is then that techanical people would be more unbiased if they were not on the committee, if they were just consulted on a consulting basis.

MR. HABKIRK: I think so.

MR. PATRICK: Okay. Then in a workplace who would do such things as monitoring the high frequency motors and the loud noises and the lights and so on?

MR. HABKIRK: Maybe I should explain. Your committee, if they ascertained that there perhaps was a noise problem within the plant and the committee decided that they should first find what the noise levels were and they found that they were running at 110 decibels and they decided they had to set up a noise conservation program to do two things: No. 1, to bring the noise level down and while they were bringing the noise level down, protect the employees. The obvious thing would be to hire an expert. They would have to look around and find some experts and I would hope that the new division would have people of this type of expertise to come out and be able to help the committee in doing what they wanted to do and giving them the information.

MR. CHAIRMAN: Thank you. Mr. Barrow.

MR. BARROW: One question you have not asked. And I'm going to ask you the question why you haven't asked the question. Who will pay this committee? Who do you think should pay it? How should it be financed?

MR. HABKIRK: The Joint Safety and Health Commission. The employer.

MR. BARROW: Right, right, thank you.

MR. CHAIRMAN: Any further questions? Thank you, Mr. Habkirk. Mr. Art Coulter. Order please. Do you want to make representation on all bills, Mr. Coulter?

MR. COULTER: Yes, would you like me to start on the . . .

MR. CHAIRMAN: Start on 14.

MR. COULTER: It doesn't matter?

MR. CHAIRMAN: Well I don't care where you start really, it makes no difference to me.

BILL NO. 14 - AN ACT TO AMEND THE EMPLOYMENT STANDARDS ACT and EMPLOYMENT STANDARDS ACT (2)

MR. COULTER: Or if I start. Well, I think we'll be brief on the Employment Standards Bill 14, that this is just an update of the legislation. It's deleting a couple of old sections pertaining to Section 32, the work schedules and hours of work to be permitted, that type of thing. We agree that it's about time that it was streamlined, and that's what's happening.

With respect to Section 34(17), we agree that this is now in line with what's appropriate to pay for statutory holidays, 4 percent within the construction industry. And that's been some time in coming but we appreciate the fact that it's here.

The other one with respect to Section 35.1(2)(c) that would appear to be an obvious mistake in the initial drafting, so that there's nothing in that legislation that we do not concur with.

I think I should, while I'm on that Act refer to Bill 85 and that legislation.

Item No. 3 extending the coverage to a number of new jobs, operations, charitable, religious, philanthropic, political, so and so, they're all good, and we're suggesting here that rather than having an exception for the farm workers that they should be likewise included, or they should be included to some extent. I think we're all starting to appreciate the fact that there has to be some further regulation brought in for farm workers. We appreciated coming in, as far as accidents are concerned, the compensation but I think some other jurisdictions are bringing in legislation with respect to farm workers and particularly with minimum wages for farm workers, that type of thing. We raise that point here so that hopefully the Minister of Labour at some time in the future will consider more attention to that with respect to the employment standards.

Item No. 5. We notice that the Crown was included before and now you are taking it out, or at least the regulations will be able to withdraw some function of government or Crown corporations from a coverage of the legislation. We don't think that that is in the right direction. We wonder why that has been introduced. --(Interjection)--

MR. PAULLEY: They were never in there before and they're going to be included.

MR. COULTER: Beg your pardon?

MR. PAULLEY: It's the other way around, Art. There are two Employment Standards Acts, Art, I think you have them sort of mixed up. We are bringing in for the first time coverage of Crown employees under the Employment Standards Act with the provision whereby there may be exceptions by the Lieutenant-Governor-in-Council for certain managerial or supervisory staff that was not there before. But previously, no one but no one in the Civil Service was covered under the Employment Standards Act.

(MR. PAULLEY cont'd) . . . . . So there's that change.

MR. COULTER: Well I can stand corrected on that. The fact that you're not going all the way I guess . . .

MR. PAULLEY: Well maybe you criticize us for that, Art. There are two separate Employment with Wages Acts, one contains some part, Mr. Coulter, . . . so maybe that causes the confusion.

MR. COULTER: Yes. Well that probably brings us around to the point that we've been advocating for some time complete re-arranging of the legislation into a single labour code so that they wouldn't . . .

MR. PAULLEY: That wasn't even included in the - let's not get into an argument...

MR. COULTER: No, no, but I think we need consolidation where they're all under one Labour Code in different sections so that we can follow them. I think we're still in a jungle here as far as the different parts and the different Acts that are still in vogue with regard to vacations with pay, etc.

The next is Section 6 to 9 included, is tidying up of maternity provisions, appear to be good and obviously needed.

MR. PAULLEY: The girls will like me for that, Art.

MR. CHAIRMAN: Order please.

MR. PAULLEY: I'm sorry, Mr. Chairman.

MR. COULTER: In respect to 34(16) I suggest that it should be out. That hasn't been attended to and that is the one in which time and a half for working on statutory holidays is not extended to those working in gas stations, hospitals and continuous operations. We've advocated that time and time again but that is still outstanding and has not been attended to in this legislation.

Well I think with respect to that section of a group of operations that many of these people under our working agreements do get time and a half but it's the unorganized section that is not and we think that they're still being abused, being considered as second-class citizens, and suggest that they should be brought under the Act at some time.

BILL NO. 15 - AN ACT TO AMEND THE VACATIONS WITH PAY ACT

MR. COULTER: Now, with respect to Bill 15, Vacations with Pay, we realize that this amendment is here because of some agitation by employers indicating that they may have students employed for a few weeks in a year and eventually they get five years service in and for this reason that it should be stated that they have to work more time, and it's 50 percent in this bill.

We're just suggesting on this thing - we haven't any great objections to it although we think it's going in the wrong direction - at the same time in bringing this amendment in, I think it was about time that the three weeks vacation should come in at less than five years of service, say three weeks after three years of service, and would be more in keeping with modern standards.

Do you want to pass those off now, Mr. Chairman, or is there any questions relative to them?

MR. CHAIRMAN: Relative to Bills 14, 15 and 85. Are there any questions members of the Committee may have with regard to those bills before we proceed with the others? There don't seem to be any, Mr. Coulter. Would you proceed then to the next bill.

BILL NO. 57 - AN ACT TO AMEND THE LABOUR RELATIONS ACT

MR. COULTER: Next then is Bill 57, the Labour Relations Act, and here again we appreciate very much the many amendments that are being brought in at this time to correct some of the situations that we haven't been that happy with. We wish though to bring a few matters to your attention.

The Section 6(2) is a new section and should be able to deal with many problems. We took note of the comment the other day of Mr. Newman and the complementary section to Section 6(2) of Section 16 where a union cannot, or a person and an employer cannot solicit membership on an employer's place of business during working hours, and we think that that's the balancing one.

(MR. COULTER cont'd)

However, in Section 6(3) is one in which we find great difficulty in accepting the logic of it. We know the original purpose of the section, and it's one in which the relationship between labour and management once an agreement has been signed and to be able to function that there is an acceptance of time to be served by committee men, that type of thing, to function as shop stewards and to deal with grievances, and that type of thing, and this way the employer is allowed to do those things without it being recognized as an unfair labour practice. But we suggest that by putting it in the way it is without the qualification that these things are fine but only after a certification has been granted, where a union has obtained bargaining rights, that's the only time that those things should be allowed. And we think that by having it in in a general state the way it is, that it sort of contradicts the other sections of the Act that deal with the employer carrying on any of these functions, particularly in the formation of a union he's not permitted to become involved.

We appreciate some of the new sections in this regard that this should help the Board in deciding cases as to whether there has been interference. But we suggest that it would be an improvement - as a matter of fact it's most necessary, and we've been making this point every year since 1972, that that there allows the employer to influence a union of his choice and not necessarily that of the employees. And therefore it is unfair because a union or a person employed cannot by Section, I just referred to, Section 16 cannot solicit membership or speak to another employee while he's on the job. But yet this allows the employer to do just that to satisfy himself, favour a union or to favour a group of employees to contest an application for certification, and that type of thing, and therefore we think it is wrong the way it is in its present form. We recommend very seriously that consideration be given to amending that, and I have supplied Mr. Paulley and the Chairman with the wording that would be necessary there to make those qualifications.

Section 8. We question again the extent in which this section can interfere with the democratic process that must go on in administering a union, particularly with regard to membership and discipline. And we recognize that this has been in the legislation and at the same time it can hinder a union from taking proper democratic processes in disciplining members during the term of an agreement.

No. 9. We are wondering here, and we appreciate the fact that the word "only" is applied here but there is no mention of the reverse onus being applied to this section as it is done in others.

10(3) is the new extension that after the 90 days, a provision subsequent to the certification, the Board may extend this on an application of either party, and we only have to wait and see just how this is going to be administered, but we hope that the Board will take into consideration that extension will not be given for purposes to frustrate and to not bargain in good faith. So that that's something we're going to have to live with and find out, but I think the intent of it there where both parties agree is a good thing.

12(1) is our perennial, that we have been asking time and again that this section be changed to instead of "another" employer to "any" employer which would include the same employer providing it was a different bargaining unit and we think here that the whole exercise that was gone through with regard to the Seagrams case, the boycott on the Liquor Commission was an exercise really in futility. When they were through with it they wondered why they dealt with it and it all revolved around as to whether the operation of Seagrams in B.C. was the same as the operation in Winnipeg or Gimli or in the east and that one there we suggest would be much improved if the word "any" was supplanted for another.

Section 16, I mentioned this before, that this section should come out altogether if you're going to leave number 6(3) in, because if the employer has the right to allow people to confer with him and him to assist them to form a union, that that gives a one-sided approach to it. And Section 16 prohibits the union or any person in the employ of the employer mentioning a union or soliciting membership on the company premises. We're suggesting what's good for the goose should be good for the gander and either, if you're going to leave 6(3) in then you should take 16 out. We suggest that it might be better to amend 6(3) in the way we have suggested.

(MR. COULTER cont'd)

Section 21. And here we deal with the investigator and it's the same fairly well. The only difficulty we have here and we just don't know how this is going to work but we do know that the use of the investigator in the present legislation provided a pretty fair function and did as a matter of fact have the authority to investigate, interrogate people and bring evidence that could be used in preparing a case before the courts. At the same time, for some reason, the Labour Board would not or could not have that same evidence given to it to deal with an unfair labour practice or an application for certification when this is mentioned, and now that the resolve of these things are going to be before the Labour Board, we're wondering whether the investigator is in fact now going to be able to bring that evidence before the Board. And we look at 21(2)(a) for and on behalf of any person affected by an alleged unfair labour practice initiate any proceedings before the Board that is authorized by law. Now that is the same wording as the section had before and for some reason or other the investigator's report could not be used before the Labour Board and we suggest that this whole operation is not going to work very well unless that investigator's report and evidence is produced to the Board who are now going to deal with these matters. That's a matter of vital concern to us at the present time.

And we find in (c) again as authorized by law, and we never did get the reason that the Board would not be allowed to accept or receive the information from the investigator, but we suggest that if they're going to be prosecuting these cases and dealing with them, it's the same as any other prosecution, it would be a pretty funny law if the policeman was investigating a crime and when it come to be heard before the court or the magistrate that he couldn't report any of the findings and that the court then would have to allow or expect the witnesses before the court to bring forth the evidence. That is completely ridiculous and we suggest that that's what has happened so far with regard to the Labour Board and investigator and we can't accept that same procedure following under this new situation. I don't know if anybody here has got the answer to that so far but I'm sure that we have real serious problems unless that is allowed.

Section 22(4) documents to be filed, investigators' reports, I have question marks here as to whether that will allow an investigator to file them. One would think that this would have that application but here again we refer back to the other as to whether it will in fact take place.

22(6) the remedies, here again the $500 is a new feature. We'll just have to wait and see how it works out. One would hope that it doesn't initiate a number of frivolous and vexatious charges on a prospect of getting some reward for so doing. But we'll have to live with that for awhile just to see how that's going to work.

Section 25(1) changes the opportunity to apply for certification with 35 percent up to 50 percent. We have no great objection to that, could have remained. Our difficulty was where a union had a majority and had been certified, that a dissident group could apply with 35 percent ignoring the 65 or 51 to 65 percent having been certified and just to frustrate. But we're prepared to accept that and see how that works with regard to that.

Now I guess we shouldn't step over Section 23(1) Freedom of Speech, which has been of a concern to some of the people represented here before the committee, and that's pretty clear as it's set out providing one is not intimidating or using it for some object that is not permitted by the legislation.

Section 26(2), I guess it's (4) of the old Act, should be deleted and here we have some difficulty in trying to accept the number of opportunities that are now going to be available for contesting a certification and we suggest that the best way to deal with this is - we have no quarrel with moving ahead the open period to three months immediately preceding any termination date of the contract. I think that's going to be an improvement, there will not be that type of disturbance during a period of time that the party should be negotiating a new contract, but we have it with respect to an agreement for 18 months or less then there's only one open period. We suggest that even if there's an agreement for two or three years that there should be just the one open period instead of a number of opportunities during that period of time that that is open. If the majority of the union and the employer enter into a two or three year contract then surely that contract should be lived up to and should not be open to challenge by another union or a dissident group, that there should be one open period. The Act now provides for the Board to consider an

(MR. COULTER cont'd) . . . . . application at any time if there is some untoward situation that is not fair to the parties and that should be sufficient to deal with that. So we suggest that serious consideration be given to reducing the number of open periods as I've suggested.

Section 34(3) is a good section, we appreciate it. This is going to be a question of degree and the Labour Board will have less to contend with. Section 36 are all okay.

Section 44. We have the same comments here as in Section 26, that there should be just the one open period during the term of a contract whether it's for one year, 18 months, two years or three years. That is a like clause to 26 and we suggest it be given the same consideration.

Section 47. We suggest that this is one in which we have had considerable difficulty. It may be though that the changes in the legislation may provide through investigation and the powers of the Board to find as to whether there has been employer interference, but we can't understand at all why, where an employee just claiming to represent a majority if the employees in a unit can make an application and the Board must direct that a vote be taken. We think that the employee should be required to prove in a manner similar to that required for certification before the Board will entertain such an application, that it just can't be on hearsay or a list of names that he has, without any proper documentation. We even suggest that if there is a requirement for $1.00 to be paid to sign into a union there should be similar monetary consideration given to a petition or a claim to decertify. That would balance it up in a more proper fashion. So we suggest that that likewise be given consideration in dealing with this particular bill.

Section 50, Subsection (4), probably I should have had more time to study this over the weekend since we had such time given to us, but I haven't - and that is with regard to the voting procedures as to the majority of those voting will determine a result. I just raise that in comment now, whether somebody else has the time to look that up or somebody knows whether that is the way it's going to apply.

Section 62. This is something that we have advocated with a recommendation through the Woods Committee and we think it's a good one. It sure will get the parties together and the prospect of resolving disputes will no doubt be enhanced by having the power in the hands of the conciliation officer to make the parties meet and bargain. That's a considerable improvement I think we'll find.

Section 65 is another one of the better improvements and we appreciate that very much. 68.1 similarly, because there are dues levied now weekly or on a percentage of income, there's different ways of doing it now and that leaves it open now with that word stricken from it.

Section 68(3) is the question that you have had here before you by a number of delegations in trying to get relief from the requirement of becoming a member of a union and more particularly, I suspect, of paying union dues. We were not that happy to see this get into the Act last time although we did appreciate very much the representations that were made by the Plymouth Brethren and I think in a moment of softness the Minister and ourselves sort of agreed that there should be something done to allow people with a serious conscience to get out from under and I still believe that the Plymouth Brethren are sincere and they make it pretty plain that they can't belong to any association at all. I don't know how they can be accommodated, I think that they have been making certain suggestions to the Minister on this in the last day or two. I don't know whether they can be accommodated without opening the floodgates as has now happened, and we had the demonstration here the other day from the Mennonite representative that they just wanted to get away from paying dues to unions other than what they would want to have for themselves, in other words a Mennonite Christian Union, and naturally we can't agree to that and therefore it would appear that the whole section should be thrown out. But here again we find the hand of experts to withdraw the requirement to become a union member in a closed shop by making it mandatory to pay dues, which is the Rand Formula, which has stood up in a fundamental principle I think that is pretty important to uphold, so that the amendment as it is now structured we agree to, we accept, and with regard to the people that we spoke about of having a sincere conscience, we'll have to leave that to the Minister and those here as to whether they can be accommodated specifically in the legislation as a specific group or not and that may not be that acceptable to legislators,

(MR. COULTER cont'd) . . . . . but we would not want it to be opened again the way it has been.

Section 75, a Code of Employment - this is a new section. It has a certain amount of intrigue to it. I can see the hand of a certain person behind this, and I don't need to mention his name, everybody knows who it is. But, you know, I think we'll just have to wait and see how this works out. Really what it is going to do, it's going to fix the status quo for a further - yes, for 18 months from the date of certification, which really doesn't do anything for a number of people that may be caught in that situation. So that I do not see this preventing the necessity to strike. I see the necessity though, or the use of it where - and we've had some - where an employer has bargained so far and not been prepared to go nearly all the way and after the 90-day period he's prepared to buy the employees off with a pretty generous wage hike and there nullify and cut the feet out from underneath the union's effort, that that situation will no doubt be caught up in this particular piece of legislation. And therefore I think in those situations this will cover it adequately. The others where there is no real bargaining strength, it's not going to help them at all other than to assure that they will be in that situation for 18 months. But here again we will live with it, we will see how it works out, and hopefully it will do what is expected to be done.

It makes mention of a list of arbitrators to be kept by the Minister. I would imagine that he will appreciate the necessity of having such individuals acceptable to both labour and management, and this would be a step in the right direction. I think we have to look more and more toward the use of single arbitrators instead of arbitration boards. I think we can have a list where it is generally accepted that they are somewhat unbiased, labour and management accept them as such. --(Interjection)-- Well there are some individuals that come to mind. It all depends on who you're dealing with though, if you get them to accept or not. But through a list they might find such a person, but I think that it's very important that single arbitrators be used to a greater extent.

The other is just a costly procedure and more time consuming and I know wherever I have the opportunity I try to get that into a working agreement, that if they have that as a right initially and if they can't find a satisfactory individual between them then they have to resort to the three-person, the nominee section. But we appreciate that section.

The other is Section 27, the item 27 in the legislation, Associated Businesses, Spin-off Companies, we recognize the importance of this and I think we've had that demonstrated pretty clearly by employer representatives that have been here before me speaking opposed to this particular legislation. It's obvious that there are goings-on that have to be covered and this is a good piece of legislation to do that.

The limit on appeals again are good and some of the things that have been asked for previously.

I think that generally covers what we have to say about the legislation. I say again that we appreciate very much the content of the bill. We know that there was a lot of thought going into it, there were a lot of representations made, adequate opportunity for everybody to make those representations, and I think this is a pretty fair representation of the opinions that were derived from those investigations, and therefore we must commend the Minister for bringing this bill forward at this time.

MR. CHAIRMAN: Before you proceed to the next bill, Mr. Coulter, I have Mr. Patrick who would like to ask a few questions on the brief that you've made on 57. Mr. Patrick.

MR. PATRICK: Mr. Chairman, to Mr. Coulter, on the code of employment. Is it conceivable that employees could go for 18 months without any pay raise?

MR. COULTER: Yes, without a pay raise that's quite correct.

MR. PATRICK: Without any increase in pay since there is no agreement, there's no conditions of hiring, firing, transfers, promotion, there could be a great many changes.

MR. COULTER: That could happen if they didn't wish to take what right they have and that is to withdraw their services.

MR. GREEN: They can do that now.

MR. PATRICK: Yes. Is this better than compulsory first agreement?

MR. COULTER: No. We've made it pretty clear I think in the last couple of years that we've asked for the imposition of a first agreement which would do something

(MR. COULTER cont'd) . . . . . better. There are those that do not like to see the compulsory aspect, compulsory arbitration creeping into labour legislation, and that's legitimate, but the Manitoba Federation of Labour has been on record for the last two years, quite decisively, asking for the imposition of first agreements.

MR. PATRICK: The other point that you raised, application of a closed shop agreement to conscientious objectors - your objection to the clause that was in the bill before, did it create a problem, Mr. Coulter? Was there, besides the Plymouth Brethren, was there many others trying to opt out because of conscientious objection - was there a small number or was this growing to considerable proportions?

MR. COULTER: Well we must admit that there wasn't that many that came before the Board over the years, but in this last number of months there has been a number and there's a waiting list now I think. And if you listened to the representative for the Mennonite Church the other day, that you can expect many more as long as it is to be considered that it is the individual conscience of the person, the worker, that in his mind that he does not wish to support that particular union or become a member of that union, that nullifies the whole position of the Rand Formula.

MR. PATRICK: Okay, thank you.

MR. CHAIRMAN: Are there any further questions on that? Mr. Sherman.

MR. SHERMAN: Mr. Chairman, through you to Mr. Coulter. Mr. Coulter, you said in reference to Section 119.1, which is well Section 27 of the legislation that's before us, but 119.1 of the existing legislation on associated businesses, that it's obvious - I think that these were your words - it's obvious there are goings-on that have to be covered and this is a good piece of legislation or that this piece of legislation in your view covers those goings-on. I wonder if you could elaborate on that, what sort of goings-on do you think it's going to cover?

MR. COULTER: We have the situation in the construction industry where it's quite common for them to change the name of the firm on an annual basis or to form subcompanies to do subcontracting but in fact it's the same workplace that's doing it, that type of thing. And hopefully this will be able to see through that and deal with it.

The other section dealing with the change in ownership or operation of companies, that is covered in another section - I just forget the number now - but here again it's the same type of thing. It was mentioned the other day about Westfair Foods being able to operate under a number of different company names. All they do is change the name on the front of the building and they do that and expect to get out from under, and there was a case there . . .

MR. PAULLEY: Satellite names.

MR. COULTER: Well that's right. We had a celebrated case in Transcona where it was Loblaw one day and Shop Easy the next and it finally went to the courts. But you know by the time you get through the courts it's a year and a half or so later and everything is on a stand-off. There's no agreement and the workers are not being served, they are not being recognized as a union. So these are some of the things that are hopefully being tidied up.

MR. SHERMAN: Well would you not fear that this kind of provision really amounts to a licence for an administrative body to intervene in the organization of a corporation's program and a corporation's plans, that in many instances contain within them some employment opportunities that would not otherwise exist? Do you not see any danger of threat to employment opportunities, job opportunities, by this kind of intervention in corporations in their legal planning?

MR. COULTER: I don't think so. I think the harm that is being done now is sufficient to warrant measures of this kind, and really if a firm is on the level then there is no reason why they cannot promote a subcompany in a proper manner, and there's provision in here for mergers and that type of thing if there are existing operations, bringing them together. There's no reason why those things shouldn't be looked at, at least by the Labour Board to see whether workers are being jobbed, as it were, or certifications are being nullified by the fact that the employer wishes to operate on a different trade name or firm name.

MR. SHERMAN: Would you have any concern that where this kind of locking-in provision is in effect that the workers in given places of employment that are associated

(MR. SHERMAN cont'd) . . . . . with others, would be denied some of the basic rights that you see the labour legislation is providing them? In other words there would be closed shop and open shop situations that were no longer permitted to exist simultaneously and there would be a consolidated contractural arrangement that would be imposed from the top and not necessarily at the wishes of the workers involved.

MR. COULTER: I don't think that's necessarily so. We're talking here of spin-off companies, it's the creation of new companies and that's the type of thing that we're concerned with. You know, you're not going to correct the situation completely. I'm sure that employers will do and find other means of trying to get out from under the requirement to bargain with a group of employees or to deal with one specific union. But this is one means that they've been using that we hope will be now ended.

MR. SHERMAN: On just one other point, Mr. Chairman, to Mr. Coulter with respect to 6(2) and the restrictions on the kinds of things that an employer can say to or around employees where union and certification proceedings are involved. You say that the bill later guarantees that no one is being deprived of their freedom of speech but the section that refers to that particular saving grace, which is 23.1, specifically says that nothing deprives any person of his freedom to express views if he does not, and several courses of action are identified and one of them is, interfere with the formation or selection of a union. And 6(2) specifically lays down that kind of activity, conversational activity, as being deemed to be interfering with the formation of a union. So do you not see any contradiction in that position?

MR. COULTER: I think that they are very compatible and it's a double-barrel approach that's necessary. I think we found that out the other day in some of the witnesses before here, before the committee.

MR. SHERMAN: What about the position of the subject matter being discussed by an employer where it's informational and of informational value as it would have a bearing on the future of the company and therefore on the jobs of the people involved? Would you consider that to be interference?

MR. COULTER: A form of intimidation.

MR. SHERMAN: Or interference as defined here?

MR. COULTER: Hmm.

MR. SHERMAN: So you don't see anything in this legislation that could operate to the disadvantage of an employer and a place of employment with resulting injurious effects to jobs and job opportunities and work opportunities available there?

MR. COULTER: No I don't. There's no question in my mind that employers have no right in this area at all, and if they're reasonable employers like we have - I think most of them in the province are - they're prepared to live with unions and recognize that unions provide a service to them and to the employees and that they're useful instruments, there's no problem. And we have certain individuals that are still somewhat archaic, they can't appreciate this fact and will do anything to frustrate that particular thing happening and we're covering all these areas.

MR. SHERMAN: Okay that's all, Mr. Chairman. Thank you.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Coulter, you've been associated with the labour movement for many years. Can you give us how long?

MR. COULTER: Since 1939.

MR. GREEN: 1939. So that's a period of almost 40 years. That dates you. In all those years have you understood, since the Labour Relations Act, that an employer during organization, has he ever under the Act as you understood it had the right to say: "If you people join a union this plant is likely to go out of business."

MR. COULTER: No. The legislation has been fairly clear in that respect that on the fact of it they didn't have that right. But the problem was to make that effective and we didn't have the means of being able to bring the evidence before a labour board for instance, the type of evidence that's necessary. The last few years where they have had a right to take it to the courts, we found great frustration in . . . and the courts not appreciating labour-management relations to any great extent and through technical faults, the matter has not been arrested satisfactorily through the present means that we've had so far.

MR. GREEN: You've indicated what your opinion has been vis-a-vis interference with organization. Now after organization and certification and bargaining, then the situation changes. An employer can not only tell his employees that he's not going to stay in business but he can lock them out if he wishes. So the only infringement, if one wants to use that word and it is compensated by other things, is with regard to saying who will represent the employees. That is where the employer is told that he is not to be involved.

MR. COULTER: That's right.

MR. GREEN: It's the same law which has been in existence for many many years that if two men work for a trucking company and they go from here to Thompson for an eight hour drive, it is against the law for one employee to say to the other one, gee I think you should join a union and I've got some membership cards here and I am willing to sell you one. He is precluded from doing that under the existing laws.

MR. COULTER: It's a violation, has been for years.

MR. GREEN: Would you say that that is an infringement of free speech?

MR. COULTER: Right.

MR. GREEN: You didn't hear Mr. Newman complain about that or any of the employers complain about that. Mr. Coulter, you have indicated some sympathy with the problem of the religious conscientious objectors. We've had two people come up and show us that they had an arrangement with their union. One was a packing house at Swifts I believe it was; one was Canadian Union of Public Employees or what was the Federation of Civic Employees, where the union voluntarily without any laws made a special arrangement with that employee. Do you know of cases of this kind? This was before any exemptions in any Act.

MR. COULTER: Yes we sure do.

MR. GREEN: Is it a fairly frequent thing?

MR. COULTER: Well I think there are a number of such situations.

MR. GREEN: Would you object to a statement in the law to the effect that a union may at any time exempt an employee from payment of union dues on such conditions as it deems advisable and on the further understanding that it then has no obligation to that employee? Would that be a problem for unions?

MR. COULTER: I don't think it would.

MR. GREEN: I'm suggesting that . . .

MR. COULTER: In legislation you said.

MR. GREEN: If the legislation permitted, which is nothing unreasonable, let us say that a section said something like the following: that nothing herein precludes a trade union from making an arrangement with a member of the unit exempting him from the payment of union dues on such terms and conditions as the union may agree to. And on the further understanding that the union would then not have to serve that person. Because under the existing law the union is required to serve every person in the unit. If there is a compulsory obligation on the trade union to service all the members, let them vote whether they pay union dues or not even with this exemption, but you have seen and we have seen, the committee has seen, that unions have made quite satisfactory arrangements with members of the bargaining unit which took care of that conscientious objector. They did that before we politicians got into the act.

MR. COULTER: That's right. And we would encourage it.

MR. GREEN: You think that they would do it. And the union movement would encourage them to do that for conscientious objectors, for people who really think according to themselves that their religion prohibits them from joining a union.

MR. COULTER: Well persons like Mr. Henry who was up here, and I listened to him and I've talked to him and I am satisfied that that is a real conscientious . . .

MR. GREEN: Are you satisfied that the union movement would look after that kind of case?

MR. COULTER: We have.

MR. GREEN: They've done so in the past and the people have come here and proved that they have done so.

MR. COULTER: That's right.

MR. PAULLEY: Mr. Chairman, may I just follow this. I think it's most important, the point of Mr. Green. To you, Mr. Coulter, I ask this question as the

(MR. PAULLEY cont'd) . . . . . Executive Secretary of the Federation of Labour: if the thought or the motivation of Mr. Green were to be written into a section of The Labour Relations Act to give effect to this, you would have no objections.

MR. COULTER: No, I think it would be a provision that the union could look at seriously with the individual and deal with it on its merits, and I'm satisfied it was a ...

MR. PAULLEY: It wouldn't be mandatory for them to do it, but it would be an indication to them of sort of a - if you had in your big heart, using that term in a broad sense - a desire to make an arrangement with some of your employees, this way there is no prohibition against the general concept of the principles of trade unions.

MR. GREEN: Yes, I think I indicated something else that Mr. Paulley has not touched on but which I think a union should then have a right to do . . . and really should not have to service that person in the unit. --(Interjection)-- They may if they want to . . .

MR. COULTER: That would be a pretty imposing thing for the individual. . .

MR. PAULLEY: I think we have an understanding, it's just a question - if this is a desired thing to do, that possibly get it into a group of words.

MR. COULTER: Right.

MR. CHAIRMAN: Are there any further questions? Mr. McKenzie.

MR. McKENZIE: Mr. Coulter, do you believe that government should protect the human and religious rights of minority groups?

MR. COULTER: Protect them in what way? I think that everybody wants to see a fairness about human rights, minority rights, but at the same time one has to respect the fact that the majority have some rights too, and there comes a time when the minority have to subscribe to what the law of the land says with regard to taxation, for instance, many things that an individual would opt from if he wasn't required to do it. I think that the fundamentals on this thing was well spelled out by Justice Rand in the early 40s, 1945 I think it was, and that is a fundamental principle that if individuals are getting the benefits then they have a requirement to help pay for providing those benefits. And I don't think that that is denying any minority any rights, as a matter of fact it's conferring on them benefits rather than withdrawing from some rights that they may have.

MR. McKENZIE: Mr. Chairman, may I leave out the human rights or the individual rights, what about just the religious rights of minority groups, should government protect those rights?

MR. COULTER: Well I think, generally speaking, there's an acceptance of an individual having his own freedom with regard to his own religious beliefs and nobody that I know of is endeavouring to take those away from any group at the moment, unless they contravene provisions that the majority feel satisfied and governments feel satisfied must apply to everyone equally. I don't see any difficulty in that section at all, that separation that you're trying to place on it with regard to religious rights.

MR. GREEN: Mr. Chairman, I want to carry it a step further. Do you believe that an agnostic who feels very very strongly in his conscience, answerable to himself and to his feelings of integrity and justice, should have just as much right to believe that he doesn't want to belong to a union as a person who does it on religious grounds?

MR. COULTER: Well I think one could interpret his belief to be a belief in the religious sense.

MR. GREEN: Anybody?

MR. COULTER: Anybody. That's right, that's the problem with the legislation now, and the way it's being interpreted.

MR. CHAIRMAN: Mr. Banman.

MR. BANMAN: Thank you, Mr. Chairman. I'd like just to get a little clarification on Section 119.1 Related Businesses. I'm just wondering if in your interpretation of this particular section, for instance, let's say somebody owns a small hardware store in St. James which has got a union contract, and he also owns a store in St. Boniface, it's the same owner; it's not a big outfit but it's the same owner. One store has a collective agreement, the other one doesn't, under this Act would he be forced to bring his other workers into that particular collective agreement?

MR. COULTER: It all depends on the inter-relationship of the employees. I think that the Labour Boards have determined in the past that if they are separate

(MR. COULTER cont'd) . . . . . operations, the employees are not transferred from one to the other, they have no rights in one store or both stores at the same time then they are in fact different operations. It all depends really how the thing starts I think. I know if you're going to try and organize a firm and they have a number of stores and they manage them, and there is transfer between them or it appears the opportunity is there, then you have to deal with the total group if you're going to get certified.

MR. CHAIRMAN: Mr. Banman.

MR. BANMAN: One further question. We come back to 16(3) for just a moment. You mentioned that you thought that with the decision handed down by the Court of Appeal that it's more or less opened the floodgates. I wonder, Mr. Coulter, if you don't think the same thing would happen here as has happened in Ontario where they've basically gone through the same type of thing that we've gone through here, and I understand that in the last number of years there's only about 125 people out of that total labour force that have applied under that special section, and I wonder if you really think that if this section was left the way it is in the old Act would cause a serious problem to any of the trade unions in Manitoba.

MR. COULTER: Well, we see it now as being present and we see the prospect of it, and I must say more convincingly after attending this session on Saturday, of the likelihood of many applications coming to the Board on the basis of one individual's religious belief that doesn't really have to be examined to any great extent, in him having this waiver from his obligations.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, to Mr. Coulter, you said in your initial remarks about the advantages and values of the legislation. I don't recall your exact words, but you made reference to the fact that you felt the content of the bill had been discussed and examined fairly openly and over a fairly lengthy period of time, and you were satisfied with that, but I recall that you've been in pretty faithful attendance at most meetings of the Industrial Relations Committee since I've been on it.

MR. COULTER: Not too faithful.

MR. SHERMAN: You were certainly present for some of the White Paper hearings.

MR. COULTER: I wasn't though, that's the problem.

MR. SHERMAN: Did you hear any discussion at any of those meetings of Section 119.1 on Associated Businesses, or did you see any reference to it in the White Paper which we studied during the winter?

MR. COULTER: Specifically we dealt with that in the Woods Committee for some length of time, and if I'm not mistaken it's one of the recommendations of the Woods Committee that that be tightened up. And just for the record, I wasn't here in March when the Industrial Relations Committee met, I was on holidays Down Under looking at compensation in New Zealand.

MR. SHERMAN: But you've been here for a good many meetings of this committee.

MR. COULTER: Yes, and I've been at many meetings of the Woods Committees and our own meetings dealing with labour-management relations for many sessions since 1972 when the legislation was brought in.

MR. SHERMAN: Well, are you satisfied that that section on associated businesses has been given a fair public hearing and exposure in the business and employer community?

MR. COULTER: Well I'm satisfied it has. Those that have been using that escape will try to claim otherwise, but the good employers won't be that concerned about it. Those that want to use that as an escape, then they're going to object to it, but looking at it and the principles involved with both labour and management in attendance, that was one area we were satisfied that should be tightened up.

MR. SHERMAN: Well you say "good employers", Mr. Coulter, are you saying that everybody who is in the business and industrial community who is exorcized about this point at the present time is not a good employer?

MR. COULTER: I couldn't go that far, because you might parade a number of people here, and I'm sure that you may have them here tonight, they might fear what might flow from this.

MR. SHERMAN: I don't have them here, but they're invited here.

MR. COULTER: Well okay, we have them here, if you haven't got them here, these opening hearings are attracting them. I can say this quite seriously, that we've enjoyed a pretty good labour-management climate in Manitoba, primarily from the use of the Woods Committee and meeting with people from both sides and getting the understanding and an appreciation of each other's position, and we have a number of good employers involved in that thing. --(Interjection)-- Well naturally he's been receptive to a number of the recommendations that come along, and he has to take considerable credit for the labour-management climate in this province since 1969, no question about it. But I think that this is an acceptable provision, and the reasonable employer, one that is prepared to see his employees have the right to be represented by a union, will have no fear in this section at all.

MR. SHERMAN: Well, I just have one last question, Mr. Chairman, to Mr. Coulter. Are you concerned at all, Mr. Coulter, that the legislation contains nowhere in it, at least that I can determine, that there is any guaranteed protection for individuals against discrimination by unions, and I'm talking about individuals who want to join unions?

MR. COULTER: There sure is. It's in there.

MR. SHERMAN: Individuals who want to join unions and who for one reason or another find it extremely difficult to do so because of a union's refusal to admit them? Don't tell me that you consider the Section 5(1) to be that every employee has the right to be a member of a union, is a guarantee that nobody will be discriminated against?

MR. COULTER: Section 8. Have you studied Section 8 that was in the old ...?

MR. SHERMAN: Yes. I've also got documentation in my files, and I'm sure you have in yours, of people who have not been able to get admission for one reason or another, and it's been a discriminatory reason.

MR. COULTER: Well, we now have those situations where those cases will go to the Labour Board for redress. That's a balancing requirement there for unions as it is for employers if they infringe on the rights of individuals. I've said that Section 8 does give some problems when the democratic process within a union does hope to take place, but that's the provision.

MR. SHERMAN: That's all I have. Thanks, Mr. Chairman.

MR. PAULLEY: Mr. Chairman, in view of the fact, Mr. Coulter, that you were Down Under looking at some other legislation that we're interested in when the White Paper was issued, I'm wondering if you possibly could recall that when the initial paper went out - or invitation, let's call it that - went out from the Department of Labour to parties concerned that this is one of the questions that was raised asking for their observation in connection with the contents of the likes of 119.1 .

A further question, Mr. Coulter, . . .

MR. COULTER: I think that was December 2nd that you sent that letter.

MR. PAULLEY: Somewhere in along that line. I just forget dates, I'm a little hazy on those too. You were aware of the fact that in the Dominion of Canada this particular section, or very similar to this section, is contained within the Labour Legislation of the provinces of Ontario, Alberta, Nova Scotia, British Columbia, Prince Edward Island and the Federal Labour Code has a somewhat similar provision with the exception that the Federal Labour Code goes a little bit further than is suggested in our legislation here and also the legislation in the other provinces in that they are prepared to make the availability of the setting up of an Arbitration Board somewhat apart from the Labour Relations Board to consider into problems which may be created. So my question to you, are you aware that this is something not just new and peculiar to Manitoba?

MR. COULTER: That's for sure. Yes.

MR. PAULLEY: That's fine. Thank you, Mr. Chairman.

MR. CHAIRMAN: Bill No. 16. Mr. Coulter, or 83, whichever you. . . Mr. Green.

MR. GREEN: I would like to suggest, Mr. Chairman, that we try to deal with Bill No. 83 so that we will at least have one bill that we can deal with in case we finish early in the House, that we will have one bill where we know that we have completed the representations. If we then have more time we can continue with the other bills, but I believe that there's only one further submission on 83.

MR. CHAIRMAN: No, there's two.

MR. GREEN: On 83?

MR. CHAIRMAN: Mr. Coulter . . .

MR. GREEN: Well, he's finished on 83.

MR. CHAIRMAN: I haven't passed 83 yet, but I won't be long.

MR. GREEN: Well, I'm talking about The Labour Relations Act. There's only one left now.

MR. CHAIRMAN: No, we have Mr. Winder, Mr. Jackson, Mr. Sobkowich, Mr. Steele.

MR. GREEN: Well, if that's the case, Mr. Chairman, I was hoping that we would finish that bill, that we could then bring it to committee tomorrow; that there are some bills that are close to being finished with.

MR. CHAIRMAN: Mr. Coulter still has to make his representation on 83, Mr. Winder and Mr. Sobkowich.

MR. COULTER: I'll be very short on 83. I'd like to get that out of the way.

MR. CHAIRMAN: 83, then fine.

MR. COULTER: But I have a fair representation on 16.

MR. CHAIRMAN: Well 16 we'll try and leave over till tomorrow.

MR. GREEN: Let's get 83, and see what we've got on 83.

MR. COULTER: Okay. I think much of the things that I was going to say have been said by Mr. Habkirk who has been working with us on this thing. Maybe just a few repeats. I think that the question of the cost of this thing has been raised before 11(1) that it is now being paid as far as the safety aspects of it by the Workmen's Compensation...

MR. PAULLEY: Partially - oh, excuse me, I shouldn't interrupt.

MR. COULTER: Well, to a great extent there are costs that are now with the umbrella approach or one-window approach certain investigations and responsibilities for enforcement that is now with the Department of Labour and Department of Health it will be brought under. Then there are new costs, I don't know where you're going to lodge them.

A MEMBER: Where are they coming from now?

MR. COULTER: I don't think it's out of the question that it be levied on business. Business only passes it through. It goes into the system, and I have no real sympathy for the likes of the CNR or CPR or Air Canada for paying the shot for the damage they've done to employees in the past because I've had a fair number of cases. I have one with us right now that just galls me to see the CPR getting away, where if it was not covered by compensation they would be liable to suit for a pretty heavy damage for negligence. But that aside, I don't see any harm or anything wrong with charging these things through to business in the way of an assessment. I think it's a fair charge and then they pass it through as costs for their operation and business or service.

But 15(2), just a brief comment on that. I do suggest that you look at reducing that down and having the advisory group represented by just labour and employers, labour and management, I think that we have to appreciate the fact that there's a chairman involved here which will be the honest broker between the two. I really think that the fact that you have other technical people there that either the employer or the labour people are going to be somewhat offended if they are imposing themselves on decision-making to any great degree. I think it's right for them to be there to advise, but surely there's something to be gained by two parties represented as they are to coming to an understanding on these very matters. I think it's better to expect them to come from the two parties rather than having other people involved and I think it will mature better and on more solid ground if it's left in that way. I think that if you diminish the effect of representation either in management or labour the way it is by having the third party in there, that it's not going to do anything towards having the other two parties appreciate the decisions that are made. That's my point.

I think we're getting to a day where we find that labour is being accepted more and more in management decision-making. Where they are given that opportunity they are more responsible, and they are more likely to pursue the ultimate in goals and safety, and that's what we're talking about here. I know that this is something that can go beyond that in training and that type of thing. I think there's very much to be said for

(MR. COULTER cont'd) . . . . . having employee input in curriculum and type of testing, standards, that type of thing because if they are they become responsible; that much of the problems can be sloughed off otherwise, if they don't appear to have that particular responsibility or benefit of decision-making then the decision is less appreciated. I think that that's one that would go a long way if you take that into mind and reduce that representation to just the employers and labour with a chairman. Here again in selecting the chairman I think it is very important that you get an individual who's really not an academic, or somebody that hasn't really worked for a living. I think you can find individuals that have had a broad experience of work, experience in labour and in management. I think that's the type of person that is needed to be chairman of that type of operation rather than an academic or a professional person.

Here again I think we were looking for the legislation to impose safety committees on a certain size of plants. I can see at the same time the logic of pursuing this thing by degrees, the way that you're now able to do by regulation. I'm sure it won't be long until a number of industries will be brought under this one-window approach because they are now covered pretty well and construction would be an obvious one right away and then you start to get into the industrial scene and that type of thing. Maybe some day it might be better to see the numbers in legislation but I for one, at least, in our group appreciate the fact that there's going to be some time of settling in in this type of thing. It may be wise to do it this way instead of having it in legislation and not being able to produce all at once when it's proclaimed or try to hold it off.

Section 41(1) - and I want to try to hurry through these things - this is the one in which there's no union and the employer is being directed to denote the employee that's going to function in the capacity of the safety person in the plant. The wording is a little disturbing to me in that the word "cause" is used: "The employer shall cause a worker not connected with the management of the workplace." I think it should be in somewhat consulting with the employees. This would appear to be one of those dictates that I hate to see. It may be that just the use of the word would indicate that he is going to put the finger on somebody and that's it, period, without the concern of what we get with committees that the workers decide who this person is. That's just one caution with respect to that part of it.

Section 43(3) - I won't elaborate any further on that. That was mentioned by Mr. Habkirk. I think this is the one where you have to have it in writing any concern. A quicker way might be more acceptable in that a phone call to the investigating officer or that type of thing may be better.

The other, 43(7) has been mentioned. Here I have difficulty. I would like to have some direction from those that have put this together. 43(7) indicates to me that if a person feels that he has been discriminated against he must take it up as a grievance in his union and to be dealt with by arbitration. Now my only concern with that is that that's time consuming and costly. Here again we get the same type of situation that we're not happy with, and that is where there is law, employment standards for instance, requiring certain provisions where a union is certified; and there is a collective agreement, the Board frowns on them going to the Board for having the thing righted. They have to go through the process of arbitration which as I said again it's costly and time consuming. You move on into 44(1) where an individual I would expect, where there is no union involved, he can go to the Labour Board. I would suggest that the situation in 43(7) likewise should go to the Labour Board as a quick way of dealing with discrimination rather than having to go through the arbitration procedures. We don't see anything in that that is that helpful. There'll be a redress to the situation, but I think that the Labour Board would be a far better tribunal to deal with it quicker and without the cost that's necessary to arbitration.

The other thing, and I think Mr. Habkirk mentioned this, there doesn't appear to be any place for the individual to lodge an appeal if he feels that there hasn't been attention drawn to a situation that he thinks is harmful or dangerous, that where does he go from here? I don't see any opportunity to have a hearing in that type of a situation, or an appeal from that type of situation. I think where we have committees that that will probably come to the fore there and be dealt with satisfactorily, but where you have lesser situations I think we might get into trouble. Here again I guess experience will

(MR. COULTER cont'd) . . . . . tell as to whether it's going to be a problem or not.

46(2) where you have the exception, the director may exempt the municipality from advising it of a certain class of permits issued by a municipality, and we just draw your attention here to the prospect or danger which we did have, an experience at Powerview where the rink collapsed because of improper inspection being provided. So that one has to be watched I would think with respect to that type of thing, whether it's opening doors for dangerous situations.

MR. PAULLEY: It's covered under another Act.

MR. COULTER: Is it? Another Act?

MR. PAULLEY: Another Act Maybe mention should be made so that it's completely understood.

MR. COULTER: Okay. We think as well that the director that's going to be in charge of this combined operation should be one that has again work experience, a non-professional type of person or an academic, that he be a practical person in this field and not just one that has studied safety without at the same time had work experience and had to do it the hard way as it were, up through the ranks.

One other thing, I think that with this one-window approach you'll probably be getting at situations - it appears that mining is going to come under this as well. Now we have the situation where an individual that's using dynamite has to have a blasting permit, and he has to have two if he's in some situations. If he's on a hydro project and they're dynamiting for the purposes of a site or a road, that's one permit; and if they're going to go off-site to get materials for the project, quarrying, then they have to have another permit. So that hopefully these types of things will be brought into a single type of certificate that will do the job instead of the different jurisdictions having dabbles in it each way.

Well, once again, I think that we have to appreciate the fact that this bill is finally here. We know there's been a lot of work done to bring it into being; there's going to be a lot more work required to mesh those different departments together. We can only say that we wish you well and we'll be sure to give you every co-operation that is possible in assisting to see what can be done and what should be done in the way of education or conferences to explain it to people that hopefully will take this seriously and become involved.

MR. CHAIRMAN: Thank you, Mr. Coulter. Mr. Shafransky has a question.

MR. SHAFRANSKY: I just have one question, Mr. Coulter, that's on Section 15 (2) where you mentioned that the Advisory Council on Workplace, Safety and Health should be reduced from the present proposed three groupings. Don't you think that the Minister of Health who is responsible under The Public Health Act for very broad responsibilities should have some representation on this Advisory Council? You know there are other matters than just occupational safety and health, there are other responsibilities that fall under the Minister of Health and Social Development in matters of preventative programs that could be instituted within various plants. Don't you feel that there should be some direct representation on this Advisory Council to the Minister of Health and Social Development?

MR. COULTER: I sure do. But not as a voting member. I think that ...

MR. SHAFRANSKY: Well, it's an Advisory Council.

MR. COULTER: It's advisory to the Minister. --(Interjection)-- I appreciate that. But I think that what we're trying to say is, that labour and management are going to have to deliver the program. There's no question it's going to require various expertise in the way of inspectors and that type of thing. But the delivery of the program can only be expected to be carried out by the employer and the employees. --(Interjection)-- That's the importance that I'm trying to bring to this thing because I think it's very important that they be left with the responsibility of doing it, and to have them appreciate that responsibility that you have to give them that type of representation. If you water it down by having experts of, you know, one-third even, that that reduces the importance that any segment either labour or management will have in those decisions. I think that they should be assessing what the experts are saying and recommending and they will accept it to the degree that they think it's applicable to the workplace. And, you know, we have labour and management on that, and you have the chairman who will be the honest

(MR. COULTER cont'd) . . . . . broker as it is, but I think you should keep in mind that the importance of the decision-making process is best to leave to labour and management because they have to implement it. The other people, there's no question that we need them and they'll be used. The Minister of Health has got people on staff now that are involved in environmental studies and standards, naturally they have to be used. But surely they should come before that Advisory Council to express what their feelings are and it's, you know, an open communication. But the two principles that are going to implement the thing I think should be the ones that have the decision to make with the overriding authority of the chairman which will be the deciding factor in a number of situations. But I think you'll find that where they both appreciate the responsibility of labour and management, that in most situations you'll get a common resolve.

MR. CHAIRMAN: Thank you. I didn't realize that these are questions I can raise in committee stage. Thank you very much.

MR. SHAFRANSKY: I have no further questions then, Mr. Coulter.

MR. COULTER: I'll leave the compensation until tomorrow.

MR. CHAIRMAN: Mr. Len Winder on Bill No. 83.

MR. GREEN: I'm available before breakfast if you are.

MR. PAULLEY: We don't very often get breakfast these days.

MR. CHAIRMAN: Harry, take the chair.

BILL 57 cont'd

MR. WINDER: Mr. Chairman, Mr. Minister and gentlemen. One saving grace about having me up here, it isn't going to be very long, I can assure you. I'd like to read the short two pages that we have, I believe of which copies are available or have been passed around.

MR. CHAIRMAN: No objection. You may proceed, Mr. Winder.

MR. WINDER: Thank you. Re Bill 57, Section 119.1. Our Association is comprised of union and non-union contractors. These contractors meet together, sit on the same Board of Directors, bid against each other on the same jobs, yet there is no friction in our Association between these two groups.

MR. CHAIRMAN: You're on Bill 57?

MR. PAULLEY: We have your brochure on 83. We were looking for - you're speaking on 57.

MR. WINDER: Yes.

MR. PAULLEY: I wonder if we could have 57. I think the idea was to try and finish off 83 tonight, Len.

MR. GREEN: Speaking on both, Sir, 57 and 83.

MR. CHAIRMAN: Well, this I have is on Bill 83. Bill 83, right?

MR. WINDER: No, I'm on Bill 57.

MR. PAULLEY: Well, can you give us 83 for this evening?

MR. WINDER: I have nothing on that tonight, nothing.

MR. GREEN: Mr. Chairman, I really feel sorry for the gentleman. He's waited so long, he's got to the mike, he says it's a short brief. How long it will be, go ahead and finish.

MR. CHAIRMAN: Proceed. This is it.

MR. PAULLEY: No. 83.

MR. CHAIRMAN: No, no, 57. Go ahead.

MR. PAULLEY: Excuse me, Mr. Chairman. Mr. Winder can you give us your observations on 57 verbally and short.

MR. CHAIRMAN: Mr. Winder is proceeding. He has the two-page brief on this.

MR. WINDER: It's double-spaced, Mr. Chairman. It's not that long.

MR. PAULLEY: Okay, away you go.

MR. WINDER: Can I proceed?

MR. CHAIRMAN: Yes.

MR. WINDER: Our Association is quite concerned with section 119.1. We feel this is an infringement on the rights of management to manage its business. A union shop employer in order to compete in a non-union market must be able to manage that department

(MR. WINDER cont'd) . . . . . of his business in such a way that it is competitive with non-union labour. He should not be deprived of that right.

To compete in a non-union market he must employ non-union men under the same conditions as his competitors. This market is in the housing and repair field and it is growing. It has been lost to the union contractors over the years because of the increased demands of organized labour for more advantageous conditions of employment. The union contractor should not be prevented from getting into a non-union market and section 119.1 is doing exactly that.

The union contractor in order to compete and to get into the non-union market must form a new corporate entity and hire a new work force. In order to compete he must hire non-union workmen. These men are non-union by freedom of choice and they have a right to make that decision. It is the fundamental right of every man union or non-union to be entitled to work for a living. Section 119.1 will take away his right to remain non-union and he will be forced into a union against his will in order to earn a living. He has the democratic right as a citizen and as a human being to decide if he wants to work for a union or a non-union firm.

Union management must have the right to try and obtain work in the non-union marketplace. Aside from the fact that the basic fundamental rights of a group of individuals who do not want to join a union are being violated by Bill 57 section 119.1, we feel that the enterprising contractor is being deprived of his rights to try to get into the non-union market. We want to make it perfectly clear that if an employee wishes to be unionized that is their right. Our objection is to having unionization being forced upon them by statute.

The public is receiving the benefits of lower prices in the housing and repair industry because this work is being done by non-union workmen. The union contractor who is trying to compete in this field if he is forced to pay the increased labour costs as governed by the Collective Agreement he will have to pass on these increased costs to the public and soon he will be no longer able to compete in the non-union marketplace and he will be right back where he started, with all his investment, time and effort totally wasted.

That's the extent of our little brief, Mr. Chairman.

MR. CHAIRMAN: Thank you. Mr. Winder presented a brief on behalf of the Mechanical Contractors Association of Manitoba. Are there any questions? Hearing none, thank you very much. Bill 57; 83. Do you have a brief on Bill 83, Mr. Winder?

MR. WINDER: No, I do not, Mr. Chairman.

MR. GREASLEY: Mr. Chairman, possibly I might clarify something here. You have a Mr. Sobkowich I believe down there to speak tonight. Mr. Sobkowich actually made the reservation on behalf of the Winnipeg Builders Exchange to reserve the space, and I believe the first brief which was passed out to you when Mr. Winder spoke was actually the Exchange's brief.

MR. PAULLEY: This one by Stanton.

MR. GREASLEY: Yes, by Mr. Stanton. Mr. Stanton is the President. Mr. Stanton unfortunately tonight is at another meeting with officials of the Department of Labour and was unable to attend. If it's the Chairman's wish at this time I would present this on his behalf.

MR. GREEN: Yes, Mr. Chairman.

MR. CHAIRMAN: Bill 83. Yes, Mr. Green.

MR. GREEN: I believe that this is the last one to be received.

MR. CHAIRMAN: Yes.

MR. GREEN: Now I'm going to just sound out the committee. I rather expect that after we are finished this brief we will finish our work. That being the case I think that other people who are here who are going to present briefs are just going to have to come back tomorrow.

MR. CHAIRMAN: It's the last one. It would be the last one. --(Interjection)--

MR. GREEN: 83.

MR. PAULLEY: All right, tonight's sitting?

MR. GREEN: Right.

BILL 83 cont'd

MR. CHAIRMAN: Proceed. Your name, Sir?

MR. GREASLEY: My name is Greasley. I'm the Executive Vice-President of the Winnipeg Builders Exchange.

MR. GREEN: How do you spell that, please?

MR. GREASLEY: G-R-E-A-S-L-E-Y. Initials G.L.

MR. CHAIRMAN: Thank you. Proceed.

MR. GREASLEY: Thank you.

Mr. Chairman, members of the committee, to begin with, we of the Exchange must protest the obvious speed-up of legislation in the House at this time, particularly those bills which constitute new Acts, or major revisions to existing Acts. Surely, for the sake of adequate public response, and better public understanding of the bills being placed before the House, major Acts could be proposed at the beginning of each session when more time seems to exist to debate such proposed legislation, and to hold public hearings.

To leave items of such importance to the end, with a single day existing between the distribution, for example, of Bill 83 and the first day of hearings, the government cannot expect an in-depth response from the public to this bill, nor is the right of the public to be heard assured.

Surely, one of the most amazing concepts of Bill 83 is the establishment of the Manitoba Labour Board as the jurisdictional body for issuing stop work orders under this proposed Act. To our knowledge members of the Manitoba Labour Board as it is presently constituted are not experts in the field of engineering nor do they possess special expertise or training in the field of safety. As has been pointed out by our association and others in reference to the Labour Relations Act amendments, there is definitely some question as to whether the presently constituted members of the Board are sufficiently trained in the judicial process as well. It would seem highly inappropriate then that the Manitoba Labour Board should be the authority in this matter.

Here again, in Section 37(2) we have the situation where a person affected by an order issued by the Board has the right of appeal, but that appeal must be made to the Manitoba Labour Board, the very same party making the original ruling. This certainly limits the possibility of an appeal being accepted, or of the members of the Board not having previous bias at the time of considering the appeal.

Here again our association feels strongly that the most competent and proven source of judicial wisdom and experience in our province lies with the Courts. While they are not expert in the fields of safety necessarily, they do have special legal training, proven competence, a traditional practice of calling expert witnesses to reinforce their deliberations, and in the end the possibility for the appellant to appeal to the Supreme Court. This system certainly guarantees more justice and preservation of personal rights for those affected by stop work orders or other decisions of inspectors and those administering this particular Act.

Under Section 11(1) all expenses incurred for the administration of this Act, including salaries, are to be charged to the accident fund of the Workers Compensation Act and the government is authorized to pay the expenses from the Consolidated Fund and recover them from the Accident Fund.

The premiums are being paid by employers to the Workers Compensation Board and they are a form of insurance to provide protection for employees currently working and to provide compensation to those employees who are injured and suffer loss of income through injury, or through medical expenses. The re-appropriation of these funds to pay salaries for safety inspectors is inappropriate.

It would seem far more reasonable to have the administration costs of this Act paid from the General Revenue Fund of the Province as safety is not only a matter of prime interest to employers, but also to employees and to the Government of Manitoba - as evidenced by the fact that they have now proposed this particular Act. Therefore, it would seem more reasonable to have the costs covered from General Revenue, which moneys are received from wide sources.

In examining Section 18(2) it would appear that the regulation made under

(MR. GREASLEY cont'd) . . . . . subsection (1) may be applied in a discriminatory manner in that the section allows for regulations to be applied in the first place to generally all workplaces and in the second place, to particular specified classes. This would appear to call for an element of human judgment as to which workplaces were to be exempted, which were to be specified, as it appears generally that there is a possibility that the law in this case would not be equally administered to all. We find this same problem with Section 21 wherein the Director may vary any provision or standard of code of practice established under this Act to meet special circumstances. Here again, there is apparently an uneven application of the law, the potential for discriminatory practice on the part of the Director or his staff, and the opportunity for inequality and inconsistency as well as public misunderstandings resulting from varied applications.

Section 20(4) of the proposed Act again raises our concern about the Manitoba Labour Board replacing the Courts, generally, and the general administration of justice in this province. According to the section, the onus will be on the employer or self-employed person who is accused of an infraction or violation of the Act to prove that he has in fact complied with the regulation. He will be considered guilty unless he can prove himself innocent. Surely this is a reversal of the system of justice on which our country was founded and on which we have operated. If this type of approach is to exist, then surely there must be a source of appeal beyond the Manitoba Labour Board - which Board would in many cases make the original decisions on which the pre-judgment of guilt was based. Here again we have a transfer of judicial power from a highly competent and trained court system to a Civil Service administration system with a subsequent possibility of altering the basic rights of employees and employers in this province.

Under Section 39(1) appeals against decisions of the Manitoba Labour Board must be made within 14 days, but must be made to that very Board. Under subsection (3) the decision of the Board is final and not subject to question or review by a Court of Law, and here again we must object strongly for the reasons already given.

In Section 42(2) the employer is again assumed to be guilty unless he can prove himself innocent, and again we must object. We can foresee problems in this particular area where employees may be dismissed for cause for actions having nothing to do with his involvement in a workplace safety committee, or where his termination would be due to a layoff connected to the cyclical nature of the construction industry, but where claims could be made that the employer was acting in a discriminatory manner against the employee because of that employee's concern with safety. The same applies to Section 43(4).

With respect to Section 43(7) which appears to give the employer an opportunity to discipline a worker taking unfair advantage of the foregoing, in this particular case the employer would have to be able to prove the intention of the employee and that his reasons were in fact frivolous. The "guilty until proven innocent" concept therefore appears to be discriminatorily applied against employers while employees are allowed to operate under the normal concept of the law, which is innocent until proven guilty.

In Section 56(1) we again encounter the "guilty until proven innocent" concept wherein the employer is obliged to prove that his duty to perform in a specific instance "was not practicable or not reasonably practicable to do more than was done" or that "there was no better practicable means than in fact was used."

One must keep in mind that the party on the other side of the table could be the Manitoba Labour Board, which is carrying through a hearing of charges that practicable and reasonable means were not used. This calls for an area of expertise in the construction and engineering fields, or again in safety fields which the Board at present does not appear to have. How then is such an employer to prove by the presentation of technical facts to such a Board that he was justified in his actions.

These are but a few comments on Bill 83 as we have not had an opportunity to study them in depth, owing to the fact that the bill was made available to us one day before the public hearings, and our association has been involved for the first two days of the hearings with the Industrial Relations Committee on the matter of Bill 57, The Labour Relations Act amendments.

We feel that there are other areas of Bill 83 which deserve more detailed study and comments before legislation is passed but unfortunately it would appear from the tone

(MR. GREASLEY cont'd) . . . . . of the Committee during the first day of hearings that there is little likelihood that any consideration will be given to any requests from the public for an extension of time to consider these highly important matters. We feel that this is an extremely unfortunate attitude and that it harms not only business and government relationships, but also has the effect of destroying the possibility of people participation in government.

The sections we would like to study in more depth would include Sections 24, and I believe it's 18, which are extremely lengthy sections but which we just have not had the time, gentlemen, to peruse.

Thank you.

MR. CHAIRMAN: Thank you, Mr. Greasley. --(Interjection)--

MR. GREASLEY: We've had a change of chairmen in the meantime.

MR. CHAIRMAN: Fine, thank you.

MR. PAULLEY: Mr. Chairman, I have a question of Mr. Greasley.

MR. CHAIRMAN: I had Mr. Green here.

MR. PAULLEY: Oh, that's fine; I defer to Mr. Green.

MR. GREEN: Mr. Greasley, on this committee you noticed that all of the members were sitting here all day Saturday from ten o'clock in the morning until five o'clock at night. They sat again today from eight o'clock till five after twelve now - they are going to meet again. Have you noticed any members who seem to be short or anything with the people who have come before the committee?

MR. GREASLEY: The ability to discuss or the opportunity to discuss is not involved with respect to speaking before the committee once you are here. The problem is in the preparation time before we come here. We have had Bills 83, 85 and 57 coming out between Wednesday and Friday of last week and we don't have full-time staff working on this, so we've had some problems preparing all that we would have liked to have seen.

MR. GREEN: What is your complaint about the tone of the committee?

MR. GREASLEY: On Saturday it was expressed in this committee, after requests had been made for some extension, one of the questioners for example, the witnesses received the remark, and I don't recall - you'll have to forgive me for not sticking technically on this - but to the effect that what else did he have to recommend other than that it just be extended ad infinitum sort of thing, which was taken by us to be an indication that there was no opportunity. Against this evening, which of course happened after this was written, but again it became a matter of getting this into the House so that at least one bill would be finalized to take back. I can appreciate that you gentlemen sit long hours, not only here but in the House. The problem seems to be, and we've been notified by the Queen's Printer and by Mr. Paulley's office that bills are not available until second reading, they're entered for second reading, and in the case of the Corporation's Act, for example, there was second reading on Tuesday and committee on Wednesday. Well that's a fairly extensive bill.

MR. GREEN: All right, I am going to return the compliment, Sir. I don't like your tone but seeing that you don't like ours, I don't think you should feel upset by that.

Now you have indicated that it is always the case that a person is innocent until he is proven guilty. Now if I had a contract with you, Sir, for a year, an employment contract, and I was employed by you for a year and if you let me go six months throughout that year, I could sue you, I could prove that I was fired, and then you would have to prove that you were right in firing me. Is there any difference between that and what is being done in this Act other than the machinery of the Magistrate's court is being used, the machinery of the quasi criminal rather than the civil law?

MR. GREASLEY: You are speaking there of a breach of contract.

MR. GREEN: That is correct. But you would still have to prove that you were right in doing it . . .

MR. GREASLEY: Right. And if I went to court to argue a breach of contract and I was not successful and I felt that I wished to pursue the matter, I would have the opportunity I would presume to do so.

MR. GREEN: That is correct.

MR. GREASLEY: But if I went to the Manitoba Labour Board in what we interpret in our hurried examination of this to be the case, if we received a judgment which we did

(MR. GREASLEY cont'd) . . . . . not think was to our liking, that would be it.

MR. GREEN: Well you could go to the court and they would say no labour board in their right senses would come to this order, they have said this.

MR. GREASLEY: It's possible that the opportunity for appeal is not there.

MR. GREEN: They say it once too often, that's right. That's why these cases should not go to court.

Now I am dealing with the question that you put that it is always the case that a person that he is innocent or that he is considered right until he's proven wrong, and I've suggested to you that if I was suing you for breach of contract of employment I would prove the contract of employment, I would prove I was fired, and you would have to prove that you were justified in firing me.

MR. GREASLEY: In that case you would have previously proven . . .

MR. GREEN: Just that I worked for you and that I was fired.

MR. GREASLEY: Right. And that you had a contract which said that you were not to be fired within that term of time.

MR. GREEN: But you would have to prove that you were right in firing me.

MR. GREASLEY: I would be a defendant in that matter.

MR. GREEN: That is right, and you would have to prove that you were right.

MR. GREASLEY: That I was right. That's right.

MR. GREEN: That's right, and that's all that this Act requires you to do.

MR. GREASLEY: In this case our understanding, unless we are seriously mistaken, is that there is really no onus on the injured party . . .

MR. GREEN: He would have to prove that he was an employee, he would have to prove that he was fired, he would have to prove that he was a member of this committee, and you would have to show that had nothing to do with his being fired.

MR. GREASLEY: In this one particular instance that you are referring to.

MR. GREEN: But he would still have to prove all of those things. He would have to prove that he was an employee, he would have to prove that he was fired, he would have to prove that he was a member of this committee, and then you would have to prove that he was justly fired. Now how much difference is there in the two situations?

MR. GREASLEY: As I understand it in here if a charge is brought or . . .

MR. GREEN: That employee would still have to prove that he was an employee, the employee would have to prove that he was a member of this committee, the employee would have to prove that he was fired, and the onus of then showing that he was not fired because of his membership on the committee would shift to the employer. Under the criminal law, if you had something - the criminal law, this is no longer civil law, and you can check it with your lawyer - if you had something which the police could show was recently stolen, you would have to prove, the onus would shift to you that you came into possession of that something by lawful means.

MR. GREASLEY: That is correct.

MR. GREEN: The doctrine of what they call recent possession. So the onus would then be on you.

MR. GREASLEY: The references made in here are to the general concept, which I think you will find if you walk down the street and talk to a number of people, that they generally assume that there is within our country an approach of innocent until proven guilty. Now under specific laws, which you have raised, this of course is not the case.

MR. GREEN: But are you aware that there are numerous of such laws? There are virtually hundreds of such laws. If I bought a pound of sugar from a grocery store and I went home and it was 14 ounces, the grocer would have to prove that he thought he put 16 in. He'd be guilty until proven innocent.

MR. GREASLEY: Well I am not quite clear how that ties in under labour relations.

MR. GREEN: You said that it's always the case that people are innocent until proven guilty, and I assure you that that is not the general principle of the law.

MR. GREASLEY: I will concede to your well known adroitness at turning a phrase and a technical word.

MR. GREEN: I will concede to your tone.

MR. GREASLEY: Thank you. We came here - this was not prepared by lawyers,

(MR. GREASLEY cont'd) . . . . . it was prepared by a concerned group of people in the industry who came to express their feelings and their opinions on a matter which is of concern to them. It was not intended to be a professional polished approach. We did not come to parry, we came to be honest and open and to honestly give you the feelings of our sector of the industry, whether you accept them, whether you take them, we have no control over that, but we have had an opportunity to a public hearing which is all that we ask for. We have given those points and those are our feelings. If you disagree with us on them, we may disagree with you on some things and we can appreciate your stand. But they are honestly intended and honestly given.

MR. GREEN: We accept your tone.

MR. GREASLEY: Thank you.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, Mr. Greasley, in the opening of your presentation mention is made, as has been made on a number of occasions over the last few days, of the speed with which it appears to some people that we have taken action to overcome what, in our opinion, and this is judgmental of course, to overcome what in our opinions have been outstanding deficiencies in legislation in Manitoba.

I believe I sent you or Mr. Stanton a year or a year and a half ago an invitation asking you to give me, as Minister of Labour, the advantages of your experience and your involvement with the operation of your industry dealing with all aspects of it. And I believe in after having sent out those papers, I further sent out in December a so-called White Paper - really colour doesn't matter these days - in December and then soon after the House started it was caused that the Industrial Relations Committee was called together to consider the components of that so-called White Paper, which was based on representation that was made by the industry as a whole, dealing with the good operation of the industry and the component industries and also the workers and the public at large. Now I believe, Mr. Greasley, that your association is one of those associations whose general operation comes under the Workers Compensation Act, and in particular the Employees Safety Act and the regulations pertaining thereto dealing with the requirement of members of your industry to make provisions for safety in the operation of your industry. I believe, and you can correct me if I'm wrong, but I believe that I caused or the government caused, say it how you will, that an Order-in-Council was passed about two years ago giving to the Workers Compensation Board through the regulations of The Employees Safety Act, the right to issue orders of cease and desist, or where there were unsafe practices prevailing the inspector was given the permission to instruct the constructor to cease operations in the interests of safety under a time limit, and if that was not adhered to - if I recall correctly, please correct me if I am wrong - that if the particular constructor did not do such things as to cause a change so that the work conditions were safer, he could apply to the Labour Board for an order which would be issued forthwith to close down the complete construction. Is that not so? That being - your silence gives to me, and I may be wrong, but indicates to me of what I thought is correct and gives some evidence at least of my knowledgeability of the operation, of what in that instance we tried to do in the interests of the safety of the worker and that in this particular bill, No. 83, what we are endeavouring to do, while not possibly exactly parallel, we're giving authority to almost, in effect, issue cease and desist orders for the protection of the individuals, doing it quickly through an agency such as the Labour Board rather than going through the process of the possibility of a long-term argument before a court, while in the meantime the unsafe or injurious practice may continue. Now in the light of all this, is there any real criticism I ask you? And this is my question. Having this knowledge in our background in the construction industry where we had to put this into effect a mere two years ago - that is issue orders of ceasing work - is it so wrong to proceed even after requests of the industry for that observation, since I believe March of 1974, were issued from the office of the Minister of Labour?

MR. GREASLEY: Mr. Paulley, I think you are probably well aware that in the last few years, at least since I've been connected with this particular association, we have had a continuing interest in providing a safer working place and that we have had discussions with yourself, more particularly long-term discussions with the Workers Compensation Board, we have had safety programs, and we are certainly cognizant of the

(MR. GREASLEY cont'd) . . . . . need for safety on the job site and for improved safety on the job site. There's absolutely no argument about that whatsoever, we're both thinking on parallel lines in that respect. It's unfortunate that we probably couldn't have made both of our presentations on 57 and 83 simultaneously, one following the other. The reading that I get from the membership that I serve, and who have directed me to appear, is the general concern for a shift of power to the Manitoba Labour Board from several areas, and I think it will come up under the other presentations that we have as well too, more so than a specific jumping on this one that hard and saying, in this one particular case, you know. We are concerned that again we are having one of a series rather than that this is the complete villain by itself. But we do acknowledge that certainly safety is of a prime concern and that we should all be having a hand in correcting it.

MR. PAULLEY: Well, Mr. Greasley, I'm up to try and prove to you that I am sometimes a half-decent fellow. My Deputy Minister - and I thank him for correcting me so that I can acknowledge that I have been corrected, so that you don't leave here misled - he informs me that my references to the employee safety regulations under the Workers Compensation, in the case of desist, it was to, not the Labour Board but the labour force. So I did say to you, to the Labour Board, sincerely, but just as sincerely I've been told that I'm wrong. So we'll have no misunderstanding on that. You won't be able to wake up tomorrow morning and say that damn Minister didn't know what he was talking about. As a matter of fact he didn't know but he got corrected. That's all the questions I have, Mr. Chairman.

MR. GREASLEY: Thank you, to the committee

MR. CHAIRMAN: Before you leave, Mr. Greasley, I notice that you are substituting for Mr. Victor Sobkowich. Is that correct?

MR. GREASLEY: As it happened, Sir, Mr. Sobkowich was the first member of the association present on Saturday morning . . .

MR. CHAIRMAN: Oh yes, I see . . .

MR. GREASLEY: . . . and I made the reservations on behalf of . . .

MR. CHAIRMAN: . . . all the ones to make a brief on Bill No. 57.

MR. GREASLEY: Yes, I'm hopeful that Mr. Stanton the President, who has prepared the brief, will be here to make that himself.

MR. CHAIRMAN: Fine, thank you.

MR. GREEN: Tomorrow evening.

MR. GREASLEY: The time, Sir?

MR. GREEN: Tomorrow at eight. What I'm suggesting to the members is that we now meet tomorrow at eight for everything that is left. If we happen to get to committee earlier tomorrow we will be able to deal with those briefs so we've heard all the representations. --(Interjection)-- Pardon me? There are four bills, I think that we've heard all representations. We'll come back at eight and hear the remaining representations and try to deal clause by clause with what we've heard . . . (No mike)

MR. PAULLEY: We will meet tomorrow night at eight o'clock regardless.

MR. CHAIRMAN: Before the committee adjourns, just for their information, we have completed the hearings on Bills 14, 15, 83 and 85.

MR. GREEN: So we'll be able to deal with them clause by clause if we happen to get out of the House early.

MR. CHAIRMAN: Right. I'll give the names of the people that I have remaining before the committee and on the bills on which they'll be heard. Mr. Art Coulter on Bill 16; Mr. Walter Jackson on Bill 57; Mrs. N. Galevich on Bill 16; Mrs. O. Neufeld on Bill 16; Mr. Greasley or Mr. Stanton on Bill 57; Mr. Frederick Bennett on 16; Mr. Harry Zasitko on Bill 16; Pastor Harry Van Eek on Bill 57 and Mr. J. Steele on Bill 57.

Committee rise.