First Session - Thirty-Seventh Legislature

of the

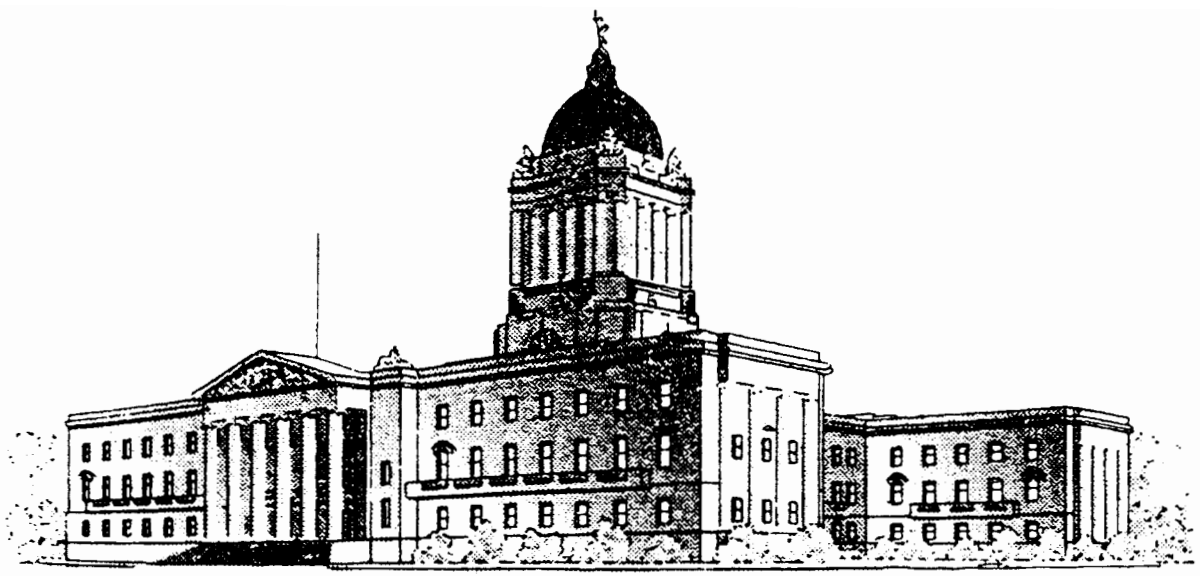
Legislative Assembly of Manitoba

Standing Committee

on

Industrial Relations

Chairperson
Mr. Daryl Reid
Constituency of Transcona



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Thirty-Seventh Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS

Monday, August 14, 2000

TIME – 6:30 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Daryl Reid (Transcona)

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

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Ms. Barrett, Hon. Ms. Mihychuk, Hon. Mr. Robinson

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

APPEARING:

Hon. Jon Gerrard, MLA for River Heights
Mr. Darren Praznik, MLA for Lac du Bonnet
Mr. Larry Maguire, MLA for Arthur-Virden
Mr. Marcel Laurendeau, MLA for St. Norbert

WITNESSES:

Bill 18–The Labour Relations Amendment Act

Mr. Roger Cameron, Railway Association of Canada
Mr. Gordon Peters, CANDO Contracting
Mr. Doug Olshewski, Canadian Auto Workers
Ms. Wendy Sol, Communications, Energy and Paperworkers Union Canada
Mr. Al Cerilli, President, Manitoba Federation of Union Retirees
Mr. Rob Hilliard, Manitoba Federation of Labour

Bill 44–The Labour Relations Amendment Act (2)

Mr. Gordon Peters, CANDO Contracting
Ms. Joyce Reynolds, Senior Director, Government Affairs, Canadian Restaurant and Food Services Association
Ms. Jan Speelman, President, Manitoba Teachers' Society
Mr. Roy Eyjolfson, Seagram Company Limited
Ms. Heather Ostop, Private Citizen
Mr. Peter Woolford, Retail Council of Canada and Retail Merchants Association of Manitoba
Mr. Robert Desjarlais, United Steel Workers Union Local 6166
Mr. Sidney Green, Private Citizen
Ms. Irene Merie, Chair of Board, Winnipeg Chamber of Commerce
Mr. Murray Sigler, Winnipeg Chamber of Commerce
Mr. Rob Hilliard, Manitoba Federation of Labour
Mr. Jim Carr, Business Council of Manitoba
Ms. Candace Bishoff, Chairperson, Manitoba Employers Council
Mr. Dan Overall, Manitoba Chambers of Commerce
Mr. Edward Huebert, Mining Association of Manitoba
Ms. Brenda Andre, Perkins Family Restaurants
Mr. Terry Cooper, Manitoba Association of School Trustees
Mr. Jim Baker, President and Chief Executive Officer, Manitoba Hotel Association

WRITTEN SUBMISSIONS:

Bill 44–The Labour Relations Amendment Act (2)

Mr. Bryan Walton, Vice-President, Western Region, Canadian Council of Grocery Distributors

Ms. Shirley Canty, Manitoba Motor Dealers Association

MATTERS UNDER DISCUSSION:

Bill 18–The Labour Relations Amendment Act

Bill 44–The Labour Relations Amendment Act (2)

Mr. Chairperson: Good evening, ladies and gentlemen. Will the Standing Committee on Industrial Relations please come to order.

The NDP caucus chair, the PC caucus chair and the Honourable Member for River Heights (Mr. Gerrard) were advised by letter, dated August 10, 2000, by the Clerk of the Legislative Assembly, that staff from Information Services may be in attendance in order to videotape parts of this meeting for inclusion in the *A Day in the Life of the House* video. As you will notice, Information Services is in attendance this evening to videotape parts of this committee meeting.

This evening the Committee will be considering the following bills: Bill 18, The Labour Relations Amendment Act; Bill 44, The Labour Relations Amendment Act (2).

We have presenters who have registered to make a public presentation on each of these bills. It is the custom to hear public presentations before consideration of bills. Is it the will of the Committee to hear public presentations first? *[Agreed]*

In what order does the Committee wish to hear the presentations?

Mr. Scott Smith (Brandon West): I would suggest 18 and then 44.

Mr. Chairperson: Is there agreement? *[Agreed]* Thank you. We will hear Bill 18 first.

I will read the names of the persons who have registered to make public presentations this evening from a list that we have. I will read them in order from registry: Sidney Green. Roger has been possibly changed to Bill 44. This is dealing with Bill 18. Second, we have Roger Cameron from the Railway Association of Canada; Gord Peters, Cando Contracting; Karen Naylor, Canadian Autoworkers Union; Wendy Sol, Communications, Energy and Paperworkers Union Canada; Al Cerilli, Manitoba Federation of Union Retirees; and Rob Hilliard, Manitoba Federation of Labour.

* (18:40)

Those are the persons who are registered to speak on Bill 18. For Bill 44, we have a number of presenters that are registered here this evening. I will read them. We have Irene Merie, Rob Hilliard, Jim Carr, Candace Bishoff, Dan Overall, Paul Moist, Edward Huebert, Joyce Reynolds, Doug Stephen, Brenda Andre, Terry Cooper or Craig Wallis, Dan Kelly, Jim Baker, Peter Wightman, Bernard Christophe, Colin Robinson, Bruce Buckley, Brian Etkin, Grant Ogonowski, Ron Hambly or Alfred Schlieer, Jan Speelman, George Floresco or John Friesen, Cindy McCallum or David Condon, Gord Peters, Brian Short, George Fraser, Jonas Sammons, Maureen Hancharyk, James Hogaboam, Kenneth Emberley, Darlene Dziewit, Julie Sheeska, Edward Zink, Donna Favell, Joy Ducharme, Alice Ennis, Heather Ostop, Linda Fulmore, Kelly Gaspur, Colin Trigwell, Larry McIntosh, Graham Starmer, Roy Eyjolfson, Chris Christensen, Peter Woolford, Gerry Roxas, Dale Paterson, Jerry Woods, George Bergen, Maria Soares, Neal Curry, Bob Dolyniuk, Bob Stephens, Ilene Lecker, Lydia Kubrakovich, Darrell Rankin, Jim Murray, Todd Scarth, John Mann, Rod Giesbrecht, Buffy Burrell, Albert Cerilli, Robert Desjarlais, Richard Chale, David Martin, Ron Teeple, Peter Olfert, Randy Porter and Grant Mitchell. Those are the names we have listed for Bill 44. We also have one additional name that has just been brought to our attention, Robert Ziegler. Those are the persons that are registered to speak to Bill 44 this evening.

I wish to draw to the attention of the members of the Committee an oversight that has occurred with respect to one of the presenters, Mr. Sidney Green, who had been registered to present on Bill 18. Is it the will of the Committee

to allow Mr. Green to be the first presenter on Bill 44, which was, I believe, his original preference, first in-town presenter?

Mr. Marcel Laurendeau (St. Norbert): Mr. Chair, just to inform the Committee that we have gone through when Mr. Green registered, and that is where it would place him on the list.

Mr. Chairperson: That is correct.

Mr. Laurendeau: I have one other issue on committee business, Mr. Chair. Because we will be more than likely dealing with out-of-town presenters, can we clarify one thing: What an out-of-town presenter is? I do believe that we had to do this last year because we had some people registering with their cottages out of town so they could get on the list first. So I would ask if anybody has used their cottage as their registration that they be dropped to the bottom of the list, okay, and, Jan, that is you.

Mr. Chairperson: Thank you, Mr. Laurendeau. What is the will of the Committee with respect to out-of-town presenters?

An Honourable Member: Out of town first.

An Honourable Member: Out of province first.

An Honourable Member: Out of province, and then out of town.

Mr. Chairperson: I thank members of the Committee. If there is anybody else in the audience that would like to register or who has not yet registered and would like to make a presentation, would you please register at the back of the room? There is a Clerk's table at the back, and they would be pleased to add your name to the list.

I would like to remind presenters that 20 copies are required of any written version of presentations. If you require assistance with photocopying, please see the Clerk of this committee. I have been informed that one or more presenters are from out of town. Did the Committee wish to grant its consent for out-of-town presenter to be heard first? *[Agreed]*

How does the Committee propose to deal with presenters who are not in attendance today but have had their names called? Shall these names be dropped to the bottom of the list? Shall the names be dropped from the list after being called twice?

Mr. Laurendeau: As long as they are only dropped the one time today, and as the Committee is being called tomorrow, they can be read the second time tomorrow morning or tomorrow evening.

Hon. Becky Barrett (Minister of Labour): I would suggest that they be read a first time this evening and then another time tomorrow morning but not be dropped from the list unless they have been read for tomorrow evening because there will be people who may be able to make it in the evening who could not make it in the morning.

Mr. Chairperson: So the Committee agrees then that the names of presenters will be called once this evening and then will be called again tomorrow. *[Agreed]*

An Honourable Member: Twice tomorrow.

Mr. Chairperson: Twice tomorrow. I stand corrected.

I would also like to inform the Committee that written submissions have been received from several individuals: Bryan Walton, Canadian Council of Grocery Distributors; Keith McDougall, Canadian Federation of Independent Grocers; and Shirley Canty, Manitoba Motor Dealers Association. I believe members of the Committee have copies of the presentation that have been distributed. Copies of these briefs have been prepared and distributed for you prior to the start of this meeting.

Does the Committee grant its consent to have these written submissions appear in the committee transcript for this evening? *[Agreed]*

As a point of information for all in attendance, this committee has been scheduled to meet again tomorrow morning, Tuesday, the 15th of August, 2000, at 10 a.m. If necessary, the Committee will also meet tomorrow evening at 6:30 p.m. As a courtesy to persons waiting to

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

Mr. Smith: Mr. Chairperson, I would suggest we sit until midnight tonight and then at that time peruse the audience to see if we need to extend the time past that.

Mr. Chairperson: Is there agreement of committee members for it to be reviewed at midnight? *[Agreed]*

Before we proceed with the presentations, is it the will of the Committee to set time limits on presentations?

Mr. Smith: Mr. Chair, I would suggest we go with the 15-minute presentation time and a 5-minute question period time.

Mr. Chairperson: Is there agreement of the Committee?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Mr. Harry Enns (Lakeside): Mr. Chairman, the question of setting time limits is not set in stone by traditional regulation. I am well aware that previous governments have, from time to time, set time limits, but it is at all times up to the Committee to set the rules by which they wish to govern themselves. I sincerely suggest to you, in view of the interest, the public interest and the import of this bill that we consider being somewhat more generous in our time. I am suggesting 20 minutes for presentations and 10 minutes for questioning.

Mr. Smith: Mr. Chair, one more time, I fully agree with the Member that we need to sit in the public interest and hear everybody who is here to present, and I know he mentioned previous governments, being the past government, had set precedents on almost all bills that were presented. I know in Bill 26 it was set at 10 minutes and 5 minutes. I think this increases it 50 percent to make sure that we can hear as many people as we possibly can on this issue. This is about giving people the opportunities to be out there, so I would like to stick with the 15 and 5.

Mr. Chairperson: Are you making this in the form of a motion, Mr. Smith?

Mr. Ron Schuler (Springfield): Actually, I had a motion, Mr. Chair, and that was I was going to move that we make it 20 minutes for presentations and 10 minutes for questions.

Mr. Chairperson: It has been moved by Mr. Schuler that the time lines be 20 minutes and 10 minutes for questions. The motion is in order. Is the committee ready for the question?

An Honourable Member: Question.

Mr. Chairperson: The question before the committee is as follows: That the time lines be 20 minutes and 10 minutes for questions. Shall the motion pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

Voice Vote

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

Some Honourable Members: Yea.

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

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it. The motion is accordingly defeated.

* * *

Mr. Smith: I would suggest, Mr. Chair, as I presently did, that it be 15 minutes for presentations, 5 minutes for questioning.I have it written, and I would move such.

Mr. Chairperson: It has been moved by Mr. Smith that the time allowed be 15 minutes for presentations and 5 minutes for questions. The motion is in order. Is the committee ready for the question?

* (18:50)

Mr. Laurendeau: I was wondering if he might be ready for a friendly amendment and move that questioning from five minutes, which allows the Minister one question and us one question, if we are lucky. If he would just be able to move it to ten. I have seen how succinctly the Minister can answer her questions in Question Period, so I am sure the questions could be put the same way. A friendly amendment to ten minutes would be reasonable.

Mr. Chairperson: Mr. Smith, are you willing to accept the friendly amendment as he stated?

Mr. Smith: Unfortuntely, no.

Mr. Chairperson: The question before the Committee is as follows: that the time limit be fifteen minutes for presentations and five minutes for questions. Shall the motion pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

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

Some Honourable Members: Yea.

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

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion the Yeas have it. The motion is accordingly carried.

Bill 18–The Labour Relations Amendment Act

Mr. Chairperson: We will now call on the presenters as listed on the Standing Committee on Industrial Relations, Bill 18. The first person listed as out-of-province presenter is Mr. Roger Cameron of the Railway Association of Canada. Is Mr. Cameron here this evening? Please come forward, sir.

Good evening. Do you have copies of your presentation?

Mr. Roger Cameron (Railway Association of Canada): Yes, I have given them to the Clerk.

Mr. Chairperson: Before you proceed, Mr. Cameron, if you might indulge me. Just for information for members of the audience here this evening, we have set up Room 254 just down the hallway of the Legislature here as the overflow room for members of the public who may wish to hear these presentations from that particular setting. Please access that facility down the hall. You may proceed, Mr. Cameron.

Mr. Cameron: Canadian railways are part of the North American railroad network. They handle more than 5 million carloads and containers of freight and transport more than 45 million rail commuters and intercity travellers annually within Canada. The Railway Association of Canada speaks on behalf of six railways operating in Manitoba and the 48 other railways operating in Canada which represent virtually all freight and passenger rail activity in Canada.

The railways provide, manage and maintain their own infrastructure, unlike our principal competitors the trucking industry which rely on provincial taxpayer support to provide and maintain the overburdened road network.

When the Canada Transportation Act was passed in mid-1996 there were 31 members of the Railway Association of Canada. Today there are 54 member railways. On average, there has been one new railway company created in Canada every two months since mid-1996. All the short lines and regional railways in Manitoba affected by or interested in the issues before you today have been created since that time.

Manitoba's railways employ more than 5400 workers, meet an annual payroll of some $323 million, purchase some $216-million worth of goods and services and make capital investments to modernize their equipment and facilities in excess of $82 million a year. As well, they pay approximately $42 million a year in property, fuel and corporate taxes to the Province. In Manitoba, 1727 kilometres of track has been transferred to new owners and operators since mid-1996. Operation of only 364 kilometres of track in the province were discontinued during the same period.

The new short lines and regional railways have successfully retained existing traffic through the North American rail network and have grown their business. Eighty-seven percent of freight customers are satisfied with the service provided by short lines, according to findings of the Angus Reid Group.

It is important to note that the legislation in Saskatchewan and British Columbia deals with the very concerns the RAC raises in our submission. In addition, the British Columbia Labour Relations Board, in the Esquimalt and Nanaimo Railway decision last year, which is attached to the submission, has applied these principles in a similar manner. In essence the Board recognized that there are two significant differences between the labour relations considerations of a transcontinental railway and a short-line railway.

First, with respect to contract structure, it was found unreasonable for legislation to require a small railway of 31 employees, in that case, to accommodate labour contracts with five different unions as in the case of the operation of a transcontinental railway.

Second, the Board deemed that there was a difference in the nature and financial significance of a national railway versus a short-line railway to the Canadian economy. The Board found that what may be appropriate for a large industrial employer in the federal setting has little in common with what is appropriate for a smaller employer in a single province whose provincial competitors may be local truckers, most of which would be non-unionized owner operations.

The proposed language put forward by the RAC in appendix 8 is similar to provisions in The British Columbia Labour Relations Code and The Saskatchewan Trade Union Act. These revisions would permit the Manitoba Labour Relations Board to establish bargaining structures that may be appropriate for a short-line railway and to consider the important labour-relations considerations involved with these enterprises. Our submission is intended to assist the Government in its effort to develop new, innovative and sustainable short-line railways in the province, viable railways that will generate an array of local economic opportunities in Manitoba.

As currently drafted, certain aspects of Bill 18 would likely inhibit the start up of short lines in Manitoba and mean that lines that might otherwise be transferred for continuing operation would be discontinued.

I would like to thank you for the opportunity to present our recommendations on this important bill before the Legislature. Thank you very much, Mr. Chairman.

Mr. Chairperson: Thank you, Mr. Cameron.

Hon. Becky Barrett (Minister of Labour): Thank you, Mr. Cameron, for your presentation and particularly for the documentation that is accompanying your presentation. Please rest assured that we will take a look at your concerns and we will take them very seriously.

Mr. Cameron: Thank you very much.

Mr. Harry Enns (Lakeside): Mr. Cameron, those of us in rural Manitoba have, with regret, watched too much of our rail disappearing in the past two decades and are, in fact, encouraged by the development of short line and regional carriers, the people that you represent. Simply to underline the point that you made in the last paragraph of your presentation, your association believes the passage of this bill, Bill 18, will inhibit or will make the development of short lines more difficult in Manitoba.

Mr. Cameron: As it stands at the moment, we believe that would be the case. The simple fact is that the principal competition for short-line and regional railways is in most cases the local trucking industry.

Mr. Ron Schuler (Springfield): Mr. Chairman, I would be willing to defer to the Leader of the Liberal Party. I understand he had his hand up.

Mr. Enns: I just wanted, while we have this gentleman before us who is familiar with the legislation governing short and regional lines across Canada, to your knowledge, is this type of legislation that is being proposed here in Manitoba unique?

* (19:00)

Mr. Cameron: It is at this time, yes.

Hon. Jon Gerrard (River Heights): I wonder if you could clarify whether, in your view, it would be possible to amend this legislation, or whether it would be far better just to kill it.

Mr. Cameron: We believe that it can be amended and address the issues that we have raised.

Mr. Gerrard: Could you outline specifically the changes that you would need?

Mr. Cameron: In Appendix 7 of the submission, we have addressed the proposed language to do that. If you wish, I can read that into the record. Do you wish me to proceed?

Mr. Schuler: I do have one question to Mr. Cameron, and clearly, we are all concerned with short lines in Manitoba because it impacts our rural economy, and whatever undermines short lines certainly is something that undermines our economy in the rural area.

My question to you is, Mr. Cameron, there has been a lot of confusion in regard to what exactly is transferred. For instance, are you under the impression that, if 250 kilometres of railway line is bought up by a short line, you also get a union with that or are you under the impression that unless you buy rolling stock or you actually buy a facility that has unionized workers, that is first when you would get a union with it?

Mr. Cameron: If you are going to operate a railway, you need both.

Mr. Schuler: Just for clarification, but there are short-line railways that are interested in just track, right? They just buy real estate. Does that mean you would also get the union with the track, or do you have to buy physically rolling stock or buildings or production facilities for you to have the union transferred over?

Mr. Cameron: I am not aware of any short-line railway that would only buy track.

Mr. John Loewen (Fort Whyte): Thank you for your presentation, Mr. Cameron. I appreciate the fact I think you come from Montreal, and we saw you before committee one other time under Bill 20, and you have been very patient to come a long way on two occasions for a somewhat limited access to the Committee.

My understanding is that certainly with short-line railways it is not unusual for employees, who I guess were limited because of restrictions in their labour contract under a national situation, to do the duties that maybe two or three employees would have had to perform under a national contract when they become part of a short-line operation.

Mr. Cameron: You are talking about essentially very, very different business structures between a short-line and a national carrier. The short line is a local business in every sense of the word, and that is why they have been as successful as they have.

One of the main characteristics of that success has been in local service to customers and the flexibility and local knowledge of people in business opportunities. The needs of different types of business for frequent switching, for example, all play to the ability of a local workforce that is able to respond quickly and with innovation to those customers' needs.

Mr. Chairperson: Thank you, Mr. Cameron. That concludes the time allocated for questions.

Mr. Loewen: I would ask for leave to extend the question period?

Mr. Chairperson: Is it the will of committee to allow for an extension of the questions?

An Honourable Member: No.

Mr. Chairperson: Leave has been denied. Thank you, Mr. Cameron. The next presenter on the list is Gordon Peters, CANDO Contracting. Is Mr. Peters in the audience? Do you have copies of your presentation, sir?

Mr. Gordon Peters (CANDO Contracting): Yes.

Mr. Scott Smith (Brandon West): I wonder if it would be the will of the Committee, Mr. Chair–I know Mr. Peters has come from out of town, as well, and he is presenting on two bills, Bills 18 and 44–to allow Mr. Peters to do both presentations at the same time, as opposed to coming back much later in the evening.

Mr. Chairperson: This is not the regular practice of the Committee. Is it the will of the Committee to allow Mr. Peters the opportunity to present on both bills? I believe the recommendation was the time allocated would be comparable to a dual presentation. Is that your will, Mr. Peters?

Mr. Peters: Thank you very much. I feel honoured.

Mr. Chairperson: You may proceed, sir.

Mr. Peters: Thank you. Madam Minister, ladies and gentlemen, it is great to be here tonight. In the special honour of this, I am not sure we will double up the time, because I do not know if there is that much to talk about. But I will go ahead and do it. My name is Gord Peters. I am the President of Cando Contracting of Central Manitoba Railway here in Manitoba. A little company background is to the left in your folders. It is really the issue we are talking about tonight. There is background information on Cando and Central Manitoba, to the right, just to let everyone know what we are.

To go into it, Cando Contracting is a full-service railway company that operates several short lines and railway switching contracts in Canada. Cando is a Canadian, employee-owned company with headquarters in Brandon, Manitoba. Central Manitoba Railway, CMR, is a wholly-owned subsidiary of Cando, and was the first provincially licensed railway in Manitoba in April of '99.

Central Manitoba Railway operates a line from Winnipeg to Pine Falls, which is about 65 miles, and a second line from Winnipeg to Graysville, about 55 miles. CMR began operations in May of '99 upon obtaining a licence from the Manitoba Motor Transport Board. Currently we employ 21 people. From May '99 to February of this year, we paid out about $615,000 in direct wages. Also at this time, we purchased about $1.5-million worth of products and services from other Manitoba companies; paid $130,000 in property taxes; paid $16,000 corporate capital tax and $33,000 fuel road tax in our locomotives that ran down our own railroad line, and not down the roads.

This preceding information is included just to illustrate that a short-line railway does, in fact, have a definite benefit to the Manitoba economy, and should be considered when reviewing the following. Just to add to that, we also operate the Barrie-Collingwood Railway in southern Ontario. The only reason I mention it is that particular railroad is owned by a municipal government. They have contracted with us to do the operation. So we work together in partnership, sometimes with municipal governments; sometimes if it warrants it, we will buy it ourselves, or a combination thereof, whatever happens. I have left Mr. Rick Newlove's phone number there, if anyone wants a contact person to find out how it is working down there. You are welcome to give him a call.

Cando credits its success in today's competitive business environment with its ability to develop a high performance empowered team of employees. These employees must be able to perform a diverse array of tasks in order for Cando to succeed. One of the programs that Cando has introduced to help in developing this team approach has been an employee-ownership program. Since the program's introduction in 1996, employee ownership in Cando has increased to 70 percent of our employees owning approximately, today, 35 percent of Cando. Cando Central Manitoba matches these employee contributions in this program, very similar to what many companies contribute towards pension contributions.

An indirect benefit of this plan, that we found out over the period of running over the last four years, is that the education it gives employees on the benefits–and I stress the responsibilities of ownership–has been a great success. But it has been with a learning curve. I am very pleased with the progress we are making in it. This education spills out in our employees own personal lives, understanding what ownership and different things mean. We

have seen a very strong group of people that have developed their skills and a knowledge of the business world that improve greatly, which makes me proud.

We feel we would lose this ability to provide this plan should the proposed legislation be enacted. Most federally governed union contracts have a defined pension plan that has to be adopted under this legislation. That is one of the big concerns we have.

Our Employee Ownership Program was facilitated by Crocus Investment Fund, a Manitoba-based, labour-sponsored, venture capital fund. With their help, we have ensured that the money in our plan stays in Manitoba, unlike the majority of pension plans where the money, at the very least, leaves the province, if not the country. Through Crocus, many of Manitoba's top companies have introduced or are planning to introduce similar programs for their employees.

* (19:10)

The recent phenomenal growth shown in this high-tech industry has proven that employee participation in ownership can be a very useful tool in recruiting and keeping key employees. We feel that this tool will be taken away from us with the introduction of this legislation, and it will be extremely difficult to keep young, educated employees in Manitoba. We must work harder at producing positive labour legislation that will deal with the issues ahead of us and not those that occurred in the past. Legislation that promotes and encourages employees to invest in themselves will have a greater impact on improving the health and well-being of our province in the future than trying to foster a relationship that pits one side against the other.

We agree that at one time unionized protection of employees was important and unions served a very useful purpose in protecting the rights of employees. Business practices have evolved since that time, with the majority of businesses today realizing that it is the people they employ that make the business successful. Manitoba business, and in particular Cando, has made great strides in fostering an educated and empowered workforce in Manitoba. The proposed legislation, both Bills 18 and 44, increases the gap between employees and management, creating an us-versus-them attitude, which in our opinion is a huge step backwards.

The short-line industry is one of the few industries that will be directly affected by Bill 18 more than 44. The Manitoba Government must be made to realize that our industry, a short-line railroad, cannot survive run under the same employment rules or labour contracts designed for a Class I railroad. The major concern with adopting the employment rules or labour contracts of a Class I railroad is not the wage or benefit level being paid to the employees, but deals with the work rules that these employees use. As a short-line operator, we generally require fewer employees with more diverse job descriptions. We need our employees to be more adaptable and to perform various tasks that they may not be required to under current contract labour. This is one of the major reasons that a short-line operator can operate a line more effectively and customer friendly than a Class I.

The competition of a short-line railroad is not other short-line railroads, regional railways or Class I railways. The true competition for our industry is the trucking industry. We feel that this legislation gives further competitive advantage to the trucking industry, as it would rarely ever apply to them. All we ask for is a level playing field.

Just a quick side note. As a director of the Manitoba Chamber of Commerce, the Chamber is also concerned about Bill 18 on the redevelopment of Pinawa. Does this facility hold the opportunity to forge ahead in the world of atomic energy waste management? If that is true, you ask yourself why Bill 18? Will it damper the effects of allowing an entrepreneur room to attract the best and brightest staff to develop a business plan for this facility? It is just something to think about.

We always like to come forward with solutions. We have listed four solutions, as we see it, if Bill 18 is passed. I was having a great summer until all this came about, but anyway we will deal with it as it goes. If Bill 18 is passed, one of the things is to modify the proposed

legislation only to include businesses affecting 10 or more employees. There are similar rules. Saskatchewan has rules like that. It just does not make sense, in our opinion, to apply it to all because there are some very small operations out there that are going to be affected by this with under 10 people.

We talk that providing an amalgamation of several bargaining units into one bargaining unit representing the affected employees might be another possibility, and provide the purchaser of a business the ability to renegotiate existing labour contracts to better reflect the needs of the business that evolves is another possibility. I would like an end. You know we should enact progressive legislation that encourages and promotes Manitoba employers and employees to invest in the province and themselves. It is a very critical. Thank you for hearing me tonight.

Mr. Chairperson: Thank you, Mr. Peters.

Mr. Enns: Let me take this opportunity, Mr. Peters, to express my appreciation for the fact that you are in business. For the benefit of my urban colleagues on the Committee, it may not seem important to keep a 65-kilometre, or 100- or 200-line operating, but I can assure you it is the very lifeblood of some of the communities that are impacted by that.

Again, my simple question: Does the combination of this legislation make it more difficult for a short-line operation to be set up in Manitoba, in your opinion?

Mr. Peters: As it stands, we heard about different amendments that might be coming forward. To date, I have heard nothing, or have never received anything, put it that way. Bill 18, the succession rights, there are a couple of opportunities we are looking at in Manitoba. We envision our company the way we manage it today, a high performance team, employee owners. They own it. How are we going to incorporate that or try to go after this opportunity side by side? We were already looking at a couple of situations where we would share equipment and that. In my opinion, it is going to make it very difficult and impossible for us to move ahead on these opportunities.

To that end, I received a call today from Seagram in Gimli expressing deep concern, Mr. Eyjolfson, up there, about what impact it is going to have in this facility, because we have been looking at that line. I have told them point blank that, unless we get some things changed, it is going to be very difficult in our situation to look at it.

Ms. Barrett: Thank you, Mr. Peters, for your presentation. As I stated to Mr. Cameron before you, before the legislation gets out of the committee stage, we will be addressing your concerns or taking them under advisement for sure.

Mr. Gerrard: I take it from your comments that it really is absolutely critical that there be some changes to this legislation if you are going to continue to operate short-line railways in a reasonable fashion in Manitoba.

Mr. Peters: I think one of the things that maybe somebody asked me today, why we have been so successful in the short-line business, and some of them have been questionable how they made out. One of the things we look for is more than the railroad business. When we go and look at an opportunity, I am just working on one right now, it is not only a short line but also a loading contract. So this is something that the railroads never did, never involved with. I am trying to figure out now if there was legislation. We had to take the unions. I do not even know where they fall under it, because the railroads do not do that type of work, yet it would be all under our bill or our corporate logo. Unless we spend a lot of money trying to figure out how this is going to go, I do not know. I just cannot figure out how to integrate the two together.

We have already started down the course with Crocus, with their employees on an ownership program. To blink now and change it, I am trying to think of how we do it. I have not come up with any answers on how we can successfully do that. Can I start another company, unionize and do it? I suppose we can, but at my age and that, I would prefer to go the one course we are going, the team we got, because the formula has proved very successful to customer concerns like Seagram, to different groups like that, that we can get the job done,

and we can keep traffic on the rail and not put it on the truck.

Mr. Jim Rondeau (Assiniboia): I find your share purchase pension plan very, very interesting, especially how it involves Manitobans investing in Manitoba, so I would like to ask you whether you are willing to share some of that information with me, being as it is a personal interest of mine, and I think we, as a government, might be very interested in that information.

Mr. Peters: I get quite excited about that one, so I can jump over the table on that. That is something that, when we were looking at our employee ownership, led me to Crocus because of their mission statement and what they are saying. Their beliefs and ours are very similar, and to that end, I can tell you that our board of directors, Sherman Kreiner, CEO of Crocus, sits on our board, and that is another thing that we are quite proud of at CANDO. Angus Reid did a poll on the companies that are employee owner now. They did a poll on who was having the best results, who was empowering their employees. I know CANDO's results were, you can take Sherman and his word for it, but we blew everybody away, what we were doing different.

I speak long and hard about employee ownership. I am a serious believer in it. I am a founder of this company, but to me it is an absolute logical way to lead business in the next 25 years, is get to the ownership side.

Mrs. Joy Smith (Fort Garry): I was really impressed with your presentation, Mr. Peters, and the whole aspect of working in partnership with employees and ownership and having the opportunity to have a partner in the actual process.

Mr. Peters, what do your employees think of Bill 18? Have they spoken out in support, or are they tentative about it? Is there any good in this bill whatsoever?

Mr. Peters: This is one of the days that I am not sure I should be making the speech here, quite frankly.

An Honourable Member: Sure you should.

Mr. Peters: We are a young company, and I got delegated the job to come in and speak to it. They spoke to us. Every group has got the right to organize if they want. I do not disagree with that. I think it is a sign of poor management. If we do not address the issues of employees, we are going to get unionized too. It is as simple as that, in my opinion.

* (19:20)

They have spoken out, employee ownership. We did a seminar for Crocus at the U of M. We had four staff come in and talk about it because really the employee ownership is not about me either, it is about what it did to the employees. They have spoken out about it. Their concern, their investment. We have got a hundred staff who have bought into the shares of CANDO. Our plan was to expand, especially in Manitoba, other areas also, but expand in Manitoba, and then to have this come forward.

I was here a couple of weeks ago with another problem in the railroad industry too, so we are spending a lot of time here. That is something that we never did see come. I would like to get it behind us and get on with business.

Mr. Chairperson: Thank you, Mr. Peters. That concludes the time for questions on Bill 18.

Bill 44–The Labour Relations Amendment Act (2)

Mr. Chairperson: Did you wish to proceed with your presentation on Bill 44?

Mr. Gordon Peters (CANDO Contracting): My presentation is in there. That is all I got. That is all I have got to say as far as Bill 44. The issue really from 44 comes as a Manitoba business-person. I sit on the Manitoba Chamber of Commerce, the Manitoba Business Council, and I am very concerned with Bill 44. We are a non-union group so really I can say it does not affect me.

It does affect me as a Manitoban what signal we are putting out. I look to the high-tech industry, the leaders of the new management techniques and things like that, and I am

concerned that we are sending out the completely wrong profile to the North American economy, the workplace. We are sending out the wrong rules. Maybe this applied 15 years ago. I do not think it applies, a lot of these things, in the future ahead. We have got to find better ways of working together as a team, and we have got to work at that.

Mr. Harry Enns (Lakeside): If I understood you right, Mr. Peters, you indicated that you are now kind of speaking as a member of the Manitoba Chambers of Commerce?

Floor Comment: Yes.

Mr. Enns: Mr. Peters, the President of the Manitoba Federation of Labour has identified people like you as being nuts, crazy and on the lunatic fringe. Do you consider yourself a lunatic, Mr. Peters?

Mr. Peters: I have to take a while to answer that one. No, I do not.

Mr. John Loewen (Fort Whyte): Mr. Peters, thank you again for your presentation on both these bills as well as your attendance to Bill 20. If all three of these bills proceed, Bill 18, Bill 20, Bill 44, would you say that that tilts the playing field considerably more to people looking for places to invest, certainly tilts the playing field toward B.C., Alberta, Saskatchewan or Ontario as opposed to making investment in Manitoba given the nature of these three bills?

Mr. Peters: I think if anybody wants to check Ontario when they had succession rights come in never had a short-line railroad until they enacted. It really does affect the railroad industry. What really is wrong about it is–I mean there are reasons why CN and CP have got rules. They run good railroads. They run good, safe railroads, and they have those rules for reasons, but a lot of their rules on work are completely different than ours. To try to run one to the other, it is the same. We run into this, so why do we not have paved highways all over the province? We could say gravel roads are unsafe to run on. We have got to learn to deal with certain sizes of business and certain aspects.

I really believe that we are getting caught in this. There only are two or three more lines in Manitoba. We are talking about probably less than 15 people in this whole thing. You talk to Seagram at Gimli what impact it is going to have on them. I know that we are going to have it very difficult making investments in Manitoba if these pass and unless there are some changes made to them.

You talked about Bill 20, The Provincial Railway Act, the changes. I really have got to commend the Committee and whoever is involved in the changes that went through. It is something we can live with now. There were lots of changes made on that from what we first heard, so I appreciate that. That is going to help us on that aspect of it.

Mr. Ron Schuler (Springfield): Mr. Chairman, and to you, Mr. Peters, at any time during your discussions with the Minister of Labour (Ms. Barrett), did you ever indicate to her that to expand your business or to invest further in Manitoba you needed a bill like Bill 44? Should Bill 44 go through, do you see that as being a catalyst for further investment in Manitoba?

Mr. Peters: Once again, I said we are non-union, so Bill 44, unless we are unionized, I do not see where it has any impact on us. I have not talked to the Minister on it. I am making this presentation tonight, as I said, Bill 44, as a Manitoban. I think we are sending the wrong signal compared to, say, the high-tech employee ownership. I would like to be dealing with other issues.

We are going to send out the wrong impression to the rest of the world if this is passed, in my opinion.

Hon. Jon Gerrard (River Heights): Let me just briefly pick up on that last comment. Essentially, what you are saying is that instead of Bill 44, we should have a government which is looking at the models that your short-line railway and the high-tech industry that would really promote dynamic employee participation in business rather than the older models of the past.

Mr. Peters: I really get upset, us against them. I am an individual who has led a company as a founder, and I am quite willing to share the benefits of the upside of the equity thing in this,

as long as there is an understanding of what that is. And I am not kidding you, there has to be an understanding of what ownership responsibilities are.

I think there are great ways to do it in the world today. I think that Silicon Valley–I mean, I look at Pinawa and say that some entrepreneur who has got this figured out is going to make this work, is going to bring the best and brightest into our province, and yet there is this thing of Bill 44, Bill 18 standing in the way, discouraging that. To me, it just does not make good sense, and I do not like sending out the wrong impression. I like to tell our employees: We are here together; we are going to invest together; we have proved it in over four years. Crocus has been a very beneficial partner in our growth and our success with the money we have made them, but I am proud to make them money because they took the risk with us.

Mr. Loewen: Mr. Peters, you mentioned Bill 20 and prior to coming to committee you had had some discussions and others had discussions with the Minister of Highways (Mr. Ashton), who is responsible for it. We had indication prior to the sitting of committee, and in fact we had the amendments that were presented prior to committee. Do you have any indication from the Minister of Labour (Ms. Barrett)–have you received any amendments that the Government is willing to look at with regard to Bill 18?

Mr. Peters: No, I have not at this stage, but I might not have been on the list. I am not sure who gets them.

Mr. Chairperson: Thank you, Mr. Peters. That concludes the time for questions.

Bill 18–The Labour Relations Amendment Act

Mr. Chairperson: Next presenter on the list is Ms. Karen Naylor. Ms. Naylor, please come forward if you are in the audience.

Floor Comment: I am not Ms. Naylor.

Mr. Chairperson: Will you please identify yourself.

Mr. Doug Olshewski (Canadian Auto Workers): Doug Olshewski, Canadian Auto Workers union. Ms. Naylor–

Mr. Chairperson: Will you hold on one second, Mr. Olshewski? Were you here in substitution for Ms. Naylor?

Mr. Olshewski: Yes.

Mr. Chairperson: Is it the will of the Committee to allow Mr. Olshewski to be a substitute? *[Agreed].*

Do you have a written presentation?

Mr. Olshewski: No, I do not.

Mr. Chairperson: Please proceed.

Mr. Olshewski: Thank you. Doug Olshewski, national representative with the Canadian Auto Workers union. I want to say from the start that our union supports the legislation in its entirety. We do not wish to see it amended. We feel that we could have used it many years ago. I have had at least one experience where Canadian National sold a rail line, that being the northern line now known as the Hudson Bay railway, when they sold it to OmniTRAX. The saving grace for us at the time of that sale was that seven miles of the track ran into the province of Saskatchewan. Therefore, because it was an interprovincial track, it remained under the federal legislation and successorship applied. Had that track been solely within the province of Manitoba, there would not be any successorship provision.

Now some might argue that OmniTRAX and the Hudson Bay line are big enough not to be called the short line–I would argue differently–but certainly had that been solely within the province, there would not have been the opportunity for the union to negotiate with the new employer. Both companies, Canadian National Railway and OmniTRAX, the purchaser, recognized that if there were a challenge that they would probably lose, that it would remain under the federal jurisdiction. So both companies, the selling company, Canadian National Railway, and the purchaser,

OmniTRAX, agreed to enter into negotiations with us.

Now I have heard some talk here about the work rules and how draconian and terrible they can be for a small operator. There is no doubt that when you go from a national railway like Canadian National to a short line, that many of the work rules are obsolete. For example, we had seniority clauses that applied nationwide or within the region. Certainly those kinds of things would not work with the short line. It became necessary for us then to sit down with OmniTRAX and with Canadian National and work out a new system of operating.

* (19:30)

I heard some talk about pension plans. OmniTRAX being in the business of operating short lines in the U.S. had their own pension plan and wanted to implement that. That took some talks, that took some discussion, but we were able to work in a transition whereby the CN pension plan and the new pension plan could be at least integrated and worked with. Had that seven miles of track not been within the province of Saskatchewan, it would have been a totally different scenario. Canadian National could have simply served notice to the employees that you are all being laid off, you are without jobs within 14 days or 3 months, depending on which provision of the collective agreement applied. They could have served that notice and said goodbye to those employees.

The new employer could have started fresh and hired new people at much reduced rates of pay, but they did not do that. They sat down and they negotiated a brand new collective agreement with us and that agreement is–I believe we started those negotiations in '95 or '96, and those people are still in place. Those collective agreements are still in place, and I have not heard a lot of disruption going on out there.

So to think that you are always going to inherit the identical collective agreements, certainly the legislation has to say that because we need an opportunity to get in the door. If we have no opportunity to get in the door, the employees are going to be the people who pay the price. Certainly this piece of legislation does not apply strictly to railways, but the railways are here because they know it affects them.

As I say, it is unfortunate this legislation did not come earlier because there have been a number of short lines where employees, workers have paid the price as a result of employers not so much wanting to get rid of the business, the fact is that some selling employers, some selling railways, merely want to de-unionize. We have had fights with the big two wherein we found that they were really still operating the short line, that what they had really done, that we found they were the real employer, that they had really contracted out the work and they did it to get rid of the union and to bring in cheap wages.

Employers do not like unions because we negotiate good wages, good benefits, good health and safety provisions for the employees. That is why employers do not like unions, let us be honest about it. The fact is that in every one we have had our own big two railways short line themselves. What they called it was an internal short line. We are going to do an internal short line. We have negotiated that with them.

When the parties are willing to co-operate and work together, and we have–and not just my union but many unions within the railway industry have worked together to bring about short lines where there were no other alternatives. They have proven to be successful companies, and the employees have been able to maintain a standard of living which is respectable. Thank you.

Mr. Chairperson: Thank you, Mr. Olshewski.

Hon. Becky Barrett (Minister of Labour): Thank you very much. I appreciate your presentation, particularly giving examples of situations where, in the situation that we are looking to reflect in the province of Manitoba, you spoke of with the seven miles that made it continuing to be a federal jurisdiction, that employers and the unions can work together co-operatively to find a solution that benefits both parties. I think it is important that we hear that from the experience of people like yourself who have actually gone through this.

I was also interested that it has been four or five years since that process was undertaken and

that it still seems to be working, so I appreciate very much the story of how this, going from a larger railroad to a short line, can benefit everyone.

Hon. Jon Gerrard (River Heights): I think your illustration was quite helpful in understanding how things have gone up north. Maybe you could summarize the two or three biggest benefits that you see in terms of the operation of the railway, the safety and so on?

Mr. Olshewski: I think it is important that employees have unions because there are employers who like to cut corners when it comes to the safety provisions. There are employers who will relax the rules to get the job done. If you do not have someone watching over these things–and railways are particularly a very dangerous industry, very heavy equipment, hauling dangerous commodities. Unions provide information, training courses, et cetera, to their members on handling dangerous substances, on the railway traffic rules, so that our members are protected.

We would prefer that the railways never short line, but we know that is not going to happen. We know it has not been happening. When there is a move to short line and to sell off a part of the railway, we need access to the new employer, and we need access to the old employer. If this provision is in place, it forces both the old employer, the selling employer, and the buying employer, to negotiate with the union, otherwise they cannot get a deal. Given that type of legislation, we are then able to protect those employees during the sale of that business and thereafter.

Mr. John Loewen (Fort Whyte): Thank you, Mr. Olshewski. I think you have just summarized it all right there in your statement that this bill will force employers and short-line operators to negotiate with the union. I mean that is obviously the perspective you have come from. You have obviously heard a different story from Mr. Peters.

My question for you would be, given the OmniTRAX example that you laid out or in fact the CANDO Contracting, if this bill were not there and if the employees decided they want a union, what would prevent them from having one?

Mr. Olshewski: Well, sometimes employees during the sale become so afraid of losing their job that they are willing to sell at any price, in other words, the employees are told look you will get a job if the union does not come with it. If the union comes with it, they will not buy it, so you will be down the creek. So the employees say: Well, heck, if it means keeping my job, I will go that route. So it is important that the employees have the protection of the union, especially at that time. It does not mean that, you know, if we were talking about 25 miles of track and three employees, the union might see those people through and negotiate something for them during the sale. I am not saying that the employees, if they said, well, we really do not need a union after the sale, I guess that would be their decision but in order to get there we need this legislation. Let that happen after. We will make those decisions later. Employees can always decertify from their union, but if this is not in place, people can be beat up and beat up bad.

Mrs. Joy Smith (Fort Garry): Thank you for your presentation. The one question I have is it seems to me that you said you had quite an amicable relationship with the employers and that you had worked out some difficult situations prior to the introduction of this bill. It seemed to me from your presentation that you were able to negotiate. Is that not true?

Mr. Olshewski: Only because the legislation that is being presented here already existed federally and the jurisdiction when OmniTRAX proposed to buy that track from CN Rail, they fell under the federal jurisdiction and their successorship under the federal labour code, so the only way we were able to negotiate those provisions was under the federal code. Had it fallen under the provincial code, we would not have been able to do that. We would not have been successful.

Mr. Chairperson: Thank you, Mr. Olshewski. Time for questions has expired. Thank you for your presentation.

The next presenter on the list is Wendy Sol. Is Ms. Sol in the audience? Do you have a written copy of your presentation?

* (19:40)

Ms. Wendy Sol (Communications, Energy and Paperworkers Union Canada): I do.

Mr. Chairperson: Thank you, you may proceed.

Ms. Sol: My name is Wendy Sol. I am the national representative of the Communications, Energy and Paperworkers Union of Canada.

Why does the business community oppose legislation that would prohibit unscrupulous employers from escaping their collective bargaining responsibilities? Workers want business to honour the contracts they have negotiated. Bill 18 is balanced legislation that ensures that negotiated collective agreements between workers and their employer remain intact during the sale of the business. Without successor legislation, employees could find themselves working at the same place, doing the same jobs under the same supervision but without their previous right to bargain collectively through the union of their choice.

CEP's experience with MTS underscores the importance of successor legislation. First, MTS divided up their business into separate companies, and once the corporation was traded on the stock market, some of the companies became federally regulated and one company, Advance, remained provincially regulated. Fortunately, successor rights are in place when you move from provincial to federal jurisdiction and the collective agreements were simply amended when the contract expired to reflect the changes.

This was a very unsettling time for all employees. Knowing that the collective agreement was intact went a long way to ensure a crazy time did not go insane. Part of the company that remained provincially regulated has just seen the Internet portion of the company become federally regulated. It is business as usual for the workers as the contract is simply rolled over and will be renegotiated upon its expiry. To suggest that the contract is no longer valid, after it was duly negotiated and ratified, is an attack on the democracy in the workplace.

The concept of successorship balances the interests of all the parties. The legislation recognizes that employees have vested rights in the business which deserve protection from elimination when the business is sold. The employer has the unfettered right to dispose of their business, and they must be balanced with legislation that protects workers from sudden changes in their bargaining rights.

The argument that business will leave Manitoba because of successorship legislation is like the tired threat of capital flight because of taxes or environmental protection. This is an hysterical reaction that is politically motivated. We urge the Government to stand by the principle of Bill 18 and to reject the self-serving demands of those businesses who are unwilling to accept democratic reform of Manitoba labour law. Part of the responsibility of any government is to ensure a stable workforce and balanced labour legislation to promote an environment that is conducive to productive business.

If workers were sacrificed during the sale of a business and contracts were not honoured, the labour environment would be unsettled and would be damaging to the local economy. Businesses are sold every day and sometimes the same business can be merged or sold several times. Workers need their interests protected in these shell games. Bill 18 is a responsible way for this government to ensure labour and business interests are balanced.

Mr. Chairperson: Thank you, Ms. Sol.

Ms. Barrett: I appreciate your experience as well with another example of where federal legislation protected the rights of workers and also the labour environment during a very stressful time, as we all remember. I think this is a good example of what we are trying to do in Bill 18, to ensure that balance remains when something comes from federal jurisdiction to provincial jurisdiction, that the principle that the contract stays in place for the life of the contract should be in place as it is with the jurisdiction being federal jurisdiction or interprovincial. I

appreciate your giving us yet another example of where that has worked.

Mr. Chairperson: Any other questions? None. Thank you, Ms. Sol, for your presentation.

The next presenter on the list on Bill 18 is Al Cerilli. Mr. Cerilli, would you please come forward. Do you have a written presentation, sir?

Mr. Al Cerilli (President, Manitoba Federation of Union Retirees): Yes.

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

Mr. Cerilli: Thank you, Mr. Chairman, members of the Committee. We wish to support the Manitoba Government and the Honourable Minister of Labour, Ms. Becky Barrett, for bringing back a respect to those workers governed by the laws of Canada in their employment and the businesses sold and becoming subject to the laws of Manitoba.

These workers under the present law are discriminated against and disenfranchised of their union rights and collective bargaining process they enjoyed and fought for under the laws of Canada. This amendment in Bill 18, The Labour Relations Amendment Act, with the necessary modifications to sections 56 to 58, will in fact make and keep these workers whole under their collective agreement covering wages and benefits already fought for and won.

The historical fact is that these workers were ignored by the previous Manitoba provincial government. They were stripped of their collective rights, and we certainly express our appreciation of this provincial government's Minister of Labour for restoring that.

As a member of a fourth-generation railway family and a personal involvement in railway work and union membership since 1943, there is a history of workers employed under the laws of Canada and then subject to the unilateral changes because an enterprise management sought better profits by introducing change on its own or influenced governments to accommodate their desired end to abandon the workers and the communities that helped to build and pay for their enterprise's success.

Mr. Vice-Chairperson in the Chair

Oftentimes labour took matters in their own hands, as was the case in late 1965 when the two major railways tried to unilaterally introduce change that affected the workers and the communities that were built around the right railway. Canada was shut down, to say the least, and as a result the federal government appointed the Honourable Mr. Justice Samuel Freedman, a judge of the Court of Appeal for Manitoba, as a commissioner to hear the dispute. His findings were reported to the Honourable Allan MacEachen, Minister of Labour of Canada. The report led to many changes in and towards the protection of workers in Canada and in the provinces but also the protection of the communities and the people in them. That has been eroded in the last little while and the plan is working to some degree.

In summary, the Honourable Justice said that operational change by an enterprise should not be at the cost of workers in the community. I think that is an important lesson that we should be learning from the late Justice that was well learned and in fact heard these disputes right across Canada and found out first-hand of the adverse effects when an enterprise abandoned its commitment to a community and to the workers.

In the case before you, that under Bill 18 amends The Labour Relations Act, as introduced by the Honourable Minister of Labour of Manitoba, Honourable Ms. Barrett, we ask for your support. It in fact restores a right for workers caught up in any change that disrupts their lives and adversely affects their family. Bill 18 clearly sets out the rules of doing business and all parties that wish to engage in the transaction are prewarned of these rules. You have heard the last two speakers giving you highlights–in fact, they are colleagues of mine–of what happens and what can take place, and we certainly trust that you will support Bill 18 as presented. Thank you very much.

Mr. Vice-Chairperson: Thank you for your presentation, Mr. Cerilli.

Ms. Barrett: Thank you very much for your presentation and again for sharing an experience that myself, who was not in Canada at the time of the mid-60s, appreciates hearing that historical perspective. I particularly was interested in Justice Freedman's comments about a change in enterprise needs to take into account the workers and the communities that they reflect, and we think that Bill 18 provides a balance there. So thank you very much for your presentation.

Mr. Vice-Chairperson: Any further questions from the Committee. Thank you for your presentation, Mr. Cerilli.

Mr. Cerilli: Thank you.

Mr. Vice-Chairperson: We will now call on Mr. Rob Hilliard, the Manitoba Federation of Labour. Do you have written copies of your brief for distribution to the Committee, Mr. Hilliard?

Mr. Rob Hilliard (Manitoba Federation of Labour): No, I do not, Mr. Chair. I just have a few short verbal comments.

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

Mr. Hilliard: Before I begin, I would just like to comment on some of the things that Mr. Peters said. I also have a relationship with Mr. Peters. I chair the Board of Directors of the Crocus Fund, and we are in fact co-business owners, I suppose.

I would support with him wholeheartedly any initiative to bring forward legislation that promotes genuine and true employee ownership. I had the opportunity last fall to visit perhaps the mecca of employee ownership in this world in the Mondragon area of Spain. If we had a system that was like that all over this world, certainly in this province, we would have a much fairer, much better system.

In Mondragon, the workers vote on who their supervisors are. They elect them. They vote on every single significant decision that goes on in their enterprise. They share in the equity. They share in everything on an equal basis. The manager, the top manager in their operation cannot make more than six times the lowest-paid worker in that plant. That is a fair system, and I would support Mr. Peters in any initiative, in any legislation that promotes anything like that.

* (19:50)

Sadly, we are a long way from that. For every operation like Mr. Peters, there are dozens and dozens of other ones that do not want to be accountable to their own employees, that do not share the decision making, that do not share the equity of the company. It is for reasons like that, that we have to craft law and labour law in this province and in this country.

The issue of successor rights is a common one in labour legislation. It exists in every provincial labour code in this country. It exists in the federal labour code, and it is put there for a very good reason.

It, No. 1, wants to ensure that unscrupulous employers who, frankly, want to duck the collective bargaining rights of their own employees cannot do so by merely creating another company, another dummy company, moving it over there, and avoiding the collective agreement by doing so. There is another very good reason for doing that. It offers a smooth transition any time an operation is sold so that the employees themselves do not feel threatened. The employees themselves know the rules of the game, and the employees can participate without fear in that transition.

We heard from Mr. Peters. We heard from the gentleman from the Railway Association. Neither one of them said they feared dealing with a collective agreement. Neither one of them said that they could not deal with a union. They merely said that they could not deal by the same rules with the collective agreement that applied with a large national railroad. We heard Mr. Olshewski say when he was involved personally in that kind of an operation he agreed completely. They could not operate by the same rules, so they sat down and negotiated different ones.

It is an absolute fallacy for anybody to think, for any employer to think that the union exists to put the employer out of business. Any employer

who goes out of business and puts the union's members out of work is a union that simply will not exist very long. A union must have working members to be viable at all. So a union is going to sit down, recognize the new realities and bargain a new collective agreement. That concept is vital to be recognized. If Mr. Peters wanted to buy another short-line railroad, all he needed to do would be to sit down with the union, find out what are the new realities before he stuck his neck out, before he made the investment. The union would recognize the realities and sit down and negotiate an agreement with them. They have done it before. They will do it again.

I think it is also important to note that this bill is not going to cover just short-line railroads. It is going to cover any transfer of any operation from federal to provincial jurisdiction. The federal labour code already does this when it moves the other way. You heard Wendy Sol talk about how it affected her members, a seamless transition. It is a common concept. It is recognized in labour law all across the country. It is normal and routine. It simply allows a sensible transfer of an operation under rules that everybody understands, and it does not mean that some people get in the backroom and cut a deal that benefits only themselves. It means they have to accommodate the best wishes of their employees as well.

For that, I support the Bill. If it means that there needs to be some minor amendments to that bill to make it work better, that is fine, but as long as the concept of recognizing the employees' decision to form a union and the employees' right to bargain collectively is maintained, that is the main point. Thanks very much.

Mr. Vice-Chairperson: Thank you for your presentation, Mr. Hilliard.

Ms. Barrett: I appreciate your presentation and also the point that you make that I think, in much discussion around not only Bill 18 but other labour legislation, needs to be reiterated. I am glad you made the position that it is a fallacy that unions exist to put employers out of business because the reality is, if you stop and think about it, if, as you said, an employer goes out of business, the workers are out of jobs and that flies totally in the face of what the union movement is all about.

Again, I appreciate your pointing out that this is not unique legislation. It is common throughout Canada and that we are merely trying to ensure that the transition can be effective going from federal to provincial as it is interprovincially, or provincial to federal.

Mr. Vice-Chairperson: Thank you, Madam Minister. Are there any others that would like to–

Mr. Gerrard: You spoke highly of Mr. Peters and the employee-ownership model in the short-line railway operation that he has and indeed the employees have because they share in the ownership.

I just want to ask you the importance of ensuring that those sorts of models are considered in any move from one company to another and the importance of facilitating that where it seems like it would be a workable solution through this kind of legislation.

Mr. Hilliard: I think what the legislation obligates a new buyer to do is to frankly just sit down with the employees and negotiate what is best for everybody and all concerned, and if the new employer came forward with a proposal that says, we want to involve you in the risks and the benefits of ownership in this operation and in the decision making, they will sit down and negotiate that.

This bill merely ensures that that negotiation takes place, merely ensures that that recognition of what is good for the employees also occurs. I see nothing in this bill that would prevent that from happening.

Mr. Chairperson in the Chair

Mr. Harry Enns (Lakeside): Mr. Chairman, just for some further clarification. I understand the importance of successor rights in general to organized labour and to the working people of Manitoba, but we have heard, this committee has heard, specifically on this bill as it impacts on the short-line railways. In my mind that is somewhat different.

Here we have companies that have walked away from a service, from assets, railway track. In some instances, the track has been dormant for any number of years, and it has taken the innovation and the entrepreneurship of individuals, and the community sometimes. We heard one representation that in some instances it was the municipality that got together and operated a short line.

I asked an earlier presenter, Mr. Roger Cameron, representing the Railway Association of Canada, representing some 48 short-line and regional railways across Canada, whether Bill 18 was unique to Canada, to the situation. He indicated it was.

You, if I heard you correctly, suggested that that was not the case. Do you have other information that is in conflict with the presentation that we heard from Mr. Cameron?

Mr. Hilliard: I believe that is just an area of semantics. I also heard Mr. Cameron say that there was legislation in Saskatchewan that recognized some form of successor rights. I was talking about the concept of successor rights as being universal across the country.

When he answered your question specifically, he was referring specifically to the wording in Bill 18. He also indicated that he could live with amendments to Bill 18, that still acknowledged the right for employees to bargain collectively with their new employers. I heard him say that.

Mr. Chairperson: Thank you, Mr. Hilliard. That concludes the list of presenters we have for Bill 18. Are there other members in the audience that perhaps may wish to present here this evening to Bill 18? No one? Seeing that there are no further presentations coming forward on Bill 18, the Committee has heard all of the presenters who were registered to speak to this bill.

What is the will of the Committee with respect to this bill and the presentations? Do you wish to leave this open and available for other presenters? Do you wish to conclude the presentations here this evening?

Mr. Scott Smith (Brandon West): A suggestion, Mr. Chair, that we leave it open till tomorrow and continue on to Bill 44.

Mr. Ron Schuler (Springfield): We certainly agree with that.

Mr. Chairperson: Thank you. Then Bill 18 will be left open for presentations when this committee reconvenes tomorrow morning.

* (20:00)

Bill 44–The Labour Relations Amendment Act (2)

Mr. Chairperson: We will now proceed with Bill 44. The first presenter on the list is Mr. Sidney Green. *[interjection]* Pardon me, Mr. Green, my mistake. I forgot we were supposed to do the out-of-province and then the out-of-city presenters first. The first presentation is Joyce Reynolds. Is Ms. Reynolds here this evening? Please proceed. Ms. Reynolds. Good evening.

Ms. Joyce Reynolds (Senior Director, Government Affairs, Canadian Restaurant and Food Services Association): I am Senior Director of Government Affairs for the Canadian Restaurant and Food Services Association. We are the largest hospitality association in the country, representing about 15 000 members, which operates approximately 45 000 food service outlets.

Our membership reflects the structure of the industry as a whole in that approximately 25 percent of our members are chains and 75 percent of our members are small independent locally operated restaurants, and 900 of our members are here in Manitoba. We work collaboratively with the Manitoba Restaurant and Food Services Association.

Let me tell you a little bit about our industry. It is a huge contributor to Manitoba's economy. We employ 34 000 part- and full-time employees, which represents about 6.3 percent of this province's workforce. We also represent about 3.9 percent of the province's GDP with sales of approximately a billion dollars.

We are very concerned about the impact of this bill on our industry and the economy. We are concerned about its impact on employee-employer relations. We are concerned about its impact on costs, and we are concerned about its impact on the economy and therefore on the business. Our economic indicators indicate that our industry tends to perform a little better than the economy when the economy is performing well and a little worse when the economy is not performing well, and right now the economy is performing well and we want it to continue to perform well.

We have four concerns in particular that I would like to raise with you this evening. Section 40, the certification vote; the interim certification, subsection 39(4); the binding settlement process during labour dispute, sections 87.1 and 87.2, and then the reinstatement following strike or lockout, subsection 12(2).

We are strongly opposed to returning to a card-based system for union certification. We believe it removes a democratic right of employees in this province. We think a secret ballot vote is the only fair and accurate mechanism in which to determine the true wishes of employees, and we have problems with the trade union claims that there is employer interference with the secret ballot vote. We find that a little self-serving given that The Labour Relations Act already gives a labour relations board the authority to order a quick vote after a certification application has been received, as well as the authority to remedy any serious unfair labour practices by employers.

Secondly, there is no obligation on the part of the union organizer to inform employees what the significance of the union card is, what the rules of certification are, what the obligations of certification are, and it is natural. Their objective is to sign as many employees as they possibly can, so they are not going to voluntarily provide a full and balanced account of what those responsibilities of being a union member mean.

We feel that a secret ballot vote is the only fair process in a democratic environment, and it allows employees to make an informed decision without interference from both employers and unions.

The other thing about a secret ballot vote, it leaves no doubt in the minds of the other 35 percent of employees who maybe were never approached or rejected the union's approach as to what the majority really wants. It also gives employers that sure knowledge as well, which means that the collective bargaining process is not undermined right from the very start.

The collective bargaining process can be undermined if there is that doubt. On the other hand, the unequivocal results of a secret ballet vote produce a decisive and unassailable outcome for both employers and employees.

In section 39(4), Interim certification, we had difficulty with that as well. This provision requiring employers to commence collective bargaining for a bargaining unit that is undetermined is fundamentally flawed, and it is problematic for employers. The technical requirements of certification cannot be met until the bargaining unit is determined.

By attempting to fast-track this obligation certification, employers will be forced to bargain collectively before it can be determined if that relationship even has a basis in law. This can result in huge costs for employers. It is really unfair to impose these huge costs for legal counsel, management time when the thresholds of certification have not been met and potentially will not be met. This provision could also result in a fragmentation of the workforce. For example, bargaining for employees who may not be covered could create status for some employees that does not actually exist.

The next section that we have concerns about, section 87.1 and 87.2, this proposed provision represents an unprecedented intrusion by government into the collective bargaining process. It adds extensive powers to the Labour Relations Board with no right of appeal. Employers in Manitoba are already disadvantaged as a result of a mandatory first contract arbitration which allows unions to guarantee certain working conditions to employees during a certification drive through an arbitrated settlement. Unions will now be able

to make similar guarantees to employees in subsequent contract negotiations by negotiating for a strike that is guaranteed to last only 60 days.

The negotiating parties know the economic circumstances of their relationship best and what trade-offs make the most sense. The Labour Board or arbitrator cannot be expected to fully understand the operating realities of a restaurant business and other businesses in the province, nor can they be held accountable if the rates of pay or working conditions create problems for the business's continued operation. Access to binding arbitration effectively removes the incentive for parties to engage in responsible collective bargaining.

Section 87 provides unions with a powerful tool to deploy as leverage against an employer who is unable to agree to union demands at the bargaining table. If the union has a strike fund which will last 60 days, it can sustain a work stoppage to support demands which may exceed an employer's ability to pay. In this situation, an employer is confronted with a lose-lose situation, accept unreasonable demands in order to avoid a costly and a disruptive work stoppage in the short run or incur those strike costs with the possibility that an untenable settlement will ultimately be imposed anyway.

The next section that we have a problem with is the reinstatement of workers following a strike or lockout. The current provision is essential to discourage undesirable picket line behaviour and prevent situations that occurred under previous legislation where employers were required to reinstate employees who committed illegal activities during a labour dispute. For the protection of restaurant employers, employees and their customers, we think it is necessary that the legislation remain as it is and not protect employees guilty of strike-related misconduct such as violence and property damage. The current legislation was designed to protect employees from any repercussions arising from exercising their legal rights, not their illegal behaviour. The legislation needs to continue to make this distinction.

I did not bring my watch up, so I do not know if I have enough time. I have made comments on a number of the other provisions. Okay, I will leave those with you and sum up then.

* (20:10)

Basically, we have a problem with the legislation because it tips the balance of power in favour of unions which are now focussing on the service sector for new sources of revenue and members. We also have problems with the card-based certification system because it denies employees their basic democratic right, and we are opposed to measures which discourage parties from engaging in responsible collective bargaining. We think first contract arbitration and extension of this concept to the labour-dispute resolution have precisely this effect.

In today's increasingly competitive marketplace, sensible, balanced, and flexible labour laws are required. The proposed changes will increase regulatory disparities between Manitoba and neighbouring jurisdictions, in particular Alberta and Ontario, and thus erode Manitoba's ability to compete and attract new business investment. Thank you.

Mr. Chairperson: Thank you, Ms. Reynolds, for your presentation here this evening. Any questions from committee presenters?

Hon. Becky Barrett (Minister of Labour): Yes, just briefly. It is nice to see you. We met on another issue not too long ago. I take your concerns, and I know that the presentation is more detailed than you were able to give, so we will take a look at it. I appreciate your having taken the time to come and make your presentation before us tonight.

Ms. Reynolds: Thank you very much.

Mr. Ron Schuler (Springfield): Mr. Chairperson, I, too, would like to thank you very much for your presentation. On page 7, the last paragraph certainly does help the Committee quite a bit. When we go into looking at amendments, certainly this will be something we will be bringing to the Minister's attention. So thank you very much.

Mr. John Loewen (Fort Whyte): Thank you for your presentation. Based on this presentation, I am drawing the conclusion that you would like to see this bill withdrawn?

Ms. Reynolds: Yes.

Mrs. Joy Smith (Fort Garry): Thank you for your presentation. You made some very salient points that had a lot of credibility behind them. In your view, would any business outside of Manitoba be attracted to Manitoba if Bill 44 goes through, in the service industry with the parameters around Bill 44?

Ms. Reynolds: Mr. Chairman, we believe it will have a detrimental effect. We certainly followed the situation in Ontario when Bill 44 was introduced and some amendments to the labour code in B.C., and we saw the impact they had on investment. They definitely impacted investment in those two provinces.

Mr. Harry Enns (Lakeside): Mr. Chairman, a question to Ms. Reynolds. I would assume that a number of the businesses that your organization represents are members of the Manitoba Chamber of Commerce.

Floor Comment: I would assume that there is a lot of overlap.

Mr. Chairperson: Ms. Reynolds, we need to record it for Hansard purposes. That is why.

Ms. Reynolds: Oh, sorry. I believe there probably would be overlap between the Manitoba Restaurant Association, the Chamber of Commerce, the Canadian Federation of Independent Businesses, yes.

Mr. Enns: Mr. Chair, I am simply trying to identify the "lunatic fringe" a little more clearly. Thank you.

Floor Comment: Sorry?

Mr. Loewen: Mr. Chairperson, with regard to section 76, I gather it is also your beliefs that the employee should have the democratic right to vote on whether some of their earnings will be used to support a political party or not?

Ms. Reynolds: Yes, absolutely.

Mr. Chairperson: No other questions. Thank you, Ms. Reynolds, for your presentation here this evening.

The next presenter on the list is Jan Speelman. Ms. Speelman, will you come forward?

Mr. Darren Praznik (Lac du Bonnet): Just on a point of clarification, Mr. Chair, I understand that the purpose of us allowing out-of-town presenters is because they are inconvenienced if they cannot drive through. Some years ago, the President of the Manitoba Teachers' Society came from my riding, Linda York, and at that time I remember her telling me that the Society provided for accommodation in Winnipeg. Just to clarify, in case there should be a question, I see Ms. Speelman is listed as an out-of-town presenter, perhaps just to clarify that point, to ensure that we are living within the rules. That is all that I ask. I know that when Ms. York was president she had accommodation provided in Winnipeg and never used the out-of-town presenter provision. It may be different now, just worth clarifying should there in fact be a question. That is all.

Mr. Scott Smith (Brandon West): Mr. Chair, possibly if Mr. Praznik had been here earlier, we discussed this issue prior to the meeting's beginning and had gone over this. Ms. Speelman has put down that she is a presenter from outside of town. I believe her home is Brandon. If, in fact, there is a problem with other presenters after Ms. Speelman, we could look at that, but she has been put down and called forth already. In fact, the question is well taken as it was prior by his colleagues before.

Mr. Chairperson: Thank you, committee members. Ms. Speelman, you may proceed.

Ms. Jan Speelman (President, Manitoba Teachers' Society): Well, I think you know my name is Jan Speelman, and I am President of the Manitoba Teachers' Society. We represent more than 14 000 public school teachers in the province of Manitoba. Our members work in every region of this province and are proud of

the work they do for Manitoba's 180 000 public school students.

Less than three weeks ago I stood in this building before the legislative committee considering amendments to The Public Schools Act, Bill 42. Those amendments will significantly improve fairness in the collective bargaining process between teachers and trustees. In 1996, the previous government removed that fairness when it eliminated teachers' rights to arbitrate many of their working conditions in what is known as Bill 72. Those regressive changes soured relations between teachers and trustees. This poisoned atmosphere was not good for the employee-employer relations, public school students or Manitoba taxpayers.

The Manitoba Teachers' Society is pleased that this government has lived up to its election commitment to restore the balance of power between teachers and trustees. Like the amendments to the PSA, Bill 44 is also an attempt to restore the balance of power between employees and employers. Bill 44 is important to members of the Manitoba Teachers' Society. At our annual general meetings in 1998 and 1999, teachers from around the province voted overwhelmingly in favour of moving under The Labour Relations Act. Every other employee group in the province bargains under The Labour Relations Act. Why should teachers be singled out? In fact, several school divisions at the Bill 42 committee hearings stated that it was their preference that teachers be included under The Labour Relations Act. Our members do not understand why teachers are treated differently than doctors, nurses, university professors, Crown attorneys or the police. While we are pleased with the changes that Bill 42 will make to teachers' bargaining rights, our goal is to be treated like everyone else. We are not asking for special treatment. We are asking for fair treatment, just like the unions who you will be listening to this evening.

While the amendments to The Public Schools Act do not put teachers under the LRA, by incorporating the LRA by reference, Bill 42 gives teachers many of the rights that other employees have. As a result, any changes to the LRA are important to us. By passing regressive labour legislation in 1996, the previous government created an anti-union and anti-worker climate in this province. It has not only altered the balance of power between teachers and trustees by amending the PSA, it amended the LRA to create an imbalance between employers and workers throughout the province. Those amendments were made to weaken organized labour and impair unions' ability to organize. By muzzling unions, their ability to effectively represent their members was hampered. Those changes were unfair.

The Manitoba Teachers' Society is pleased that this government is attempting to undo the damage done by the previous government. It is a small step towards restoring the balance of power between workers and employers. We are disappointed, however, that the fear-mongering of some members of the business community has caused this government to rethink some of those changes.

The restoration of the provision which permits union certification when 65 percent of employees have signed a union card would return Manitoba workers to a system which governed labour relations in Manitoba for more than four decades prior to 1996. Reinstating this section would place Manitoba with the majority of other Canadian provinces. The proposal to allow for an arbitration option to end strikes or lockouts which last more than 60 days will promote good-faith bargaining. It will ensure Manitoba's economy is not dragged down by lengthy strikes or lockouts. Why the business community is not in favour of this provision is a mystery to the teachers of Manitoba.

* (20:20)

Bill 44 also allows for the reinstatement of employees following a strike or lockout. MTS does not condone picket line violence. However, because tension is often high during a strike or a lockout, it is a volatile situation for the workers. The provisions introduced by the previous government were designed to intimidate workers and make them reluctant to participate in a picket line. Remedies already exist to deal with truly criminal activities. They do not belong in the LRA.

At second reading of Bill 44, the Minister of Labour (Ms. Barrett) recalled that, during the election campaign, this government pledged to correct the imbalances in the rules governing labour-management relations. She stated that Manitobans voted to restore fairness to the relations between business and labour and to have unions and employers conduct their affairs within parameters that are fair and reasonable. The scare tactics recently engaged in by some members of the business community demonstrate just how outlandish and unreasonable some employers may be. We must not let improvements to our labour laws be stymied by this group.

Good labour legislation promotes peace in the workplace and helps workers exercise their rights in a way that is fair and is equitable. Bill 44 is a step towards eliminating some of the employer intimidation and coercion that has occurred over the past four years. It is a good start at re-establishing fairness and returning labour peace to Manitoba.

Madam Minister, you got it right the first time. Last September, Manitobans voted to restore fairness in labour relations. Please do not allow the vocal opposition to Bill 44 by some members of the business community to change the mandate that Manitoba voters gave you. Thank you for the opportunity to present this evening.

Mr. Chairperson: Thank you, Ms. Speelman.

Ms. Barrett: Thank you for your presentation. I particularly like your choice of words of "fair" and "balanced." They are words that I have used a great deal in the discussions that we have undertaken in the last few months on this piece of legislation. I appreciate your comments about some of the elements in the legislation. We are looking for as much comment as we can from a variety of perspectives, so I appreciate having a perspective from the Teachers' Society.

Mr. Schuler: Mr. Chairman, I would like to ask Jan. Twice in your presentation, you mention fearmongering by members of the business community. Would you also agree with Rob Hilliard, who referred to the business community as lunatic fringe? They are nuts; they are crazy people. Would you go so far as to agree with him on his statements?

Ms. Speelman: No, I would not.

Mr. Schuler: That is very reassuring to hear. I would like to thank Ms. Speelman. She has not just presented today. She also presented and stayed late on Bill 42. You have certainly shown your commitment to your cause, and I appreciate the presentation.

Mr. Loewen: Mr. Chairman, have you polled your members on this issue?

Ms. Speelman: Polled our members on the Bill 44 issue? *[interjection]* Yes, our members are in support of what is happening.

Mr. Loewen: I asked if you had polled them all individually.

Ms. Speelman: No, we have not. We speak for our members. Four members of the teachers in Manitoba do not belong to the Manitoba Teachers' Society out of close to 15 000. We speak for the members of the Teachers' Society.

Mr. Loewen: Just for clarification, I understand you say you speak for all the members, but you have not polled them.

Ms. Speelman: No.

Mr. Chairperson: Any other questions?

Mr. Loewen: Well, it is interesting that your presentation highlights the fact that good labour legislation promotes peace in the workplace and helps workers exercise their right. Would you say that the results of this legislation thus far have been peace in the workplace?

Ms. Speelman: Pardon me?

Mr. Loewen: Well, do you think the reaction to this legislation, thus far, has been to see peace in the workplace?

Ms. Speelman: I think that this legislation will give the employees a feeling of more ownership, more participation. From my situation as a teacher, that certainly promotes a better

relationship in the workplace. I have not only worked as a teacher. I have worked in other businesses, and I feel the same way. I have worked in the banks. I have worked for Air Canada. I feel it is the same in that. When the employer is feeling that they are valued and that they have some say in what is happening within the company, that it is a better workplace, and it is better for everyone.

Mrs. Smith: How do you feel, Jan, about the right of a secret ballot for any union to take a vote?

Ms. Speelman: I think if 65 percent of the members have signed up, have agreed to join the union, I cannot see any reason to have to do that.

Mrs. Smith: Have you polled the teachers who also own businesses? I know I have. Have you talked to any of them? Have you got their opinion about Bill 44? Because you said you speak for all teachers. I would take you to task on that. I do not think you do, so I am just asking that question.

Ms. Speelman: We speak on behalf of our members and maybe there will be a few members who do not agree with everything that we do, but we do speak on behalf of our members as employees, just as the employees that are affected by this legislation.

Mrs. Smith: Have the teachers and the teachers who own businesses asked you to come here tonight to defend Bill 44, since you are speaking for teachers?

Ms. Speelman: Certainly, many of our members are aware that we are here tonight presenting. We have not had any of them say we should not present.

Mrs. Smith: Have you asked them the question: Should you present?

Ms. Speelman: No. I answered that question previously, and said no.

Mr. Chairperson: Thank you, Ms. Speelman, for your presentation here this evening.

Next presenter on our list is Edward Zink. Is Edward Zink in the audience? Mr. Zink will be unable to present, then. His name will be dropped to the bottom of the list.

The next out-of-town presenter on the list is Heather Ostop. I hope I have pronounced that name right. Is Heather Ostop in the audience here this evening? We will wait.

Mr. Loewen: In the interests of time, do we have no objection to moving on to the next presenter and then returning to Ms. Ostop when she returns?

Mr. Chairperson: If that is the will of the Committee, although it is my understanding that the presenter is in the next room and has been summoned. We will just give a minute, perhaps. Perhaps, if it is the will of the Committee, we will proceed with the next presenter.

The next presenter on the list is Linda Fulmore. Ms. Fulmore, are you in the audience this evening? If it is the will of the Committee, then, we will proceed to the next name on the list. If Ms. Fulmore appears in a few moments, after the next presenter, perhaps, we can then proceed.

The next name I have on the list is Roy Eyjolfson. Is Mr. Eyjolfson in the audience here this evening? I hope I have pronounced your name correctly, sir?

Mr. Roy Eyjolfson (Seagram Company Limited): Close enough.

Mr. Chairperson: Do you have a written presentation for the Committee?

Mr. Eyjolfson: Yes, I do.

Mr. Chairperson: You may proceed, sir.

* (20:30)

Mr. Eyjolfson: Good evening, Mr. Chairman, Madam Minister, members of the standing committee and the audience. My name is Roy Eyjolfson. I am the manager at the Seagram distillery in Gimli. I will just read what I have written.

The Seagram Company is a global corporation that has interests in spirits and wines, filmed entertainment and music. The company made a significant investment in Manitoba when the distillery was built in Gimli in 1968. This plant currently employs 72 people with an annual payroll, including benefits, of almost $4 million.

The plant processes over 69 000 tonnes of grains in the production of beverage alcohol. These raw materials, energy requirements in the form of electricity and natural gas and all other purchases are to support the plant, are solicited from Manitoba retailers and wholesalers. The operation is situated on two quarters of land and is comprised of a production building, barrel filling and dumping, and 46 warehouses to store the maturing whiskies. The plant and its people are responsible for providing the company's global Canadian whisky requirement.

As can be seen, this operation makes a considerable contribution to the local and the provincial economy. In brief, we have the same concerns with respect to Bill 44 as many employers and businesses in Manitoba. These are eliminating the vote requirement from the certification process; unilateral settlement of collective agreements by arbitration after a work stoppage; and the inability to discipline or discharge an employee for misconduct during a strike or lockout.

We share the view that these three changes will upset the balance between business and labour that is presently in place. The potential negative influence of these alterations is significant with respect to the Manitoba economy and subsequently all Manitobans.

Unions have an important role to play in our economy, and they provide the necessary balance in the workplace. Time has proven that they can sustain their own existence and should not have to depend on government to implement laws that unbalance the relationship. Even the perception of an advantage could be damaging. Manitoba cannot lose any advantage, no matter how small, to the global competition that exists in today's business climate.

The certification process, elimination of the voting requirement: This particular issue does not apply to Seagram in Gimli. However, it is felt that the current system works and is effective. Why change it in favour of a system that could create an atmosphere where individuals could feel pressured into voting a certain direction? The secret ballot, like all areas of our electoral process, should prevail and enable workers to vote in the direction of their choice without any chance of repercussions.

Additionally, if employees choose by secret ballot that they wish to be represented by a union, then in our view employers are more than inclined to accept that result and begin the collective bargaining process.

Two, unilateral arbitrated settlement of agreements after a work stoppage. This proposed change undermines many of the fundamental foundations of collective bargaining. Both sides of the bargaining table lose in a prolonged strike or lockout situation, in both cases, the loss of revenue, wages for the employee and production and subsequent sales for the employer. This has and should continue to encourage an expeditious settlement of a labour dispute.

When one considers that no other jurisdiction in Canada or the United States has such a system, why would the legislators of Manitoba consider implementing this concept? No one would argue that collective bargaining, where it is in place, works, and most employers and unions are able to resolve their issues without resorting to work stoppage. Nevertheless, the right to initiate a work stoppage is a critical element in compelling both employers and unions to negotiate in good faith and with the view of reaching a collective bargaining agreement.

Three, discipline or discharge resulting from misconduct during a strike or a lockout. Unlawful behaviour cannot be condoned at any time. Granted, emotions run high in times of labour strife and unrest, but control of emotions and our subsequent actions is necessary at all levels within our society. Malicious intent followed by wilful damage cannot be condoned.

We are in general agreement with other businesses that submit that the provisions currently in the Act are balanced and fair for employers, unions and employees.

In conclusion, as mentioned above, one of the above issues does not apply to Seagram, as we already work with a bargaining unit. The remaining two, however, could have an impact in the future.

In closing, all Manitobans must ensure that the global business community does not perceive Manitoba in an unfavourable light. The result of that perception would be less investment in our province, fewer good jobs, and as a result all citizens will have reduced opportunities for a healthy standard of living, and our governments will have less opportunity to pay for the services all citizens expect. The changes proposed in this bill do not enhance labour relations and for this reason should not be proceeded into law. That is my presentation.

Mr. Chairperson: Thank you, Mr. Eyjolfson.

Mr. Schuler: Thank you to the presenter. Basically, what you are asking for in this presentation is that the Bill be withdrawn?

Mr. Eyjolfson: Essentially, yes. At least amended a significant amount. It is working. Essentially, the collective bargaining process is functioning. Why rock the boat?

Hon. MaryAnn Mihychuk (Minister of Industry, Trade and Mines): Thank you for your presentation. I wanted to ask if you were aware that seven of the eleven clauses were agreed to by both management and labour in committee.

Mr. Eyjolfson: No, I was not aware of that.

Mr. Praznik: Mr. Chair, I would just like to thank the presenter. I notice in your presentation you made reference to the secret ballot and you make the statement that employers would be more inclined to accept that result because it was in fact a secret ballot.

One of the points that we have made to this Minister of Labour over and over again, that although we recognize the secret ballot changes few if any of the certifications where 65 percent of the cards have been signed, the great benefit has been in fact that it has said to that employer that there was no doubt whatsoever that their employees wanted that union. It removed any question of legitimacy, any question of doubt and allowed the employer, in his own mind, to get on with bargaining the first contract, that the real benefit of that provision was very much to say to the whole world, particularly the employer, that is what the employees had voted for without intimidation by anybody and that the employer should accept that.

Would you agree with that statement, and would that be your advice to this government, that that is one of the real benefits to employers and to the whole community in fact of the value of a secret ballot vote, that it gives legitimacy and clarity without question?

Mr. Eyjolfson: Yes, I would agree with that. That is my personal view. When the ballot is totally held in secret, it forms the whole basis of our entire electoral process, as I said in here. It is a democratic process that should not be removed.

Mr. Jim Rondeau (Assiniboia): Just a question. You mentioned that you worked with a bargaining unit. I was just wondering whether your place of business ever had a strike that lasted over 60 days.

Mr. Eyjolfson: No, we have not.

Ms. Barrett: Just a question. I just wondered if you were aware of the fact that in half the jurisdictions in the country and in Manitoba for the last 50 years, with the exception of the last four years, there was a form of automatic certification for union certification, and that this amendment in Bill 44 is a reflection of that activity in Manitoba over three former Conservative governments, two NDP governments and even a Liberal government I think. It shows how far back it goes.

If you had any comments on that?

Mr. Eyjolfson: I do not have any comments on that. The only consideration I have, again, is that

those workers, the direction they indicated they wanted to go was conduct it in a secret ballot, was it not?

Mr. Enns: Mr. Chair, I do not present myself to you or to the presenter as any expert on labour legislation. I first of all want to thank the presenter for the 68 000 tonnes of grain your company consumes on behalf of the farmers in Manitoba, that we do not have to pay the exorbitant freight rates on to get it to saltwater ports.

As I read the legislation, it puzzles me and it astounds me. I read it as a diminution; it is taking away workers' right to strike, workers' right to withdraw their service, which seems to me so fundamental, and indeed also management's right to lockout. It seems a gross intrusion on the part of government into the collective bargaining process.

Mr. Eyjolfson: I would have to agree with that.

* (20:40)

Ms. Barrett: Just a quick comment to you in response to what the Member for Lakeside has said. This legislation does not take away the workers' right to strike, nor does it take away the employers' right to lockout. I just wanted to put clarification on the record.

Point of Order

Mr. Praznik: First of all, it is time for questions, and I appreciate there are statements, but this minister is bringing in a piece of legislation that diminishes the right to strike of workers to legally withdraw their labour after 60 days, if an application is made by the employer to go through her binding arbitration process. She talked about the amendment before the House today. That clearly diminishes the workers' right to strike, and I think if she is going to tell presenters what her bill does, she should be factual about it, Mr. Chair.

Mr. Chairperson: The Honourable Member does not have a point of order. It is a dispute over the facts.

* * *

Mr. Loewen: Thank you for your presentation. Seagram is obviously a large company, operates in a global environment. Would you agree that part of making investments in any jurisdiction that certainly the labour legislation would be high on the list, in terms of research as to whether to make an investment in one jurisdiction or another?

Mr. Eyjolfson: I would have to answer yes to that, not just the labour relations, the labour climate in general.

Mr. Chairperson: Thank you, Mr. Eyjolfson, time for questions has expired. Thank you for your presentation. As previously agreed by committee members, we will revert back to Heather Ostop. I hope I have pronounced that name correctly. Is Ms. Ostop in the audience here? Please come forward. Do you have a written presentation?

Ms. Heather Ostop (Private Citizen): Just some notes.

Mr. Chairperson: Please proceed.

Ms. Ostop: My name is Heather Ostop and I am in support of Bill 44. I am a union organizer and have been for five years. The increase of intimidation, coercion and harassment has increased substantially. With 90 percent of applications we make, we have to file unfair labour practices. If unions had the same amount of time with a captive audience and three to eight hours a day for 7 to 10 days, it would become a fair, level, democratic playing field. Companies can hang up to 20 signs saying anti-union information on company sign paper and hang them all over the workplace, including the washroom stalls, so that you do not get a break at all from reading it. Those hang for 7 to 10 days before the actual vote takes place. I have a very serious concern with the people's fair rights, free of intimidation and harassment from the employers.

Another instance is an employee working to help the union was fired and out of work for five months, unable to collect EI because of termination. The labour laws of Manitoba are there to protect employees. When I see employees, I assure them that the laws are there to protect them. How do I provide for these people who are being terminated?

The employees have trusted the labour laws of Manitoba only to be shown clearly the companies think they can do what they want. We end up in a labour dispute, six-month dispute, at the Labour Board. The Labour Board has become swamped with unfair labour practices. Companies have the upper hand because the employees are at work where they are continually subjected to verbal and written intimidation.

At 65 percent, the employees have demonstrated a very solid choice of their democratic rights and wishes. If a company's board of directors showed 65 percent in favour of restructuring or any other decisions, they would go with that. They would not think twice about whether they should have a vote on that; 65 percent would do it. Why then, when it comes to their employees' fair process, they believe 65 percent is not good enough for what they have accepted within their own standards?

At 65 percent, employees have exercised their right, without any intimidation, coercion and harassment, to a majority call. Under 65 percent will still have the secret ballot vote. Because of the intimidation and harassment from employers, 65 percent is a very hard goal to reach. And at what expense to the employees? When a 65 percent is reached, people must have their fair, democratic right of automatic certification.

The union does an honest and above-board campaign. Unions do not get charged with unfair labour practice or intimidation, harassment and coercion. Companies spend a fortune on anti-union campaigns, lawyers' costs, to fight all the unfair labour practices they commit, during and up to the vote. It is too bad companies will not spend that kind of money on improvements and benefits for their employees, who are the ones that are making the money for the companies.

In closing, I would like to say the vote process did not need fixing in 1996, but was changed anyway without the support. In 2000, the vote process needs to be fixed, so Manitobans have their fair and democratic rights represented and protected; 50 percent plus one has always been the majority. Let us not forget what majority anything means. Once again, I support Bill 44. Thank you.

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

Ms. Barrett: Thank you for your presentation. I appreciate your having brought a new perspective in sharing your personal experiences as a worker and as an organizer with the Committee tonight. So I appreciate your having taken the time to come.

Ms. Mihychuk: I was curious in your comment when you said that the Labour Board was swamped with unfair labour practices. Can you elaborate as to whether we have seen an increase, and in what part of the '90s that has occurred? Is it something that is recent, something that has happened because of the '96 legislation?

Ms. Ostop: I cannot speak for the early '90s. I can only speak for the last five years or so–

Mr. Chairperson: Sorry, Ms. Ostop, I have to recognize you for the recording system for our Hansard. Please proceed.

Ms. Ostop: I cannot speak for the early '90s, but in the last five years, the last three years for sure, I cannot remember a company that we have organized that we have not ended up with unfair labour practices at the Board.

Mr. Praznik: Mr. Chair, the factual information on the Labour Board is available to the Minister's staff who is here. I am sure they could provide it to the Minister or to the Committee on the accurate statistics, but I would just like to ask the presenter a question about the process again.

Certainly the point she makes about intimidation, we know it exists. That is part of human nature, of people resisting something. It can happen among fellow employees, by employers, by people who are overzealous in their cause. I want to ask her, though, if the problem that she has with the secret ballot vote in circumstances is the length of time between when a union would apply for certification with the Labour Board and the time the vote is held?

I mean I am sure she would agree that giving people the right to cast their ballot in a secret ballot vote, if people are committed to joining a union, as the case usually is when these things go to a vote and over 65 percent have signed cards, they express that with the ballot. Is her concern the time period between when the certification application is made and when the vote actually takes place, that that time period may in fact be too long, it allows for a period of intimidation? Is that why she would be prepared to give up a secret ballot vote for people to express their view? Is that her concern?

Ms. Ostop: I do not believe that we are giving up the secret ballot vote. Correct? If it is under 65 percent, the vote still takes place. At 65 percent, that is by far more than majority, and those people should not be subjected to a longer haul.

Mr. Praznik: My question is: Is there a concern about the time period between the application for certification and the period in which a vote, whether it be over 65 percent or under 65 percent signing cards? Is there a concern that the time period and the manner in which the Labour Board conducts the vote leaves a period through which the employer and any other party may intimidate people who have signed cards to change their vote? Is that of a concern to the presenter?

Ms. Ostop: I understand your question. My experience prior to was not enough to tell me whether the seven days now is a problem. In my mind, you get to the 40 percent and you have seven days in which the vote will fall. In that period, there is an awful lot that goes down, yes.

Mr. Rondeau: Thank you very much for your presentation. In your experience as an organizer, were there times when you did not attain the 40 percent, where there was no vote that took place because you did not make that threshold of 40 percent?

* (20:50)

Ms. Ostop: Off the top of my head, I do not recall that we have never had the 40 percent, in the years that I have been organizing.

Mr. Praznik: My question again then, if the experience is a lot can go on in those seven days, would not a suitable position be that in fact the period for the vote be shortened?

Ms. Ostop: Run it by me one more time. Sorry.

Mr. Praznik: We have heard a business presenter say that one of the clear benefits to the vote is it says clearly to an employer who may be reluctant to accept a union that their employees want that union, that it was a secret ballot vote, that they were not strong-armed or intimidated, or any of the things that can be said, rightly or wrongly. That employer knows very clearly that is what their employees want. That is the benefit of having a vote.

Now, the concern that many in labour have raised is it opens up a period for intimidation by the employer to get people to change their mind before they vote. I am asking the presenter: Would not the better vehicle be to shorten up the period between an application for certification and the vote, to reduce that risk? I am asking for her opinion on that, from her experience.

Ms. Ostop: I do not know that I can give you an honest opinion on that. Whether I am unclear on what you are asking me, what I have worked with in the last four or five years is the seven-day plan. I am not familiar, I do not know if it needs to be, whatever it needs to be. My concern is the 65 percent.

Mr. Chairperson: Thank you, Ms. Ostop, for your presentation here this evening. Time has expired.

As previously agreed, we will call Linda Fulmore. Is Linda Fulmore in the audience here this evening? No. Okay. Her name will be dropped down to the bottom of the list. The next out-of-town presenter is Chris Christensen. Is Mr. Christensen in the audience? No. He is not here with us this evening. His name will drop down to the bottom of the list. The next out-of-town presenter is Peter Woolford. Is Mr. Woolford in the audience? Please come forward, sir. You have a written presentation? Thank you. You may proceed.

Mr. Peter Woolford (Retail Council of Canada and Retail Merchants Association of Manitoba): Yes, Mr. Chairman. It is being circulated now.

My thanks to all of the members of the Committee for the opportunity to speak to you tonight. I would also like to express my thanks to the Clerk's office, who were very helpful to me. As someone who is not familiar with the Manitoba processes, they were very kind in giving me some guidance on the committee procedures. So I am grateful for that.

I am here this evening representing Retail Council of Canada and the Retail Merchants Association of Manitoba. Retail Council is the voice of retailing in Canada. We represent about 8500 members, over 90 percent of whom are independent merchants. The Retail Merchants Association of Manitoba represents close to 900 independent Manitoba merchants.

These changes affect retailers in two ways. First of all, ours is a very labour intensive business. The number of employees in Manitoba in retail is about 60 000. It also represents a major source of growth for employment over the course of the year, and some 12 000 employment opportunities are created, every one of those in your individual ridings in this province, over the course of the year.

Secondly, retailers rely on a healthy economy, and this is where we line up with a lot of the other parts of the business community. We are concerned about some of the signals that would be sent by this legislation.

There are three amendments in Bill 44 that our submission talks to and I would like to run through those fairly quickly. They are settlement of a collective agreement by arbitration after 60 days of a stoppage, removal of the secret ballot vote for certifications, and constraints on an employer's ability to discipline employees for misconduct on the picket line.

Let me deal first with the question of arbitration after 60 days. Our concern here in terms of the retail workplace is that this will unbalance the relationship between the workplace parties and give the unions a major bargaining advantage over employers during contract negotiations.

In fact, it almost guarantees a union a favourable result while putting a cap on the commitment that the union and its members might have to make to achieve it. We believe the strike-lockout mechanism is an essential part of free collective bargaining. It ensures the two parties have to think very carefully and very clearly about what their priorities are, but they also have to be left to pursue their legitimate objectives.

The proposal in effect prevents management from taking a fair but firm position on certain issues that are important to them. In contrast, the union knows that they can simply make demands confident that at the worst they can always go to arbitration. I simply do not believe that will lead to responsible bargaining.

In a highly competitive industry like retailing, this could well lead to contracts that imperil the future of the store or even of the company. To our knowledge, this is the only jurisdiction in North America that has ever contemplated such a provision, and we are very concerned that this represents a reckless and very radical jump into the unknown. We are concerned then that this will cause the province to be seen as a jurisdiction, quite rightly, where free collective bargaining has been curtailed in order to give one of the workplace parties an enormous advantage over the other.

I just want to add that one possible change to this that has been suggested to me is that you might give both parties the power to ask for arbitration. In our view, that does not answer the concerns we have raised. Giving either party the power unilaterally to apply for arbitration simply does not solve the concerns we identified above. In our view, this piece of the legislation should be withdrawn.

Let me turn to the elimination of the secret ballot vote. The secret ballot is at the absolute heart of our democratic culture, and I would recall for members that even in public elections for a long time we had public balloting. Individuals went to the local square and put their hands up, and their neighbours saw how they voted. Governments recognized after a long time that was not a fair way to get people's points of view. We all know about the corruption that existed in the early years in Canada as a result of

public voting, where people could see how we voted.

Given that background, it is very important that Manitoba has moved to a secret ballot. We simply cannot understand why the Government is proposing to strip employees of the right to a secret ballot on a decision that is very important in terms of their relationship with their employer.

There are also practical benefits to this, and a number of the business-side speakers have referred to this. First of all, the secret ballot gives unassailable credibility to the process and to the result. Canadians understand that when individuals vote in the privacy of the ballot booth their decisions are supreme. The employer is far more likely, we believe, to accept the results of the secret ballot vote.

Within the retail section, employees in the bargaining unit are also far more likely to accept the legitimacy of the result. That is important in retail, because the retail workplace has a large pool of employees, many of whom never even meet each other. You will have a Sunday specialist. You will have people who come in Thursday night and Friday night and perhaps Saturday morning who never meet the other employees. The only way they can be sure that what is happening is fair and responsible is through the mechanism of a secret ballot vote.

With respect to the impact on the economy, we are again very concerned, as many other business spokespersons are, that Manitoba is sending a signal that it has a labour relations environment designed to benefit unions, both over employers and over employees. This can only hurt the province in contrast with other jurisdictions. Again, our suggestion for this is that this section of the Bill should be withdrawn.

I would like to talk now, thirdly, about employer discipline for misconduct during a strike or lockout. This really touches retailers because, for many retailers, even in a corporate setting, the store is their home. A vital element of labour relations, to start at the level of principle, should be set in an environment and a process that keeps tensions under control during a work stoppage and guides the parties towards an amicable settlement of their differences. In fact, Bill 44 does the opposite. It condones picket-line violence. An employer would have to keep on the payroll an individual convicted of a criminal offence, even if the employee had used a weapon or if the misconduct had resulted in an injury or in property damage.

Again, as I said, from the perspective of the retail trade, these amendments represent a very grave threat to public safety, something that we are very concerned about. Retail stores are locations designed to facilitate and encourage visits by the members of the general public. It would be a terrible tragedy if a customer or passer-by were harmed as a result of picket line violence. We believe that tragedy would be compounded if the employer had no right to discharge the perpetrator. Again, we would recommend that this section of the Bill be withdrawn.

Let me just conclude by saying that retailers rely on the economic health of the customer for their own growth prospects. We are worried that our customers, the citizens of Manitoba, will be harmed as investment, jobs and income are created elsewhere in more welcoming regimes. We also believe we must speak out on principle against changes that undercut democratic rights and threaten public safety. In our view, Canadians have a right to expect that governments will protect fundamental rights such as these and not trade them away to a single interest within our society.

Thank you, Mr. Chair. I would be glad to take any questions.

* (21:00)

Mr. Chairperson: Thank you, Mr. Woolford, for your presentation.

Ms. Barrett: Just a brief comment. Nice to see you again. I enjoyed our discussion, and I think it was last week we were able to meet. I appreciate your taking the time to come again tonight.

Although we did reach consensus on seven out of the twelve elements of the discussion–that is an inside joke from the legislative session. At

any rate, I appreciate your having major comments in our meeting and your comments again tonight. We are interested in balanced labour legislation. We feel, frankly, that Bill 44, as it makes its way through the process, will actually address your concerns, some of them at any rate, and will lead to a positive labour relations climate. But I did want to say thank you for your taking the time to come and make your presentation again here tonight.

Mr. Schuler: Mr. Woolford, I am going to ask you two questions in succession. Feel free to answer them as you wish. When you canvassed the 900 Manitoba retailers that you represent under the Retail Merchants Association of Manitoba, of those 900 that you canvassed, did any one of them say they needed Bill 44 to help them improve their business in Manitoba?

Then my second question to you is, a quote from Rob Hilliard that was in the newspaper from the last couple of days in which he was speaking through you basically to the 900 Manitoba retailers in which he called them "lunatic fringe," and "They're nuts . . . they're crazy people." How does your association and how do the 900 Manitoba retailers feel about this quote?

Mr. Woolford: We did contact every one of the 900 members of the Retail Merchants Association of Manitoba. We also contacted all of our national members who have operations here in Ontario. We did not hear back from any one of them that this would be helpful to their business in the province, and many of them did get in touch with us to say that they were very concerned about what this would do in terms of the overall economy. Many of them are not unionized, and so these changes at this point might not be relevant to them, but a common theme through that was that they were concerned about what sort of signal this would send.

With respect to the lunatic fringe, retailers genuinely believe that they are part of the community. They are the people you go to when you are selling Brownie cookies, when you want support for the local ball league, when you want somebody to help you buy sweaters for the hockey team, whatever. So they feel they are very much part of the community, and I think they would resent being considered to be part of the lunatic fringe.

If I could, Mr. Chair, just with your indulgence, say my thanks to the Minister for her signals that she is interested in continuing the dialogue. I appreciate her signal that she is listening to the concerns that are coming from the business community.

Mr. Praznik: I am very interested in a couple of points in your presentation. Again, I know you have had a meeting with the Minister, but we have debated with her in the House. She does not seem to appreciate, and I think it is important that your organization reiterate the fact, that one of the great benefits of the secret ballot vote is the credibility it gives to the process, that the employer then much more quickly recognizes the fact that they have been unionized and want to get down to voting. I think it is important to impress upon the Minister because, as of today in the debate in the House, she still was not understanding that point.

I would also ask you, sir, as well, when you are making points with the Minister, that I do not think she recognizes either that her proposed amendment which will take away the union veto in essence is a diminution of the right to strike just as she has taken away from the right to lockout, which are two essential components of free collective bargaining. I would ask you to please make that point again with the Minister because, in today's debate, she did not recognize either of them, sir.

Mr. Woolford: With respect to the credibility of the vote, yes, that is very important and particularly important in the retail setting, as I said. Unlike many workplaces, a retail store, which is where most people in retailing work, is a place where employees come and go over the course of a day, and there is a high degree of part-time labour. Many people are casual employees, or they work an unusual set of shifts which often reflect the requirements, both of the employer and the employee. As I said, you will have people coming in only for certain periods of the time. They may never even meet at any time, other than a seasonal party, the other people who work in that store. So you may have, even in a relatively small store, a pool of 20 or

30 people, some of whom meet each other perhaps once in the year.

It is entirely possible that a union trying to organize a workplace like that, whatever the sincerity of their efforts, will miss a significant portion of those employees, because they are simply not there to be spoken to. Those employees then may well wonder what has happened when there is an application for certification, particularly if it is done through a card process. You could see a situation where 20 or 30 percent of the employee base have absolutely no idea that the place is being unionized, that cards are being signed, and those employees will resist quite significantly something where they feel their rights have been not fully respected.

In terms of the employer, of course, recognizing that the union has got the genuine majority support of its employees, freely given in confidence, it is a salutary shock to the employer. Quite often the employer goes through thinking, well, I am a nice person. They would never really want to belong to a union, but a secret ballot vote convinces the employer very quickly and clearly otherwise. It is a very powerful tool in that regard. I am sorry, I have lost the second point.

Mr. Chairperson: The time has expired, so if Mr. Praznik would be very, very brief, I will allow a little bit of latitude, if he will too.

Mr. Praznik: Just to confirm that by imposing this binding arbitration settlement, it really is a diminution of both the right for free collective bargaining, both the right to strike, legally withdraw one's labour, as well as the right to lock out, which are the two cornerstones of our free collective bargaining process. The Minister does not understand that that is what she is doing, so we would ask you to make that point to her when you speak to her again.

Mr. Woolford: In the interest of time, yes, Mr. Chair, I can confirm that.

Mr. Chairperson: Thank you, Mr. Woolford, for your presentation.

The next out-of-town presenter we have on our list this evening is Robert Desjarlais. Is Mr. Desjarlais in the audience? Please come forward.

Good evening, Mr. Desjarlais. Do you have a written presentation, sir?

Mr. Robert Desjarlais (United Steel Workers Union Local 6166): No, I do not. I have notes.

Mr. Chairperson: Please proceed, sir.

Mr. Desjarlais: Thank you. First of all, I would like to take the opportunity to thank the Honourable Minister for allowing me the opportunity to make my presentation here tonight. I do recall the last time I was in Winnipeg to make a presentation. I believe the legislation was Bill 26, and if you recall, Mr. Reid, at that time, when I was forced to make my presentation at two o'clock in the morning, even though I was presenting from outside of town. The then-minister of Labour, Vic Toews, took the opportunity to leave the room. You asked me then what my opinion of that situation was. I would like to reiterate that here today, that neither he nor his government would listen to anybody in the province of Manitoba at that time. So I was neither shocked nor disappointed that he was not here, just a natural extension of the Tory disregard for Manitobans. They exhibited that for 12 years, and I am certainly glad that there has been a change of political will in the province of Manitoba.

My experience in the trade union movement, I have been a steel worker for 27 years. I represent 1200 steel workers in Thompson, Manitoba. I have been immersed in the trade union movement as grievance co-ordinator, steward, safety and health representative, on different executive boards, and most recently I have been re-elected president. This is my third term as president of United Steel Workers in Thompson.

An Honourable Member: By secret ballot.

Mr. Desjarlais: Absolutely, by secret ballot. As a matter of fact, we do most of our business by secret ballot.

Again, if I could try and get through this. I know the ignorance that is sitting to my left is going to make it difficult for me to get through this. Maybe you get away with that stuff in the House, sir, but I would ask that I would be given the opportunity to make my presentation here, if that is okay with you. Thank you.

Again, I did relate that story about Minister Toews for a reason, because Minister Toews, in 1995, sat in my office. We were discussing The Labour Relations Act of the province of Manitoba at that time. At that time, I asked him very pointedly: Were you contemplating any changes to The Labour Relations Act? He said, no, we absolutely are not contemplating any changes to The Labour Relations Act because it is a balanced, fair piece of legislation, 1995. Less than four months later, they introduced into the House in the province of Manitoba the most horrendous, despicable attack on the trade union movement anywhere in Canada. That was the legacy that the Tories have left this province is a bunch of lies and misleading statements.

Again, when we talk about the impact of the Conservative Party on labour relations, I would like to just refresh your memory, if I may. In 1992, they eliminated final offer selection. In 1992 again–I have 11 points here–moved the level of automatic certification from 55 percent to 65 percent; took away the right of the Labour Board to issue interim certificates; eliminated automatic certification entirely and made a board supervisory vote mandatory; expanded the right to participate in ratification votes to all members of the bargaining unit, not just union members; gave the employer and the Minister the ability to force union members to vote on the employer's last contract offer; required unions to consult members when using funds for political purposes, even though members vote democratically on the union's agenda and no such counterbalance was forced upon corporations; allowed employers much wider latitude in what they could say to an employee during a union organizing drive, paving the way for nearly unfettered intimidation; nearly eliminated entirely the expedited grievance arbitration system; and required unions to file audited financial statements with the Labour Board–they never even got support from business on that–and allowed employers to fire picketers for behaviour that would be just grounds for dismissal outside of a strike or lockout.

* (21:10)

When you are on a strike or lockout, I believe Justice Rand made it very clear that it is not a tea party. It is a very difficult process for everybody. So when you make the statement that you should be able to fire somebody for the same situation that occurs in a workplace is absolutely unbelievable; then people have no concept of labour relations, because it is not the same. The gloves are off and things are difficult, tensions are high.

I want to talk a little bit about the overall unbalance that has taken place in this province and where we are in respect to the 12-year legacy of the Tories.

Just to give you some flavour of what I am talking about, this does not directly relate to Bill 44 but it gives you some sense of what we are facing as workers in this province. It was less than two years ago when two of my members were disciplined for refusing to do unsafe work. Now that probably does not cause some duress with people on the left-hand side of the room, but I can tell you it causes me a lot of duress as the president of the Steel Workers that Inco Ltd. was allowed to get away with disciplining my members for refusing to do unsafe work, because if you put yourself into the situation where you are in step three in the misconduct system in Inco Ltd. and you come to work one day and your employer says, you get that job done or you are going to be fired, and it is unsafe, you do it anyway, because you are so afraid of not having employment and not being able to feed your family that you go ahead and you put your life on the line because the work has got to get done because you are so afraid of losing your job because you know it is going to take you at least a year before you get to arbitration. These are the types of things that are taking place in this province as I speak.

I can think of another situation in Leaf Rapids where a steel worker met his death by driving into an open hole. I think you recall that, Mr. Reid. It was less than one year later–that was HBM&S in Leaf Rapids–HBM&S in Flin

Flon, the same type of situation occurred, the exact same scenario where a worker drove into an open hole, no safety precautions were taken. He died. There was absolutely no recourse. None. The judge that issued a verdict on that situation said that there was no culpability for HBM&S in that situation. Even though both of those jurisdictions are in the province of Manitoba they were not held accountable for not relaying information from Leaf Rapid to Hudson Bay.

There is something wrong with this system when those things are allowed to happen in our province, where employers are allowed to kill workers in that manner. It is unbelievable. That should have been taken care of. It was not. That is the type of climate that we have in this province. When I talk about the overall impact that that has, those are two situations that have occurred, and I want to make sure you understand that.

Bill 44 restores some of the balance between employer working relationships, not all that was removed by the Tories. It does not go far enough in putting employers and workers on an equal footing.

We like some of the scenario that Bill 44 is painting: provisions that allow the reinstatement of workers following a strike or lockout, recognizing it is too easy for employers to fire picketers for their own reasons. Legal remedies already exist to breaches of law. That is not an issue. If you are doing something that is illegal then obviously you should have some recourse to look after that situation. Employers were deliberately provoking picketers to entice them into behaviour that would get them fired if there were no strike or lockout. When a picket line is in place, it is not business as usual. I think I made that clear already.

Repeal of the limits on using union dues for political purposes, we obviously had a problem with that. It was extremely one-sided. I do not want to get into the nuts and bolts of that. I believe the NDP are contemplating other changes to the financial contributions, and we certainly applaud those kinds of changes. The only reason we are involved in the political donation as far as money is concerned is because of the extremely heavy influence of business in the Liberal, Tory and Alliance pockets. We are trying to bring some balance to that. If we can have a balancing of those kinds of situations, the unions will stay out of it. I do not have a problem with that.

What we do not like: We do not like the fact that the Minister still has the power to force workers to vote on the employer's last contract offer. We do not like it. Contract ratification votes still include non-union members of the bargaining unit. Card base certification threshold is way too high, 65 percent. We talk about democracy. It is absolutely unbelievable that somebody can on one hand talk about democracy and then use 65 percent as a benchmark, which is absolutely–nowhere else in our country do we allow a benchmark that high; 65 percent is way too high. It should be 50 percent plus one.

When the vote is taking place, it is when you sign a card. That is when you have cast your ballot for the union. You should not have to jump through another hoop on the other side of that and give the employer an opportunity to intimidate the workers into not voting in the proper manner, because we all know that that is common practice in this province. So 65 percent is way too high. It should be 50 percent plus one. As a matter of fact, if we had 65 percent as a benchmark for electing governments, the Tories would never ever see the light of day, because there is nowhere in Canada that they would get that kind of support.

From my perspective, it is a wrong-headed situation. It should be 50 percent plus one. I implore the Minister to take a serious look at that.

Employer affiliates report to us a lot of situations in regard to organizing drives, offering them cash payment to either end their efforts or to find work elsewhere. American labour leaders say 10 000 workers in the United States are fired every year for trying to form a union. The union is smaller in Canada but still unacceptably high.

I want to talk a little wee bit about the alternative dispute resolution mechanism. It is less effective than it could be in that there is no access to it by the parties before a strike or a

lockout has begun. It is important that an application for this process be ratified by employees. We do not support the fact that employees are not given the ability to mandate their bargaining committee and their union to go after and apply for the alternate dispute mechanism. So we would like to see some changes in that perspective.

Workers are being asked by one of the parties to give up their right to strike. This is a union member's most important right. Losing it is no small matter. It should occur only with their informed permission.

Expedited arbitration, this process should be opened for use to all grievance matters, not just those related to disciplinary matters. There are many important aspects to a contract, and it is wrong to exclude them from expedited arbitration. This loophole allows employers to continue to drag their feet on any issue that is not based on discipline. Justice delayed is justice denied.

Anti-scab legislation, the most effective labour law that could be enacted to bring balance to the parties during a strike or lockout is anti-scab legislation. Both parties should be under the same circumstances during a work stoppage. For union members, that means having no pay cheque and a low level of income from union strike pay. Employers should suffer the same restrictions, operating only with management staff and no replacement workers. Let us face it, when there is a strike or lockout situation, there has been a failure in labour relations. So, therefore, both parties should be on an equal footing. There is nowhere in this legislation we are talking about an equal footing when it comes to that situation.

Employer communication during organizing campaigns, Bill 44 should restore the limits on employee communication that existed before 1996. When these limits were broadened by the Conservatives, it greatly increased the ability of employers to make threats and intimidating statements to employees during union organizing drives. There are many examples of labour boards across Canada granting certificates because employers had so poisoned the atmosphere that the two wishes of the employees could no longer be determined.

It is out of the ordinary for similar levels of coverage on day-to-day concerns for working people. Topics such as workplace, safety and health, workers compensation, adequate pensions and fair wages are ignored unless there is a crisis. I want to get into a little bit about–and bring this to some conclusion. This tilt in our cultural fabric allows the continued existence of legislation that puts the interest of employers ahead of workers.

The modest improvements, from a worker's standpoint, that are in Bill 44 have sparked a near-hysterical reaction. What, unfortunately, brother Hilliard had the opportunity to talk about first, but certainly what I would like to reiterate, is the lunatic fringe in our society. They put on a massive campaign that contains scare tactics, statements that were baseless in fact and words that are extremely misleading. This lunatic fringe would quite frankly react this way to any changes to the Labour Relations Act in the Province of Manitoba that do not increase employer's rights. Their hysteria and exaggeration should not have any credibility whatsoever with this government. After all, I look around the room, and I see a lot of the MLAs that were in opposition. What kind of reaction did you get when you contemplated any changes to The Labour Relations Act that they put in place? I would ask you to pay the same heed to their whining and snivelling.

Most of Bill 44 amendments contain nothing that has existed in Manitoba before. No new ground is being broken here. If passed without amendment, they would put Manitoba in about the middle of the pack when compared to some progressive provisions contained in other provinces.

* (21:20)

I conclude my presentation, and again, I want to thank you, Honourable Minister, for giving me the opportunity to make my presentation here today. I implore you to dismiss the argument of the right, the business agenda, the Chamber of Commerce, the Taxpayers Association. They have attacked this govern-

ment incessantly in opposition. You know where they were when it came to Tory legislation; they helped craft this stuff that kicked the pants off of workers in this province. Of course, they are going to be whining when you contemplate any changes. Please do not pay any attention to them because it is time to get on with the business of working men and women in this province. Thank you.

Mr. Chairperson: Thank you, Mr. Desjarlais, for your presentation.

Ms. Barrett: Just a brief comment. Thank you for your animated presentation and for raising some of the concerns that you have with what you see as some of the areas in Bill 44 that you feel should be strengthened. I appreciate your having shared that with us tonight.

Mr. Chairperson: Any other questioners? Thank you, Mr. Desjarlais, for your presentation this evening.

The next out-of-town presenter is Randy Porter. Randy Porter is not here this evening. Are there any further out-of-town presenters or out-of-province presenters here this evening who wish to present? None.

Going back to the top of the list on Bill 44 is Mr. Sidney Green. Will you please come forward, sir. My apologies for calling you earlier out of sequence. Do you have a written presentation, sir?

Mr. Sidney Green (Private Citizen): I do not have a written presentation, but I do have some material that I want to leave with members of the Committee that I will refer to–

Mr. Chairperson: We will distribute it to committee.

Mr. Green: Given the scarcity of time, I really will not deal with it.

Mr. Chairperson: Thank you, Mr. Green. We will distribute that to committee members. You may proceed.

Mr. Green: I am neither a businessman nor a trade unionist, and therefore I can be spared the epitaph of the lunatic fringe. However, I am a lawyer, and I am sure they will figure out some good words to go with that.

Mr. Chairman, I do not appear here on behalf of business. I do not appear here on behalf of trade unionists. I appear here as a citizen who wants to maintain a free society, because freedom, we are told and we should believe, is indivisible. When the state comes in and detracts from the freedom of one individual, it detracts from the freedom of all of us.

One of the fundamental characteristics of a free society is that working people have the right to withdraw their services collectively and not be imposed on by a government. Another feature of a free society is that an employer is entitled to say that he will not employ and will not be forced to employ by a government. The measure of a society that moves towards totalitarianism is a society that inhibits either of these two rights, or as I am not being advised both of them.

Mr. Chairman, I think I do have to indicate some of my involvement in this area. The Minister says that for 50 years a situation prevailed, which she has been ill advised because it did not prevail. Mr. Chairman and gentlemen and other members, lady members of the Legislature, I started appearing before the Manitoba Labour Board in 1953. Those are the 50 years that she is talking about.

I was, for a good period of time, between 1957 and 1969, the legal representative of most of the important trade unions in the province of Manitoba. I was hired by the Manitoba Federation of Labour to teach labour law at the University of Manitoba to their business agents, some of them who may still be in this room. I was hired by the Manitoba Law School to teach labour law to the students of labour law at the Manitoba Law School, and in all of those years, Madam Minister, and members, I pursued one thesis, the thesis of free collective bargaining and the right not to be imposed on by the state or by the Legislature with respect to those fundamental rights, and I was cheered by the trade union movement.

I was the lawyer for the Manitoba Federation and it cheered not simply because,

and it is true, not because I was a nice looking man, but because they agreed with what I said. The only one here who can verify it is my friend, Mr. Enns, who came to the Legislature at the same time as I did, and in the Legislature I proposed a series of resolutions, all of which tried to undo the features of The Labour Relations Act which impeded upon free collective bargaining, and–

An Honourable Member: Boycott legislation.

Mr. Green: Exactly, and in 1969 the New Democratic Party was elected to govern the province of Manitoba.

An Honourable Member: To my horror.

Mr. Green: That is right, to Mr. Enns's horror, and every single one of those resolutions was enacted into law. Indeed, to demonstrate that we were not dealing with trades unionism but with the rights of individuals, the most important change was The Queen's Bench Act, which prohibited judges from enjoining people to stop picketing peacefully in a normal, non-assaulting situation. The Tories said it will lead to violence. It took 27 years for the Supreme Court of Canada to come to the same position. We also enacted in The Queen's Bench Act that no judge could order a person to go to work. Those two changes were unique in North America. No other jurisdiction said that judges could not interfere with the freedom of people who left work and say that they had to work, and no judge could order a man to stop walking down the street carrying a sign saying this employer is unfair or do not buy furs because it is unfair to animals.

For years, both in the courts, and the labour movement, it was known as the green amendment. In 1979, they forgot that it was the green amendment. They have written the green amendment out of history even though it is still there in the statutes.

* (21:30)

Now, I tell you this because I want to indicate that I have been in the forefront of the argument in favour of free collective bargaining. I attended the legislative session when the New Democratic Party made its first assault on free collective bargaining under the Pawley administration. That is where it took place. That is where the imbalance took place. In 1970 we enacted labour legislation. We were defeated in '79. The Lyon government came in in '79. Between 1979 and 1981 they did not change one word of that legislation, because it was fair legislation, and it ensured free collective bargaining.

At the end of our term some unions were not so happy with free collective bargaining. They wanted a little help. They wanted what Mr. Desjarlais refers to as anti-scab legislation. I said: Are you agreed that, when the nurses go on strike, I am prohibited from hiring people to look after your mother, and they said yes. So I said you can tie my arms and legs to four horses, send them off in different directions, and I will not pass such legislation. So they proceeded to tie my arms and legs to four horses and send them off in different directions, and that is what happened. They came into power and, although all of those people promised it, they never passed anti-scab legislation. There are variations of it, but they never passed it.

In 1980, Mr. Pawley enacted The Labour Relations Act, which for the first time said that there would be compulsory first-contract legislation, which is an infringement of free collective bargaining, and also had that business of final offer selection which was a form of arbitration. The Minister has said here that for 50 years the Labour Board had a right to have a certification without a vote. That is a half truth. She has been ill advised, and my remarks will be in Hansard. Go back to your advisors.

Up until 1986, in the '80s when Pawley enacted that legislation, if there was an application–let us take a hundred employees, it is easy, and 75 employees applied for certification and then there was a petition–75 out of 100, that is 75 percent–by 35 employees who said we do not want the union, that brought the 75 down to 65. If there was a petition by 60 employees that said we do not want the union, then the Labour Board, faced with an application by 75 and a petition by 60, almost always ordered a vote unless the Labour Board found that there had been unfair labour practices.

Check it with your advisors. They cannot do that anymore.

There is now a section in the Act, section 47, I believe, which says we eliminated the right of the employer to appear before the Labour Board on an application for certification. We said it is none of his business. It is for the employees only. Never in my wildest imagination did I believe that that would be carried forward so that the right of the employees to oppose an application for certification was enacted in legislation by the Pawley administration.

So what the Minister ignores is that there were two changes in 1986 which undid what happened before then. One, there was first contract legislation. Prior to first contract legislation, if you got a certificate, it still did not mean you had a collective agreement. You still needed solidarity forever amongst the workers to try to get an agreement. It really did not matter whether a vote was taken or not because ultimately, as Lenin said, they vote with their feet, and if the employees were going to refuse to vote with their feet, there were numerous certificates that did not go any further than certificates. That was the situation, one of the fundamental changes.

The other fundamental change is that before the Pawley legislation, workers could oppose an application for certification. Now, unless they allege fraud, coercion, intimidation, or the imposition of a pecuniary penalty–look it up, what I said is in Hansard, look it up, section 46 or 47–the workers have no status to make an application with the result that an application, and this is not hypothetical, for certification was made. The union claimed two employees. The same two employees opposed the application. They did not allege fraud. The Labour Board said: Since you have not alleged fraud, you cannot oppose the application; we impose a certificate. There are now 35 employees, not one of whom asked for a collective agreement, and the Board imposes a collective agreement on those employees. Two employees who never asked for it resulted in an agreement imposed on 35, none of whom asked for it. That is why.

You know, I am not happy with what the Tories did, but that is the reason that the legislation was changed in 1996. In 1996, the Tories said, well, this situation where two can bind 35 and they do not have a right to oppose is no good, so we will make it a vote on every question. I do not happen to agree with that, but given the fact that a certificate now means a collective agreement, that is almost a necessity.

Now, Mr. Chairman, the employees that I have heard here talk differently to the ones that I knew in the trade union movement. They say they need legislation to help them organize. I act for the majority of employees in the province of Manitoba by the same token as that lady got up and said I represent 100 000 teachers. I represent employees, have been doing so for 20 years, always representing employees who have been opposed in some respects to what the trade union was doing, and those employees represent over 75 percent of the working force in the province of Manitoba. If you exclude the civil service, that is the number of organized employees we have. The civil service was never an organized union. It was a legislated union. They never organized. They never signed cards. The Legislature gave them the right.

Now, Mr. Chairman, you have shown me that I have two minutes, and I know that I have used it up. There is much more that I have to say or would like to say. There are many things about this act which are wrong, but basically the Minister is misinformed. There is no other legislature in Canada which denies the employees the right to oppose an application for certification. The only one that has those statements is the Manitoba Legislature.

Now, the union people say: If he once signed a card, he should not be able to change his mind. You know, the same people urge that if a guy comes with a vacuum cleaner to your house and sells it to you for $350, and you sign the contract and you pay him, you have 48 hours to change your mind by the law of the province of Manitoba. I do not know if it is 48, but you have, and this was urged and applauded by the union movement. But if a man or several men are in a social relationship with others, and there is a union organizing, they do not want to show that they are scabs or that they are friends of the boss, and they sign a card, and then they go home and they discuss it with their spouse, and the spouse says: You should not, you cannot

change your mind under the Manitoba law. Check it. Check it with your advisers. You can only complain. That was never the case for the last 50 years, as you have been told.

Mr. Chairperson: Sorry to interrupt you, Mr. Green, but your time has expired, sir. We will move on to–

Point of Order

Mr. Enns: I wonder, and I appeal to colleagues on the Committee, if we would not be prepared to extend to Mr. Green, a former distinguished cabinet minister of this province, a former distinguished member of the New Democratic Party, an obvious expert in the subject of law speaking to us from a non-prejudiced position, that is, not organized labour or business, could we not prevail upon the Committee to allow him some additional time.

Mr. Chairperson: Mr. Enns, you do not have a point of order, sir. I have allowed some latitude by about a minute and a half for the presenter to allow for that–

* (21:40)

Mr. Green: Then I do not want to be thanked by the Minister because she uses time, and I would prefer to answer questions.

Mr. Chairperson: I would prefer, if it is the will of the Committee, to move on to questions to give members of the Committee the opportunity to ask questions of the presenter, if that is the will of the Committee. I have Mr. Praznik first on the list.

* * *

Mr. Praznik: Mr. Green, you are familiar with the way that final offer selection worked, and you are familiar that the Minister and the Government proposed an alternative to free collective bargaining, this binding arbitration with a veto to employees. The Minister today announced in the House that she would be amending the statute to eliminate the veto, and we have said to her that in doing so she has diminished the right to strike. We would like your comments on this, and how it affects collective bargaining, Mr. Green.

Mr. Green: You know, when I looked at that, I did not believe that anybody would have the chutzpah to say that a strike could be stopped by the employees but not the employer. There it was in black and white. That is what it said. It reminded me of Big Jule in *Guys and Dolls*. You remember *Guys and Dolls*. He is down there rolling dice, and he is losing. So he says: Okay, we are going to continue but from now on we use my dice. Nathan Detroit says but there are no spots on them, and Jule says oh yes there are. I remember where they were. Then they have to play with his dice.

It has chutzpah, but at least it preserved the right of the workers to say that they would not work when they were winning a strike. Now, she has gone all the way, if I understand it, I am not sure, that now, in the province of Manitoba, after 60 days any strike or lockout can be declared illegal. That is the biggest assault on free–

Mr. Chairperson: Mr. Green, one moment please, sir. There is a point of order.

Point of Order

Mr. Smith: Although some committee members are here to listen, and listen to the presenters, there are a lot of interruptions going on, and I believe you can call both sides, especially the people up front here. They are interfering with the people making the presentation, who have taken the time to come here to present in front of this committee and be listened to. Mr. Chair, I would ask that you bring these people under control.

Mr. Chairperson: Mr. Green, one moment please, sir. I have to rule on the point of order. I would ask co-operation of members of the Committee in respect of the public who are here this evening making presentations to members of the Committee, that we do respect their right to make that presentation, and we do not interject while they are making their comments. We would hope we would refrain from interaction with members of the audience at the same time, and that we preserve some decorum in this

committee. So I ask members for co-operation for that particular point.

At the same time, before you proceed, Mr. Green, I would say that there is no point of order, but I do ask for co-operation of members of the Committee on all sides.

* * *

Mr. Chairperson: Mr. Green, you may proceed.

Mr. Green: I hope, Mr. Chairman, you will take off these points of order, et cetera, from–

Mr. Chairperson: We did, sir.

Mr. Green: To answer to Mr. Praznik, any legislation that interferes with the free collective bargaining rights of the parties is legislation which should be avoided. The need for legislation results from the legislation itself. In 1946, when PC 1003 was in its infancy, that is the predecessor to The Labour Relations Act; before that there was no act without any legislation whatsoever on union solidarity, solidarity forever, 28 percent of the Canadian workforce was organized.

In 1981, that was 32.9 percent with all of this legislation, and it is down from there, if you take off the civil service, which was not organized at all. So when I hear these guys getting up and saying we need the help of the Legislature, when I appeared before the Legislature, when the Tory legislation came in and the unions were complaining about it, I said, how can you complain, you asked for it.

Remember this, trade unionists, what the Legislature giveth, the Legislature taketh away, blessed be the name of the Legislature.

There is no strength in unionism from legislation. Union strength comes from solidarity and the legislation inhibits that solidarity. That is why you have a weaker trade union movement today with all the legislation than you had in 1945 with no legislation. Not a single union that went on strike in 1919 was certified. They were all organized on the basis of the strength of unity.

Mrs. Smith: I want to thank you, Mr. Green, for your presentation and for the history that you bring to this committee. The fact that you are a member of the New Democratic Party and that–

Mr. Green: Not now.

Mrs. Smith: Not now. Sorry, Becky. Having said that, though, you were, as I understand, a cabinet minister in the NDP Government and your expertise in terms of labour legislation is something that we have all listened very carefully to.

I need to know, in your opinion, in the event that Bill 44 goes through, Mr. Green, will it in any way help the workers or the employers to have a better relationship on the workforce?

Mr. Green: It will hurt me. It will deny me the right to live in a free society. Mr. Enns was in the House. There was a transit strike in Winnipeg in 1976, I believe it was. The strike went on for several weeks. Russ Paulley, my fellow cabinet minister, got up and said he was going to legislate an end to the strike. It is probably the first time in parliamentary history another cabinet minister got up, myself, Paulley was sitting two seats down, and I said there will be no legislation to end the strike. We do not send people to work; we do not legislate people to work.

In eight years of being a minister, I never legislated one person to work. I fought in the courts for seven years to stop the judges from ordering people to work. I do not believe that you or anybody else should work on the basis of what some third party says I should get. Never. Never. Therefore, what happened? I got up and said there will be no legislation. Steve Juba was sitting in the armchair. The next day the strike was settled because Steve went back and told the City Council there is no way this is going to be legislated; we have to bargain.

The union said we have got to bargain, otherwise we are going to be walking the streets. They bargained. That is free collective bargaining, not some minister saying we are going to appoint. Wait, wait till the day that the Tories do it, and the Tories have control of who the arbitrator will be. This happened in British

Columbia, I believe, and the trade union movement came out and said fascism. That is what they did. They did not say lunacy.

If the New Democratic Party is in power, and they still feel they have an inside as to who the arbitrator is going to be, they may live with it. If the Tories are in power, they will immediately call for the repeal of this legislation because they will be afraid that you will appoint Sid Green as the arbitrator.

Mr. Chairperson: Mr. Green, sir, the time for questions has expired. I thank you very much for your presentation here this evening.

The next presenter on the list here this evening is Irene Merie. I hope I have pronounced your name correctly. Do you have a written presentation?

Ms. Irene Merie (Chairman of the Board, Winnipeg Chamber of Commerce): We do. I believe it is being circulated right now.

Mr. Chairperson: Thank you, you may proceed.

Ms. Merie: Mr. Chairman, members of the Standing Committee, the Winnipeg Chamber of Commerce thanks you for this opportunity to address you on a matter of utmost importance to the business community in Winnipeg and abroad.

* (21:50)

My name is Irene Merie, and I am the Chairman of the Board for the Winnipeg Chamber of Commerce. I am joined here tonight by our incoming chair, Murray Sigler, and Candace Bishoff, Dave Angus, and Loren Remillard.

Founded in 1873, the Chamber is the leading voice of Winnipeg business. We represent approximately 2700 individuals from greater than 1400 companies with a combined workforce of over 60 000 employees. Our membership reflects the overall make-up of Winnipeg's business community in that two-thirds are small business. For more than 127 years, our mission has been to foster an environment in which Winnipeg business can prosper. Enhancing Manitoba's competitive position and, in turn, encouraging business starts and expansion requires an attractive labour climate, one built on fair and balanced labour legislation.

Business is united in our opposition to Bill 44. While some groups may have chosen a different approach from the Winnipeg Chamber, make no mistake, business is united in our opposition. The Chamber has worked diligently over the past few weeks to seek solutions that would be palatable to our membership.

The Chamber believes strongly that Bill 44 would dampen Manitoba's labour climate and economic growth by impeding on the rights of employers and employees and upsetting the delicate balance between business and labour.

The three specific changes of paramount concern to the Chamber are as follows: Firstly, the introduction of a collective agreement settlement mechanism for work stoppages in excess of 60 days. This proposed change is a significant move, especially considering that no similar position exists anywhere in North America. The intention to ease the hardships arising from a prolonged work stoppage is laudable. The mechanism being put forward to achieve this end, however, provides a unilateral advantage in bargaining to labour and correspondingly eliminates freedom of bargaining on the part of employers. The fact remains that no viable alternative has been found to the strike-lockout mechanism. This is because a strike-lockout forces the parties to reveal their true priorities and to work toward achieving an agreement that takes into account the best interests of both sides. It works because it balances the freedom of employees to strike and employers to impose a lockout with the economic risks associated with these choices. Upsetting this delicate balance of freedom and risk could potentially result in more rather then less work stoppages. By enabling the union members to opt for interest arbitration after 60 days, the risks to employees and the union normally associated with going on strike or opposing a lockout are substantially reduced. This in turn may lead to the result often seen in sectors where interest arbitration has replaced

the strike-lockout option. Both sides are encouraged to take extreme positions and to remain steadfast in anticipation that a third party will eventually settle the contract.

Because a third party is far less able to conclude a collective agreement that truly represents the priorities and best interests of the parties, this process tends ultimately to be dissatisfying and disadvantageous. It is hard to see the urgency behind this proposed new law. In 1999, Manitoba ranked sixth among the ten provinces in terms of number of days lost per one thousand paid workers due to work stoppages, seventh in 1998 and second in 1997. This new provision will have serious detrimental consequences for our economy as businesses looking to locate or expand will not view Manitoba in a favourable light.

While we do not support this provision, if it is to be enacted, the Winnipeg Chamber is pleased to provide the following recommendations: That the requirement for employees to vote on the Labour Board's involvement be removed. That the proposed resolution mechanism be activated only in the event that the work stoppages exceed 60 days and an applicant demonstrates to the Labour Board that the other party is guilty of an unfair labour practice that has undermined the collective bargaining process. We feel that is the key point.

Second, union certification process. The proposed change from the secret ballot system to automatic certification when 65 percent or more of employees have signed membership cards is another serious concern for business. The particular advantage of secret ballot votes as the standard means of establishing bargaining rights is the inherent credibility of the process. The use of the secret ballot as a means of determining the wishes of a voting constituency is the cornerstone of our democratic society. Employers are far more likely to accept and respond positively to the results of a secret ballot vote than they are of a card system that usually is conducted in secret and with the results that they would never see.

Employees in the bargaining unit are also far more likely to feel included in the process of a secret ballot vote, particularly if they were not approached originally to sign a card. According to Paul Weiler, one of North America's leading authorities on labour relations, a secret ballot vote has a symbolic value that a card check can never have. It clears the air of any doubts about the union's majority and also confers a measure of legitimacy on the union's bargaining authority, especially among minority pockets of employees who were never contacted in the initial organization drive.

Furthermore, there appears to be no compelling reason to take such a step backwards. From April 1993 to March 1996, 143 applications for union certification were approved under the automatic certification system. From April 1997 to March 2000, 155 applications were granted using secret ballot votes. Clearly, secret ballot votes have not hindered the growth of unions. Automatic certification would put Manitoba at odds with a number of jurisdictions with whom we compete to attract business, most notably Alberta and Ontario. Even in Saskatchewan, the Labour Board retains a discretion to order a secret ballot vote, notwithstanding that a union may be able to demonstrate more than majority support. The Chamber recommends strongly that the current certification system using secret ballot votes be maintained.

The third area we wish to address is discipline discharge for misconduct during a strike lockout. This final issue today is the proposed repeal of an employer's right to refuse to reinstate an employee for reasons that would be cause for discharge if a strike or lockout were not in process. This would result in a system whereby employees had virtual immunity from work-related disciplinary sanctions for acts committed during a strike or lockout. In an extreme situation, an employee could assault a member of the public, a customer or company employees with virtual immunity from employment sanctions. The proposed change is contrary to the interests of the public and Canada's founding belief in peace, order and good government.

The current legislation provides a reasonable deterrent to extreme acts during a strike-lockout and are more than appropriate to maintain. Furthermore, there is no indication that the

current legislation has resulted in an employee losing his or her job unfairly, nor is this likely since the refusal to reinstate a striking employee remains subject to review by the Labour Board. While we do not support the proposed amendment if it is to be enacted, the Chamber is pleased to recommend the following: That the provision be amended so as to give the Labour Board authority to give due regard to all circumstances of the misconduct, including the fact that it occurred during a strike-lockout. The Labour Board's hands, therefore, would not be tied when considering this matter.

The Winnipeg Chamber of Commerce urges the provincial government to consider the serious implications of these particular changes, and we are also concerned about the rising uncertainty within the business community that has been generated by Bill 44. Knowing what the labour landscape will be in Manitoba is important to business planning. The Chamber believes that this matter must be addressed quickly and decisively or we risk furthering the level of uncertainty and the consequent impacts. Business, labour and all Manitobans want our province to remain an attractive place for employers and employees. Our community's future growth and prosperity require an attractive labour environment that is fair and balanced for all Manitobans.

I thank you for allowing us this opportunity to put our members' concerns forward, and at this time, if the Committee please, I would like to invite Murray Sigler up, and together we will be happy to respond to questions.

Mr. Chairperson: Thank you, Ms. Merie.

Mr. Praznik: I gather we are a few moments and many questions. I just wanted to thank you for your presentation. I think it is excellent. I just want to ask you to reinforce that point, because this Minister of Labour does not seem to appreciate in the course of the debate that we had today and other days that the advantage of the secret ballot vote, the advantage above all else, is it establishes in the minds of the employers the legitimacy of the process in which those members have decided to make a union, and it spurs on then the collective bargaining process. This is a point that I see you make. I think it is important you make it again, because this minister has not acknowledged that at all in the course of the debate in the House.

Mr. Murray Sigler (Winnipeg Chamber of Commerce): I think the document really speaks for itself. I do not think there is anything to add by repeating it. The point is made. We want to ensure that workers' rights are respected and we want to ensure that Manitoba remains a competitive jurisdiction for employees and employers and for everyone involved.

Ms. Barrett: Very briefly, I want to thank you for your presentation tonight and the discussions that we have had with the Winnipeg Chamber over the last few months and say that while we may not agree on absolutely every detail of the legislation, we do agree with the Chamber that our future growth and prosperity require an attractive labour environment that is fair and balanced for all Manitobans. We have that as a goal, as well as the Winnipeg Chamber.

* (22:00)

Mr. Sigler: Just in response to that comment, the business community was quite enthusiastic and optimistic when this government took office and the Millennium Summit was held. It seemed to be an indication that labour and business could work together for the good of this province and a commitment to move forward in that direction. We urge this government to keep moving in that direction and not to create issues that divide business and labour and hurt Manitoba.

Mr. Schuler: Thank you to Irene and Murray for coming this evening. My question to you is, when you canvassed your memberships in regard to Bill 44, did any of the businesses that you represent indicate that they needed Bill 44 before they would invest or expand their businesses in Winnipeg or Manitoba for that matter?

Ms. Merie: There are quite a few small businesses that we represent. I think there has been a perception out there, there has been a concern out there. I think part of that has been perpetuated by the public campaigns that we have had going on in that, yes, we are making

this an unfriendly labour climate to invest or expand businesses here. I would like to just reiterate what my colleague said in that we really need to deal with this quickly and move on.

Mrs. Smith: I appreciated your presentation. I need to know very clearly and concisely, does the Winnipeg Chamber of Commerce in any way support Bill 44?

Mr. Sigler: The Winnipeg Chamber of Commerce could do without Bill 44, but we are in a reality situation where we believe Bill 44 has received two readings. We want to make sure that what comes through this Legislature leaves Manitoba with an infrastructure and a legislative framework that makes sense for business and labour and workers that we can carry forward with the great strengths that Manitoba has in that front. So, sure, in the perfect world we would prefer there were no Bill 44.

We were quite surprised and taken aback when it started, when it was introduced. We are also quite impressed with the manner in which the Minister and the Premier (Mr. Doer) and this government has tried to listen to us in the last few weeks to deal with our concerns. We hope the outcome of this process is that our concerns will be listened to and that fair legislation will emerge.

Mr. Loewen: Thank you, Irene, for a wonderful presentation, and Murray as well. Often the coalition that is joined together to fight this bill, there has been an attempt in the House to marginalize them both by the Minister and the Premier because they keep saying the Winnipeg Chamber of Commerce is not on side. I get a different impression tonight from your presentation, that you are definitely on side with the concerns being raised by the coalition.

Ms. Merie: I think where we differ is in how we voiced our concerns, our opposition. I believe that our position in opposition to those three main points is consistent.

Mr. Chairperson: The time for questions has expired. Thank you very much for your presentation.

The next presenter on the list for Bill 44 is Rob Hilliard. Is Mr. Hilliard in the audience? Please come forward. Do you have a written presentation, Mr. Hilliard?

Mr. Rob Hilliard (Manitoba Federation of Labour): Yes, I do.

Mr. Chairperson: Please proceed.

Mr. Hilliard: I offer the written brief for members of the Committee's information. I am not going to read from the brief. It will take too long frankly so I am going to try to preface what is in the brief with my remarks here.

First of all, I will note that the Manitoba Federation represents 90 000 working people in this province, in the public sector and the private sector, and virtually every economic sector in this province.

In beginning my remarks, I would like to start off by saying it is important to note what is the purpose of labour law. The purpose of labour law is to do two things. It is to ensure that workers rights' contained in the Charter of Rights and Freedoms are implementable, and also the purpose is to reduce the inequality of bargaining power between employees and employers. This principle has been stated many times, and most recently by the Supreme Court of Canada in 1992 in a decision on *Machtinger v. HOJ Industries Limited.* That is a principle enshrined in law, upheld by the highest law of the land.

Now there is a reason for that. That reason is that the common law of the employer-employee relationship is based on a 1700s law in Great Britain called the Master and Servant Act. The Master and Servant Act, in fact, the name says it all. It says that the employer has complete authority over a totally subservient worker, and the only way that common law is amended is through the passage of new statutes. Even today, with the advantage of many new statutes, employers have supreme power over employees. They have the power to hire. They have the power to fire. They have the power to schedule shifts. They have the power to reduce hours, to increase hours, to discipline, to layoff. They have total power over employees on everything.

Their power, it is not an equal relationship. Therefore, it is important for labour law to address that imbalance.

Now what is the context for the amendments contained in Bill 44, for The Manitoba Labour Relations Act? Well, first of all, the context occurs after 11 years of Conservative government rule in which they amended The Labour Relations Act three times, changing twelve provisions, all of which were negative for workers. On top of that, and I can quote you this from a personal meeting I had with the Minister of Labour, who introduced the last series of changes under the previous government, Vic Toews. When Vic Toews was first appointed to be Minister of Labour, we had a meeting with him just to get acquainted. We asked him if he had any changes planned for The Manitoba Labour Relations Act, and he told us that, no, he did not because in 1995, he considered The Manitoba Labour Relations Act a balanced piece of legislation that served Manitobans well. A few short months later, he introduced what was then Bill 26, which is probably one of the most massive changes to The Labour Relations Act workers in this province have been subjected to. That is the context for Bill 44.

Now I would like to address a few of the issues contained in the Bill. I am not going to address them all. We have recommended a number of amendments to the Bill, which are contained in the Act, and I am not going to address all of those. Just because I do not verbalize them here, does not mean that is not our position.

In terms of the certification process, there are many claims now that when two-thirds of workers voluntarily sign a union card in the workplace to express their desire to bargain collectively, that somehow is not a democratic expression. First let me quote to you a couple of sections from the British Columbia Recommendations for Labour Law Reform submitted in 1992 on a committee chaired by what is perhaps Canada's most well-known labour mediator, Vince Ready, and it is important to note that the recommendations in these comments were unanimously adopted by the committee, including the employer representative. They said when certification hinges on a campaign in which the employer participates, the lesson of experience is that unfair labour practices designed to thwart the organizing drive will inevitably follow. The simple reality is that secret ballot votes and their concomitant representational campaigns invite an unacceptable level of unlawful employer interference in the certification process. A representational campaign hotly contested by both employer and trade union all too often poisons the atmosphere and fosters mistrust between the parties. And lastly, there are good reasons for returning to a system of certification on the basis of membership cards. First, there is no compelling evidence that membership cards do not adequately reflect employees' wishes. There is simply no evidence to say that system does not work.

Secondly, I would like to quote to you a reference by Professor George Adams who is a recognized expert in Canadian labour relations law. He talks about the value of having Canadians access collective bargaining and especially in the globalized context where there is a lot of pressure from outside of the country to depress wages and to depress the rights of workers--quote: Simply put, collective bargaining is a valued process and access to it and its administration ought not to be subject to unreasonable hurdles. Canadians do not want to be victims of social dumping, that is the lowering of our labour environmental standards to the lowest common denominator of competitor nations, nor should we be.

In comparing the right to bargain collectively as it being somehow a disadvantage for businesses to be competitive, he notes, quote, many high-performing European economies are more efficient than ours while at the same time having a greater trade union presence and more rigorous labour laws.

Now I want to quote to you–actually it is interesting, coincidental, following Mr. Green's presentation. He went on about a case he was involved in about employees objecting to union certification. Well, he did not state the whole story. The fact of the matter is he lost his case in the Court of Appeal, and this case began prior to the 1996 amendments to the Labour Relations

Act in which there was a provision for automatic certification at 65 percent.

* (22:10)

So, in fact, this decision was based on a provision that is identical to what is in Bill 44 right now. K.A. Twaddle, speaking for the unanimous decision of the Court of Appeal, went on to state the following: Without regulation, the freedom to unionize has its pitfalls. An employer might exert improper influence on its employees to resist unionization or at least to select a union more favourable to the employer's views. To minimize such pitfalls, the Legislature has enacted laws to speed up the certification process and avoid confrontations where there ought to be none. In the field of labour relations, it is not uncommon for statutes to provide for union certification without a hearing. There are many reasons for this, not the least of them being a need for a prompt decision and the need for confidentiality of union records. Section 45(1), which is identical to what Bill 44 would now reinstate, of the Labour Relations Act does not lessen freedom in this regard in any way.

So our concerns about what we have been saying are perfectly consistent with case law in this country, are perfectly consistent with what judges decide and are perfectly consistent with what research shows. In fact the history of the card-certification system is in response to a problem, and the problem is overwhelming employer interference in the process. That is why the card system was developed, because supervised votes did not work. The problems that were created in all of that created so much animosity in the workplace, created so much interference and did not allow workers to access collective bargaining. That is why the card system came to be, and it is the dominant history of union certifications in this country over the last 50 years.

There are currently six other jurisdictions in this country who have more favourable, even if Bill 44 is implemented in its current form, will be more favourable to workers accessing collective bargaining than will be the case in Bill 44.

In short, the card system produces a fairer result more quickly and without promoting conflict. If I could paraphrase Winston Churchill when he commented on democracy, it is far from a perfect system, but it is the best known one we have. When you consider on balance all of the pros and cons involved, and supervised votes and the card system, the card system wins out as a fairer system.

On the issue of expedited arbitration, expedited arbitration is a system that worked very well in Manitoba. It prevented foot-dragging of solving problems and grievances. Unfortunately, in 1996, the previous government again amended the legislation to eliminate 80 percent of the cases that were eligible for expedited arbitration. Why is it better to not solve problems and have them drag out for one, two and even three years? Why is that a better system than dealing with issues quickly and having them resolved quickly? The fact of the matter is that, ever since 1996, when expedited arbitration access was restricted once again, we have experienced again an incredible foot-dragging with several employers, not all employers, but several employers.

One of the most notable is Westfair. I was just advised by one of our affiliates a couple of days ago, just dealt with a grievance with Westfair. The grievance was initiated in June of '98. It was scheduled for arbitration. I am sorry. It was initiated in September of '98. It was scheduled for arbitration in June of 2000. It was settled three days before the case. It involved $69 to an injured worker that the employer refused to pay him on the day of the injury, because Workers Compensation does not cover you on that day.

The collective agreement said in black and white the employer covers the lost wages on the day of injury but, for whatever reason, refused to do that for almost three years. A couple of days before the arbitration, they cave in and do it. The union local absorbed several thousand dollars in legal fees unnecessarily. There was no justice. What is the reason for not dealing with those things?

Another issue, reinstatement for picket line infractions, this is something that employers

have a great deal of difficulty understanding. When you have a picket line, whether it is as a result of an employee-voted strike or an employer lockout, the normal work relationship is no longer the same. It is suspended. The boss is not the boss anymore, and the worker is not subservient to the boss and not subject to company rules. The relationship is suspended during the time of a labour dispute. If you think about it, how can it be any other way? How can you have a fair legal dispute if you have one side who has the ability to discipline the other side? How can that be a fair dispute? It simply does not apply, and that does not mean that that promotes picket line violence. If there was picket line violence, the Criminal Code applies. It always applies, and if anybody on the picket line breaks the law, they suffer the consequences. That has nothing to do with the employer providing discipline on top of that. That is double jeopardy. That is unfair, and frankly it violates the principle of a strike or lockout. You cannot be subject, if it is a legitimate strike or lockout, to discipline from somebody else on the other side. It is an intimidating factor, and it is not a fair fight in that case.

Arbitration. It used to be that employers complained that we had too many days lost to strikes and lockouts. I find it kind of strange that all of a sudden they are coming up now and saying, no, no, let us not end these long strikes. Well, first of all, arbitration, this proposal is in response to a problem. Almost 20 percent of the labour disputes in the last five years have gone 85 days or longer. In fact, we have about 10 of them that have gone 100 days or longer. One of them went over a year. This is a problem. Protracted labour disputes with no solutions benefit nobody, and they happen when one side, for whatever reason, is not really interested in solving the dispute. We have heard from the previous presenter that the strike-lockout option works because both sides are hurting. Well, the truth of the matter is both sides do not always hurt, especially when the employer hires other workers to take the jobs of the picketing workers. Then both sides are not hurting equally at all and there is not an equal incentive to solve the problem.

I would agree with the previous presenter if we had anti-scab legislation. If we had anti-scab legislation, then there would be equal pressure on both sides to solve the strike, and we would not need this. I would happily recommend to the Government, jointly with the Winnipeg Chamber, let us abandon this arbitration and let us have anti-scab. We will be happy with that.

I also want to comment on some of the suggestions that have been made here by employer groups, that this is simply an easy out for workers and the union. I have to tell you, nobody who actually does this would voluntarily go out on a picket line for 60 days in order to access an arbitration process, which is a middle-of-the-road solution. They are always middle of the road.

I am obviously not going to have enough time to say anything here, but I will perhaps finish off by quoting a well-known labour lawyer in this province who works for management almost exclusively. His name is Grant Mitchell, and he has written a book called *Private Sector Statutory Interest Arbitration.* In it he says: The Board, meaning the Manitoba Labour Board, and FOS selectors have consistently stated that their objective is to replicate as nearly as possible the result which conventional bargaining would have produced.

What kind of contract can a party expect the Board to impose? The Board attempts to impose an agreement which will not be perceived by either party as a victory or superior to the one they might have created between themselves. While the Board is cognizant of its mandate to encourage the practice and procedure of collective bargaining, it does not interpret that duty to justify granting generous or innovative agreements to unions as that might encourage unionization but discourage collective bargaining.

That is simply bogus. It is a silly claim. Nobody is going to go out on a picket line just to access arbitration. All that does is, frankly, get the parties together so they can resolve something that is going on when they cannot resolve it themselves. Thank you very much.

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

Ms. Barrett: Yes, just very briefly, thank you for your verbal presentation, and I appreciate the

written presentation which we will take a longer look at, and particularly your discussion at the end about the alternate dispute resolution mechanism and what can lead up to a need for some third-party facilitation of that protracted strike or lockout and the cost that those have on the Manitoba economy. So thank you very much for your presentation and your suggestions and concerns.

Mr. Schuler: Very nice to hear from you, Rob. I sent you a letter about three, four months ago and still have not heard back, but look forward to our meeting. My question to you is: We have heard quite a bit about changes to Bill 44. In fact, there has been quite a bit of news coverage on it and some of your feelings in regard to it. Have you been consulted by the Minister of Labour in regard to the kinds of changes she is proposing, and how do you feel about these alluded changes now if in fact you were consulted by the Minister?

Mr. Hilliard: I have had some informal discussions with the Minister, but we did not have a formal meeting until today to discuss specifically the topic of amendments. I am not entirely happy with the suggested topics that are going to be amended. In particular, I am disturbed about the issue of reinstatement after a picket line infraction.

I think that is a fundamental principle in labour relations, that you simply cannot have any kind of equality in a labour dispute if one side has power to fire the other side, and that disturbs me a great deal.

* (22:20)

Mr. Loewen: I must say Mr. Hilliard, I do find it strange that you would come before this committee twice in one night arguing, in the first case, that employees should have the right to vote in terms of how businesses are run. I do not have a great deal of problem with that. If that is what the employer decides upon that is fine, but I find it strange, at the same time, you do not think employees are capable of voting on whether or not they want a union.

Could you help me with the dichotomy of your arguments?

Mr. Hilliard: I sure can. There was not a dichotomy in my arguments. Employees should always have the right to vote on whether to join a union, and they do so when they sign a union card. In fact, an awful lot of the hysterical comments that have been made about union organizers intimidating people and getting them into a room is ridiculous. That is not how union organizing takes place. Union organizing takes place painstakingly by going to the worker's home, talking to them on their turf when they have got their resources around them. That is how a union organizing drive occurs. If you think it happens any other way, you are reacting to some stereotype that does not exist in the real world.

Mr. Loewen: I think the only person that has used the word "hysterical" consistently in relation to this bill is you. I guess I would ask you: Do you not also think that the members of a union should have the opportunity to express their desire as to whether or not their unions dues, their checkoff dues, should be spent to promote political parties, whether it is provincial, national or municipal? Do you not think they should have that right?

Mr. Hilliard: That is irrelevant because it is being replaced by the legislation, so I see no point in commenting on it.

Mr. Loewen: Mr. Hilliard, perhaps you do not understand that unions will still be involved in federal elections and municipal elections and will, according to the amendments by the Premier (Mr. Doer), be able to participate, so I find it, again, strange that you do not believe that your membership should have the right to indicate by a vote whether they want to participate in that process in that faction.

Mr. Hilliard: Of course, they should have that right, and they do have that right. That is exactly how it is done.

Mr. Gerrard: I wanted to give you an opportunity to comment on the quote in the paper that employers are lunatics.

Mr. Hilliard: Just for the record, I did not say all employers were lunatics. I said that the campaign was led by the lunatic fringe of the

business community, and I still believe that. It is an hysterical response to something that is extremely tame in terms of labour legislation. It is unbelievable to me. We had no intention of carrying on an ad campaign. I find it incredible, in fact, that some employer groups would resort to those kind of tactics and that kind of inflammatory stuff.

I also would note that the federal government amended the federal labour code the last couple of years in far more progressive ways than Bill 44 does. It even called for a form of anti-scab legislation which now exists in the federal labour code. I did not see the employers frothing at the mouth about that. The only reason this campaign is going on is because there is an NDP Government here, and that is it, period.

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

The next presenter on the list is Mr. Jim Carr. Mr. Carr, I see you have come forward already, sir. Do you have a written presentation? Welcome back to the Legislature.

Mr. Jim Carr (Business Council of Manitoba): I do have a written presentation, but, with the indulgence of the Committee, may I hand it out after I have spoken? I will be speaking to it; I will not be reading from it.

Mr. Chairperson: Is that the will of the Committee? *[Agreed]* You may proceed.

Mr. Carr: Mr. Chairman, it is a nostalgic moment for me to be back in this room. I can remember, as a member of the Legislature in the summers of 1989 and 1988, we would sit until two in the morning swatting mosquitoes because the windows were open. It was 90 degrees in the building. In those days, everyone will recall that we were in a minority government situation, so any two of the three parties could suggest amendments and make law. So here we were sweltering in the heat, swatting mosquitoes and making law in the middle of the night. It was a bad process, and occasionally, I am sure, led to bad law.

I note now that Manitoba is one of only two or three provinces left that does not have a legislative calendar. The Parliament of Canada has, the majority of Canadian provinces do, so you can predict with some certainty when the House will sit and when the House will not sit. I would recommend to members that this would be the perfect time to change the rules because you are all exhausted, as are members of the public who are waiting to speak to you. Perhaps this is the ideal moment for the three parties of the Legislature to agree on a legislative calendar, so Manitoba can join other progressive provinces who have seen the wisdom in that.

The Business Council of Manitoba is a group of 53 chief executive officers of Manitoba's leading companies. They all live in Manitoba. The head offices of their companies are all in Manitoba, and they have all chosen to live, work and invest here. Collectively, we employ approximately 35 000 Manitobans and contribute about $35 billion a year to the national-international economy. These are business people who spend their lives dealing in the international global environment. They are in Indonesia, they are in Mexico, they are in eastern Europe, they are in southern Europe. They do business all over the world, but they choose to make Manitoba their home. They are deeply rooted in their communities.

We have on the Business Council the chancellors of the Universities of Manitoba, of Winnipeg and of Brandon, the Chair of the Board of Governors of the Assiniboine College in Brandon, past chairs or current chairs of all the hospital boards and most of the cultural organizations in the city of Winnipeg and the province of Manitoba. These people are committed to Manitoba's economic future and the futures of our communities. I speak on their behalf, all of whom have had an opportunity to speak to me and to their colleagues about Bill 44 and its potential impact on Manitoba's economic growth and to our future prosperity.

Our agenda includes Aboriginal economic development. We are very aggressively engaged in employing Aboriginal people and mentoring Aboriginal entrepreneurs and being active in positive and constructive ways of bringing more Aboriginal people into our workforces. We are interested also in the relationship between higher education and the business community so that

we can relate curriculum to the needs of the emerging workforce.

We are interested in Manitoba's competitiveness, and we define competitiveness, Mr. Chairman, in its broadest sense. It is not only the tax structure; taxes are an important part of how we compete with jurisdictions to the east and the west and the south, but we are also interested in the quality of public services that we offer our people because, depending on the size of your paycheque, it does not mean much if you have to pay exorbitantly for higher education, for the public school system or for health care. So it is a basket of goodies that we believe makes up what is competitive and how Manitoba must be competitive to compete in the global environment.

I also want to talk a little bit, before I get into the substance of Bill 44, about the process that led up to it, and I am speaking of one amendment in particular, the amendment that deals with the 60-day possibility of binding arbitration. We cannot find, Mr. Chairman, any discussion of this change, which is a fundamental change in the balance of labour relations, in the election platform of the New Democratic Party. We reread the Throne Speech to see if there was any reference to the possibility of this legislation in the Throne Speech. We have reread the consensus document that emerged from the labour-business summit to see if there was discussion of major changes to labour relations. We did not find it there either. We did not find it in ministerial speeches, and we know that in the case of section 87, there was no direct reference to the Labour Management Review Committee.

So, in essence, this particular amendment came out of nowhere, which always gives pause to business people who look for stability, who look for certainty in the fundamental relationships of the workforce, and there is no relationship more fundamental than the one between employer and those who work for the employer and work together with the employer to create an environment of profitability where more jobs can be created. There is nothing that we consider to be wrong with the concept of entrepreneurship. It is the spirit of entrepreneurship that drives economic growth in Manitoba, and we are committed to promoting that growth with healthy labour relations. Without healthy labour relations, we will not be competitive, and we will not be able to spur on the kind of growth that is the potential for Manitoba now as we enter the new millennium.

So I would like to first say that we think that the Labour Management Review Committee process did work. The Minister has already made reference to the number of agreements within the clauses of the bill. I think a majority of them were as a result of consensus among employer and employee representatives. The Business Council applauds that process, agrees with the consensus that was developed on those seven issues and thinks that in the future it can be seen as a model of co-operation that does lead to a consensus position on important legislation that can be in the best interests of all of our citizens. So there is much about Bill 44 which we applaud, including the process that led up to it, but where amendments come from nowhere, where there is no political mandate, where there is no electoral power behind a resolution and where it has not been given the proper vetting of labour and management representatives, we take issue on process alone, and we will get into the objections within the amendments in a moment.

* (22:30)

First of all, the settlement by binding arbitration after a 60-day strike or lockout, we want to pose the question what is the evil that we are seeking to correct through this amendment? What are we trying to achieve? If it is to solve a problem that is a single strike or a small number of strikes over the history of Manitoba labour relations, we say that hard cases make bad law and you do not take an extreme example of a labour situation and build a piece of legislation around it because it can be used in situations which are not extreme. The fundamental flaw in the substance of this provision is that it tilts the delicate balance. It removes the risk of strike or lockout on one side only. It is that risk which is the essence of motivation to reach an agreement through the collective bargaining process that the Business Council of Manitoba supports in principle, that the best resolution is one that is brought about by free collective bargaining. This amendment, Mr. Chairman, does not promote free collective bargaining. It tilts the scale

substantially and, in so doing, makes Manitoba less competitive than it is today in an international marketplace.

I want to make the point that there has never in the history of our system been a time when capital and labour and services and goods are more fluent and more portable than they are today. Sometimes they have a difficult time putting a group of chief executive officers into a room because they are doing business in Asia or in Europe or in South America or in Central America. They are investing their capital worldwide. They are creating jobs worldwide. That is the reality.

We cannot turn the clock back on the Free Trade Agreement with the United States or with NAFTA, and we can see increasingly that these trading blocs will move freely from one sovereignty to another and capital will move with it. There are comparisons made by these CEOs everyday in the decisions they make about what decision is going to prove most profitable to their enterprise and will create the most jobs in their enterprise.

We cannot lose sight of that reality in the year 2000, Mr. Chairman, that capital is fluid and it is mobile. These borders are porous, and there will be movement across these borders to where investment is going to take deepest root. That does not stop chief executive officers from favouring Manitoba, and they do it everyday. I can give you examples of decisions that are taken, given a preference to Manitoba because these are Manitobans who have head offices here, who have their children educated here, who want them to stay here, and who, therefore, want to create a climate that is going to allow them to be profitable in a jurisdiction they favour. So oftentimes decisions are made that favour the home jurisdiction in spite of the fact that all of the competitive measurements are not in favour of such decisions.

So we are a little bit baffled about the origins of this amendment. We think that the research that has been brought forward to prove the point has been thin. I would like to know in what other jurisdictions this method has been tried, what is the success rate in those jurisdictions, so that we can apply some body of research to what otherwise seems to come from nowhere and leads to nowhere good.

The second issue that we would like to address, Mr. Chairman, is the one of certification votes. It is very difficult in political life, and I do not have to tell members around this table, to take something away from people. Once there has been a right, a privilege, a favour granted to a group of individuals, it is very difficult to take it away. Frankly, people are surprised that, in this bill, a democratic right is taken away by a party that I know appreciates the essence of democratic rule.

It is not a vote to sign a card. To enter a polling booth in the privacy and with the secrecy of your conscience, that is a vote. It is not asking someone to vote twice. It is asking someone to be given the right to a secret ballot, and once one has been given that right, it is very, very difficult to take it away. You can see what this has caused in our community.

The only beneficiary as far as I can see is Lord Thompson. The advertising that we have seen from both sides of this debate is pretty well unprecedented. With all due respect to my former employer, I think they could probably earn their living another way. It has polarized our community. It has not been a device that has united. It has polarized and divided along ideological lines, along the rights of employers against the rights of workers. There seems to be a possibility for middle ground, but the rhetoric does not lend itself to rational debate. There has been some reference here to the lunatic fringe. I do not know whether that applies to my CEOs. I know that, when the moon is full, sometimes they are a bit squirrelly, but there is not a lunatic among them, at least not that I have seen. It is that kind of rhetoric that polarizes thinking rather than tries to come up with consensual thinking.

When you take something away from individuals, you can be assured that there is going to be a political battle over what it is you have taken away, and when that thing is a symbol of democracy, the secret ballot, you can be certain that the rhetoric is going to become inflamed. The argument will be that this puts us to the middle of the pack in Canadian

jurisdictions. We would argue that we are moving from the head of the pack to the middle of the pack, and by anybody's definition that is a retrogressive step. We are disappointed that the Government has seen fit to move in this direction.

On the question of discipline and discharge, the best example is the absurdity. The absurdity is that if there were to be a murder committed on the picket line, after the convicted felon is let out of jail, he or she gets his job back. Through that absurd example, we can see that the division is too harsh and the legislation too absolute. There must be a compromise position that the Minister and her colleagues can come up with here.

In conclusion, Mr. Chairman, let me say that there is no overhaul needed of The Labour Relations Act. There is no clamour for it. There has been no electoral power behind these amendments. It is too risky. We are too vulnerable to the competitive influences worldwide to take this chance to fix problems that are not apparent around a rationale that seems rather thin to us. Therefore, the Business Council recommends that in the cases of the three amendments that I have described, that the Government in its wisdom will withdraw them. Thank you very much for your attention.

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

Ms. Barrett: Thank you, Mr. Carr. I look forward to the written presentation that I understand will be forthcoming. Now that we have heard your verbal presentation, and you have raised some very interesting issues and comments, and as I have stated with every other presenter here tonight, we will certainly take cognizance of what you have had to say. Thank you.

Mr. Schuler: Thank you, Jim, for your presentation. Very thoughtful. I guess I find it very ironic that here we have the Business Council, 53 of the largest companies in Manitoba standing up and calling for free collective bargaining, the rights of men and women to strike, and our social government opposing that right. I find that strange.

My question to you is: In its current form, do you feel that Bill 44 should be withdrawn?

Mr. Carr: Just those three amendments, Mr. Chair. We believe that the consensual amendments that were produced out of the LMRC process are just fine. Legislation can almost always be improved, and there was an intelligent look at this legislation. In, I believe, seven cases the conclusion was consensually that there ought to be amendments, so we believe that those three amendments that I referred to in my presentation ought to be withdrawn, but not the rest of the Bill. It is fine.

Mr. Enns: Mr. Carr, it is indeed a pleasure to have you with us once again. In fact, I like you better in this position than on the *Free Press* editorial board, writing editorials about us.

You made a point, Mr. Carr, in your statement about how your group had researched diligently in election material, pre-election material, Throne Speech, where these three amendments that your group has taken specific objection to came from. You said they kind of came out of the blue.

* (22:40)

I want to speak a little bit politically with you, Jim, because I know I can do that, and I have a question at the end. This government, of course, presented themselves to the people of Manitoba as a new party, not yesterday's NDP, not Howard Pawley's NDP. You remember that. You remember the billboards were all nice and Tory blue. They had the Premier dressed out in nice, snappy three-piece blue business suits. This was the new NDP party and my question really is did that leave, with you and some of your clients in the business community, the feeling that they had a commitment from this new NDP party, that they would not just automatically ratchet back to the old NDP party of Howard Pawley with respect to labour legislation, and therefore does the business community feel that they were to some extent misled or betrayed in this sense by coming forward with this specific legislation with no advance notice, no advance indication that they were indeed on the order book?

Mr. Carr: Mr. Chairman, I do not speak for the business community, but I do speak for the Business Council of Manitoba, and I would say that we have developed an excellent relationship with this government. We have spent considerable time discussing the Budget, policy with the Premier and with ministers in this government, and I would say that the vast majority of those discussions and the conclusions from them have been positive. For example, this government helped the Business Council sponsor a national conference on immigration policy that was held in Winnipeg last May, the results of which I think will be felt nationally and perhaps internationally. We sometimes forget that there is an international competition for people and Manitoba needs people. The Government recognized that. It is this very minister in fact who was a participant and who brought her own experience as an immigrant to Canada to that conference, so overall I would say our relationship with this government has been just fine until this act.

This act we were not prepared for. We could not find evidence of this being triggered. However, we have chosen, in reaction to Bill 44, to work constructively with the Premier and the Minister to look for ways of improving it. We are not here to embarrass a political party. The Business Council of Manitoba is non-partisan. It will agree with certain political parties on some issues, disagree with other political parties on other issues, but we do not seek to support a partisan agenda here. It is not our ambition to embarrass the Government. It is our ambition to make this a better law, and that is what we seek to do.

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

Mr. Laurendeau: Would there be leave to ask just a couple more questions, Mr. Chair?

Mr. Chairperson: Is it the will of the committee to provide leave?

An Honourable Member: No.

Mr. Chairperson: Leave has been denied.

The next presenter on the list is Candace Bishoff. Ms. Bishoff, do you have a written presentation for the committee members?

Ms. Candace Bishoff (Chairperson, Manitoba Employers Council): Mr. Chairman, I do have a presentation.

Mr. Chairperson: Please proceed.

Ms. Bishoff: Mr. Chairman, members of the Committee, please permit me to introduce myself. My name is Candace Bishoff, and I am appearing as the chairperson of the Manitoba Employers Council. I would like to give you a little bit of background about myself so you understand my interest in the Manitoba Employers Council and in appearing here before you to speak to Bill 44.

I am a lawyer. I have practised labour law. I have been a lawyer for some 12 years. I have sat on the Labour Management Review Committee since approximately 1995, so I have sat as a management representative to the LMRC under both the previous administration and under this current government. I have also chaired the Winnipeg Chamber of Commerce Labour Legislation Committee for many years, and I have also sat on a number of government committees dealing with employment law matters, including the overhaul of the Employment Standards Code, and the review and revision of The Retail Business Holiday Closing Act, and The Remembrance Day Act. So I come to you not uninformed on some of these issues.

The Manitoba Employers Council was formed in February of this year. It is comprised of a number of employer representatives and large employers. Its mandate is to make presentations of this nature on issues relating to labour relations. The submission that I make to you today is made on behalf of not all of the members of the Manitoba Employers Council. Some of them have voluntarily chosen to make their own presentations or have chosen not to have their names associated with this presentation for their own reasons, which I respect.

The submission is made on behalf of the following members of the Manitoba Employers

Council: the Alliance of Manufacturers and Exporters Canada, the Canadian Council of Grocery Distributors, the Canadian Federation of Independent Business, the Construction Labour Relations Association of Manitoba, the Manitoba Association of School Trustees, Manitoba Chamber of Commerce, Manitoba Fashion Institute, Manitoba Homebuilders Association, Manitoba Hotel Association, Manitoba Motor Dealers Association, Manitoba Restaurant and Food Services Association, Manitoba Trucking Association, the Mining Association of Manitoba Inc., the Winnipeg Chamber of Commerce, and the Winnipeg Construction Association. As will be evident from this list of employer organizations that are represented, there are many tens of thousands of businesses represented by this group. The list is repeated at the end of this submission paper that was handed out.

You have heard the theme that has run through the presentations that have been made by the various employers and employer groups that have appeared before you this evening. There are three areas that are of main contention to businesses. I do not want to stand here and repeat what you have already heard. It is late in the evening, and we are all tired. The three areas, and I will speak to each one of them briefly, are as follows:

The settlement of subsequent collective agreements, this is section 23 of Bill 44. I ask you to consider that provision in the context of the preamble to The Labour Relations Act which has not been tinkered with by governments over the past many years. That preamble reads as follows: "WHEREAS it is in the public interest of the Province of Manitoba to further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining between employers and unions as the freely designated representatives of employees." I underline the section that says: "to further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining."

I must ask you how the provision that would impose a collective agreement after only a 60-day strike or lockout could conceivably foster harmonious relations and encourage free and collective bargaining. Quite frankly, that provision, as we have heard over and over, takes away the freedom to contract. It will encourage unreasonable positions to be taken. It will not result in harmonious relations, but rather it will result in resentment building when one of the parties who has not agreed to the arbitration feels that a collective bargaining agreement has been imposed upon it and that it has not had the right to bargain freely in association with that collective agreement. For what purpose are we doing this? We have heard statistics quoted tonight. Manitoba does not suffer from an inordinate amount of lost days due to work stoppages. So why are we doing this?

The type of provision that we are considering having been untested could have the type of negative impact on our economy that no one has anticipated and, of course, no one desires. It is a concern to all of us as Manitobans to see our province potentially suffering as a result of a provision that we do not have a need for.

* (22:50)

The second item for discussion is the provision relating to the disciplining of employees for misconduct that occurs during a strike or lockout. It has to be remembered, when you consider that criminal activities that take place will be dealt with in a criminal court, as we have heard earlier, ought to for whatever reason excuse that person from suffering the sanctions that would otherwise occur in the workplace, that is bizarre. I think it is a position that is put forward by people who do not understand the difference between the burden of proof and the rules that occur or exist in a criminal court and the rules that exist in relation to an arbitration where the conduct of the individual in question is tested by an arbitrator. The burden of proof in a criminal court is beyond a reasonable doubt. There is often trade-offs that are made in recognition of whatever the circumstances of the criminal activity is. This is not the type of thing that occurs in an arbitration situation, and so it is not proper to suggest that the criminal court will deal with that activity. So take it out of the workplace misconduct rules.

The case of Trailmobile is a real, live example. It is mentioned in the paper, but I want you to understand what actually happened in that case. This is a Manitoba case. It occurred in 1995. It was a terrible labour disruption, work stoppage occurred. The workers overtook the plant. They kicked the plant manager out of the plant. They caused damage to customer property, to company property, and they were convicted criminally of criminal mischief. These are serious allegations that were upheld in a criminal court. The employer disciplined these employees, as one would expect. What happened is the Labour Board said our hands are tied. The legislation, as it is currently was written at that time, that is in 1995, that is what you are purporting to go back to now. The Labour Board said: We cannot, even if we wanted to, and in this case the Labour Board wanted to. We cannot uphold the discipline that the employer has meted out to these employees, because this section of The Labour Relations Act prevents us from doing that simply because the misconduct occurred in the context of a workplace stoppage. And that is what we want to return to? We want to return to a situation where employees, simply because they are engaged in a work stoppage, can act with workplace impunity. That is not reasonable.

The last point that I would like to address is the situation involving the certification process and the card system somehow replacing the attractiveness of the secret ballot vote. It has been suggested that a card system is the vote. How many of you have been teenagers in a situation where peer pressure has caused you to make a decision that you might otherwise not make? How many of you have been in a situation in your adult life where you have made a decision that you might not otherwise have made because of your peers and the decisions that they are making? We talk about intimidation, and I think it is fanciful to try to suggest that unions and union leaders who are under increasing demands to improve or increase the number of unionized organizations do not use their own subtle or perhaps not so subtle forms of intimidation. So employees sign cards, what are we suggesting here? We are suggesting that you allow those employees and particularly those employees who are never given the opportunity to even sign a card, to have a secret ballot vote so that their true wishes are known. Importantly as well, so that the perception in the workplace is that the union is there legitimately and not because the union has strong-armed some employees into signing cards or for whatever reason has come forward with cards that are not signed by all of the employees.

The preservation of a system which allows for a secret ballot vote will ensure that there is in fact a harmonious relationship preserved because when a union comes into place, the employers will more readily accept the union if there has been unionization as a result of the secret ballot vote. There will also be more acceptance within the workplace by the employees who have been given the opportunity to cast their ballots.

Thank you, ladies and gentlemen. Those are my comments. I do appreciate the time that you have given to me this late in the evening, and I am happy to hear any questions.

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

Ms. Barrett: Thank you for your presentation and the written presentation which accompanied it. Basically I would just like to comment on something that you said in your comments about your role on the Labour Management Review Committee and also the comments that Mr. Carr had made previously about the positive role that the LMRC has played. I did want to mention that, while not all of Bill 44 is reflective, as you are well aware, of LMRC deliberations, there is a substantial amount that is reflected in Bill 44. I wanted to take this opportunity to thank you and the rest of the members of the Labour Management Review Committee for the work that you did on Bill 44.

Mr. Schuler: Thank you for that presentation. We certainly appreciated it and certainly what was presented, its balanced approach and the fact that you laid out your positions very clearly. The question that I have for you, just for this committee so that we have it very clear: Are you, in fact, calling for Bill 44 to be withdrawn?

Ms. Bishoff: I echo the comments that I believe were made by Mr. Sigler of the Winnipeg Chamber of Commerce. The reality is that the

Bill in some form or another will be going forward. The three areas that I have identified need to be dealt with, preferably withdrawn, but I have heard some of the suggestions that have been made, and while I do not speak for my group, because this has not been something that has been considered, I think that they do reflect a perhaps practical response to some of the concerns that have been expressed. I also have to not forget that I do wear a hat as a management representative of the LMRC, and I did have a hand in the five provisions that were put forward to the LMRC that did in fact receive consensus.

Mr. Marcel Laurendeau (St. Norbert): Ms. Bishoff, I have been hearing on a regular basis this evening that there are three specific areas of concern both from business and the employer situation in one sense or another as far as possibly and not enough consensus being reached at LMRC. I was wondering if you would be in support of the Minister not necessarily withdrawing but basically laying them over for six months, at least those three areas, so that the business community and the labour community had an opportunity to have more discussions and further debate on the matter before the Government shoved it down our throats.

Ms. Bishoff: It certainly would be advisable for the provision regarding the imposed collective agreements after a 60-day work stoppage to receive proper consultation from all stakeholders in the community which of course would include business. Some of the other provisions that I have addressed tonight have in fact been considered by the Labour Management Review Committee.

Mr. Gerrard: I just ask for your response to the Minister's announcement today that she might make changes to the 60-day provision for binding arbitration so that there would not be a unilateral requirement for the union to vote and support that. That would leave in place the 60-day provision for binding arbitration. What would your position be on that situation?

Ms. Bishoff: I think it has to be remembered that the provision, as it is currently written, in fact, does provide for an application to be made to the Labour Board by either party for the imposition of the collective agreement after a 60-day work stoppage. Where the unilateral aspect comes in is in respect of the employees' rights to have a veto to the process. Quite frankly, I did not hear the Minister's comments today, so if it has been indicated that that would be withdrawn, that is simply not enough because the concern is with the overall, broad application of that section to each and every single work stoppage that would exist in Manitoba to which the provincial government would have jurisdiction.

Mrs. Smith: As a part of the LMRC, do you feel that the LMRC was adequately given time to look over the bill and bring back recommendations? Did the LMRC have adequate access to input into Bill 44 prior to it being presented in the Legislature?

Mr. Bishoff: In fairness, my position here tonight is as a representative of the Manitoba Employers Council. There was consultation on some of the provisions, but there have been some concerns expressed that the issues relating to the imposition of the collective agreement might better have been dealt with had there been further opportunity for consultation.

* (23:00)

Mr. Chairperson: Thank you very much, Ms. Bishoff, for your presentation. Time has expired for questions. Thank you.

The next presenter on the list is Dan Overall. Good evening, Mr. Overall. Do you have a written presentation for committee members?

Mr. Dan Overall (Manitoba Chambers of Commerce): Yes, I do.

Mr. Chairperson: You may proceed, sir.

Mr. Overall: On behalf of the Manitoba Chambers of Commerce, I would like to thank you for the opportunity of participating in this debate relating to Bill 44. For the sake of complying with the possible time limit, I would like to simply get into the three basic issues that I would like to address today.

The first one is the binding settlement process during labour dispute, which I will refer

to as the 60-day clause. When the 60-day clause was announced we were told that it mirrored the first contract legislation model. Some have argued that the first contract is a success, and therefore, presumably, a good model to mirror, because it is so rarely used by the Labour Board to impose terms. Interestingly enough, this argument reveals some of the flaws relating to the 60-day clause.

1) It suggests a surface-level analysis. How do we know that businesses are not cutting what they feel are bad deals because they have no faith in the first contract system? How many businesses may have failed or reduced their growth as a result of such bad deals? What is Manitoba's reputation as a result of this clause? Are some businesses avoiding us because of it? If any of this is happening, then the first contract system is a failure. Simply counting the heads that use a system is not enough. A deeper analysis is required.

2) In discussing the first contract legislation with some of Manitoba's labour lawyers, we have been told that the Labour Relations Board will only impose first contracts if the parties involved have consensus on the bulk of the issues. If they do not have a substantial consensus, they are sent away until they do. Frankly, we do not know if this is true or not. But this is the type of analysis, asking how is the Board interpreting first contract, that needs to be done. If this type of true evaluation has not occurred, is it really safe to have it as a model for anything?

3) It is our understanding that when business first heard of the first contract provisions, they expressed concern that it was the first step in the parties losing control over the collective bargaining process. Business was told not to worry because imposed first contracts only last a year. Now here we are today, looking at a 60-day clause inspired by first contract no less, that will further limit the ability of businesses and labour to determine their own fate.

Here the words of the Woods Report on compulsory arbitration are apropos: "It has a natural tendency to spread, because there is no easy way of confining it to a few sectors of the economy. It becomes an arbitrary process arbitrarily imposed, and as such it is difficult to set limits to its extension. The farther it spreads, the greater potential threat to the very nature of the present socioeconomic political system in which government intervention in a final and binding manner is, as a matter of principle, held to a minimum."

The 60-day clause seeks to address the "handful" of strikes-lockouts that last longer than 60 days. While such stoppages can indeed be extremely costly to communities, employers, employees and their families, we question whether the Government actually has a duty to address this problem. For example, while the Woods Report recognizes a public interest in being protected from the hardships created by work stoppages, it speaks of this interest in terms of the interruption of essential goods and services, the protection of life and health, maintenance of public safety and order and preservation of the state.

In studying the Canadian experience, as well as the experience of similar countries with comparable industrial relations, the Woods Report did a number of observations which it termed fundamental to any scheme that sought to resolve work stoppages. While these observations did include a recognition that the length of a strike or lockout is frequently, but not always, a critical factor in making such an assessment, the Woods Report also noted the following:

1) It is extremely difficult to say with certainty or conviction in advance of actual events in what industry or service and at what time resort to economic sanctions ought to be curtailed.

2) A determination that a given stoppage of work ought to be terminated in the public interest is essentially a political decision.

3) There can be no one policy or procedure that works with uniform success.

4) Flexibility of approach is essential, lest the parties build the existing policy or procedure into their strategies.

Thus, the 60-day clause again betrays a lack of analysis. It makes no effort to determine what,

if any, 60-day work stoppages actually justify in the name of public interest, overriding the basic right of freedom of collective bargaining. Further, it provides a cookie-cutter solution to a decision that, if it is to be made at all, should be made on a case-by-case basis.

In any event, if one can justify the 60-day clause so as to prevent extremely costly losses to communities, employers, employees and families, why would that very same logic not lead to legislation that prevents businesses from leaving a community or from making foolish decisions that may lead to its closure? As this logic clearly does not justify these encroachments upon free enterprise, it also fails to justify the encroachment upon free enterprise that is the 60-day clause.

One of the fundamental rules in considering changes to an environment is the need to take into account the effect the proposed changes will have on that environment. We question whether this type of analysis has been undertaken in relation to the 60-day clause.

For example, consider the entrepreneur/ businessperson. They are usually hardworking, determined, strong-willed people. More often than not they have grown their business amidst stiff competition and numerous challenges. Do you really think these individuals will be grateful that the 60-day clause is taking away their freedom to determine how their businesses run? Do you really think that will not scare off businesses that might locate in Manitoba? Bear in mind that many of the businesses that are already in Manitoba are more mobile than ever.

One questions whether the following warning, as noted in the Woods Report, was considered when the 60-day clause was drafted: "One of the worst features of compulsory arbitration is its potentially corrosive effect on the decision-making process both within and between unions and management. It is natural that where both sides expect arbitration, at the end of the line, should they fail to agree, there will be a tendency to hold back a little for fear of establishing a new floor or ceiling for arbitration. There will be an equal reluctance on both sides to concede anything lest it be something the arbitrator might force them to give in this award. Compulsory arbitration need not have these inhibiting effects on collective bargaining, but there is a real risk that it will, especially the longer and more often it is imposed."

The Manitoba Chambers of Commerce had a number of concerns, admittedly of varying degrees, relating to Bill 44. It could have opposed a greater number of "throw-away issues" so that it had more room to negotiate. Instead it attempted to be straightforward by focussing on three issues that it felt were key. If you are ever tempted to say to us well, we moved on two of your issues and two out of three is not bad, then you are confirming the art-of-the-deal mentality that the Woods Report warns us against in relation to binding arbitration.

Some may argue that 60 days of a strike or a lockout is so far down the road and unlikely that no one would ever go into a work stoppage thinking about arbitration after 60 days. We question whether this is true. Certainly it is human nature in determining a settlement to look for a compromise between where the parties currently are rather than giving credit for how far a party has moved. It is also human nature to think that if you have previously given ground that was because you could not have felt too strongly about that position. Can we be sure that these thoughts would not affect negotiations that see the possibility of compulsory arbitration down the road?

Let us assume that it is true that no one would go into a work stoppage worrying about the 60-day arbitration? What about after the 50th day of the strike, or the 40th day of the strike, the 30th day of the strike? What if you can tell even before the strike, from the parties being so far apart, that the strike will be a long one? What if studies show that most strikes that last 10 days will last 60 days, and then you hit the 10 days? At the 10-day mark would you start to cater your position in contemplation of arbitration?

It is no exaggeration to say that the 60-day clause will profoundly disrupt the delicate balance that currently exists in collective bargaining.

The Woods Report raises another interesting concern relating to the effect of mandatory arbitration upon collection bargaining. Compulsory arbitration may also serve as a crutch for weak leadership in either union or management. Where a union leader can force a dispute arbitration, he can avoid some of the compromises within the union that invariably go into a settlement. Instead of making the hard decisions about wage gains as against fringe benefits, across-the-board absolute as against percentage increases, skilled trades differentials, and other issues that can prove politically embarrassing, he can take all internal conflicts to the arbitrator as demands and let him make the unpopular decisions. Similar evasion of responsibility can take place in management. Once a leader of any kind finds an easy way out of some of his dilemmas, he is likely to behave in the same manner in other areas. In the long run, the effect would be to undermine both the leadership in question and the collective bargaining process itself.

There is also a concern that the 60-day clause will take the determination of what is best for a business and its employees out of the hands of those who are most intimately aware of the needs and abilities of that environment, namely the employer and the employees. There is a real issue as to whether an independent third party could acquire sufficient expertise to make such decisions. It is also troubling that the third party would not be the one that would have to live with this decision.

I have other points related to our concerns relating to the 60-day clause, but again, given the time frame, I will simply move to our concerns relating to the certification vote process. The Manitoba government's news release accompanying Bill 44 indicated that introducing automatic certification where 65 percent or more of the employees signed membership cards was a streamlining of the certification process. Many presenters will tell you of the basic value of the secret ballot, not only as a cherished aspect of true democracy but as a means of legitimizing the will of the employees to the employer and to those employees that were opposed to the union. To give up these valued aspects of the secret ballot for the sake of streamlining is misguided. Indeed, it is a shame.

In fact, the amendment may accomplish the opposite of its stated purpose as the Board's time will undoubtedly be taken up with increased applications that seek to set aside automatic certification on the grounds of inappropriate influence. Representatives of labour have suggested that the automatic certification amendment should take place as it prevents employers from being able to intimidate and unfairly dissuade employees from joining a union. You have heard that argument presented a couple of times today. If this is occurring, this problem should be addressed, there is no doubt about it; however, we suggest the proposed amendment does not address this issue.

* (23:10)

For example, the Minister of Labour as well as representatives of labour have indicated that since 1996 there has never been a secret ballot in Manitoba that went against certification when 65 percent of the employees had signed a certification card. If that is the case, how is a secret ballot in that particular situation standing in the way of any unionization?

Stranger still, representatives of labour have indicated that Bill 44 strikes a fair balance, but if employer intimidation is going on, what about the secret ballots where only 40 to 65 percent signed certification cards? Indeed, would not the problem be greater in that range, as presumably it would be easier to coerce the crucial swing vote to vote against the union? Further, if labour is really worried about employer coercion, imagine the depths it may be compelled to go to get to that 65 percent so as to avoid the secret ballot. Again the concern is that the legislation reform does not seek to deal with these problems in any meaningful way.

We also have a concern relating to the reinstatement following strike or lockout provisions. The arguments that have been presented are essentially the arguments that I can present as well today. I would simply say that while we have not had a chance to review in detail any proposed amendments relating to this section, we would be inclined to endorse any amendment

that entrenches an employer's ability to terminate any employee that engages in criminal or other similarly serious misconduct during a strike.

In conclusion, the Manitoba Chambers of Commerce is strongly opposed to the sections of Bill 44 that call for automatic certification, call for mandatory arbitration and diminish the consequences of strike misconduct. However, the greater tragedy is the way the debate regarding this legislation has been brought to Manitoba. When this government came to power, we were glad to hear its pledge to consult with Manitobans. True to this pledge, the Government held the Century Summit, bringing together business, labour, and government to discuss how we could improve Manitoba's economy. The Government rightly bragged that the Manitoba Labour Management Review Committee obtained a degree of consensus between labour and management that is virtually unheard of.

However, since that point, things have gone downhill. The Government moved forward with items in Bill 44 that were not the subject of consensus. Circumstances were such that many suggested it was simply a labour pay off. Businesses became extremely concerned about these reforms as well as the perceived lack of consultation. Labour and business are now accused of squaring off as in days of old. Now, the Government cannot move without allegations being foisted upon it of betraying one side as against the other.

There is a way out of this growing ugliness. Government must take a lead role, not in the debate, which is what it has been doing, but in facilitating the debate. What the Government should do is withdraw Bill 44, in particular as relating to the three clauses that we are concerned about, and then provide a detailed analysis of what jurisdictions similar to Manitoba are doing to improve their labour relations. Give us information as to what is working or not working and why. Give us detailed evaluation of the current legislation and how it is being implemented by the Labour Board. What are the real problems in the current system? Once you have empowered the dialogue with this information, then bring labour, management and the public at large together to discuss these issues.

If our government takes this courageous step, the Opposition will have an obligation in this process, as well. They must refrain from claiming a victory or suggesting that the Government is backing down on labour reform. Instead, it must applaud the Government for its strength and wisdom in taking this new direction. These issues are too important to be glossed over. They are also too important to be sacrificed to politics or narrow-minded reactionism. Detailed thought and analysis must occur to be followed by a legitimate exchange of ideas between individuals genuinely committed to equitable labour reform. Respectfully, we do not think that has happened to date, and Manitoba is the weaker for it. That was my submission.

Mr. Chairperson: Thank you, Mr. Overall, for your presentation here this evening.

Ms. Mihychuk: Thank you very much. I appreciate your presentation and your presenting before committee. I want to ask you your opinion in terms of the Labour Management Review Committee and the fact that previously there have been governments that had consensus, I understand, on certain provisions of labour law or labour relations amendments that were proposed that were not considered which were rejected. Is it your opinion that government should take those amendments seriously and adopt them? Following that, there are seven amendments, I believe that you are aware, that did find consensus. Is it your opinion that those elements be moved forward in terms of improving labour relations in Manitoba?

Mr. Overall: In terms of the first aspect relating to your question, I would respectfully say the past is the past. We are dealing with the situation now, and I would like to deal with the situation now. In terms of the consensus on the seven issues, by all means, if you want to proceed on those, fair to do, the only concern would be that you are kind of changing certain aspects of the legislation and deferring others. If you are willing to do that, by all means. Again, the key issue is, I think, a more qualified and rational debate on the three key issues can occur, that it

can actually hopefully bring business, government and labour together in a way that can have our province move forward as well.

Mr. Schuler: Mr. Chairman, I would like to thank Dan very much for his presentation. Dan, my question to you is you obviously spent a considerable amount of time consulting with your local chambers. You have mentioned in your presentation 77 of them. Is there a concern coming out of the business community that what the Premier (Mr. Doer) of Manitoba and the Minister of Labour (Ms. Barrett) heralded as being this great unifier, this great pacifier that would bring harmony and the lamb would lay with the lion and we would have peace, has actually shown to be exactly the opposite. We have seen in the paper things like Rob Hilliard talking about the lunatic fringe, they are nuts, they are crazy people, and basically he was talking about you.

Is there a concern amongst you and the individuals in the business community, as obviously there is in the labour community, that this kind of polarization is taking place, where the Premier and the Minister of Labour had indicated this was not going to be the case?

Mr. Overall: I think a legitimate exchange of ideas has to take place between all parties, that is, government, labour and business. If we have to get through a stage where certain sides call business lunatics and names and stuff like that, if we have to go through that process before we can get to the exchange of ideas, then so be it.

Mr. Gerrard: I would like to ask you to comment on the amendments that the Minister has suggested that she might be willing to make which would change some aspects of the 60-day binding arbitration but leave much of it intact. What is your view of those proposed changes?

Mr. Overall: The only proposed change that I am really aware of is the one that suggests eliminating the ability of employees to veto the 60-day arbitration process. I feel that that is the right step, but it is in the wrong direction. What I mean by that is it is the right step in the sense that it is equalling the playing field relating to the 60 days, but it is in the wrong direction in the sense that the key problem with the 60-day clause is that it is arbitrary, it is forced. It should be voluntary, and it should be voluntary for both sides. By all means, make it an equal process so that both sides can opt out of it if they wish.

Mr. Enns: Thank you, Mr. Overall, for your presentation. I refer specifically to your last concluding remarks on page 3, your third paragraph, where you do recommend that the Government withdraw the Bill and then begin the process of discussion, analyzing other jurisdictions, bringing government, labour and business together, and then come up with hopefully the right solutions.

You have some specific advice for the Opposition. You say that should the Government take this courageous step, in using your words, then the Opposition has an obligation not to refrain from claiming a victory, that we should indeed be applauding the Government for taking a responsible second look at the situation and defusing the climate that regrettably has grown up with respect to this bill.

* (23:20)

I want to assure you, Mr. Chairman, although I cannot speak for my caucus but as one senior member of Her Majesty's loyal opposition, I am prepared to follow your advice. If the Government chooses to show some courage and do what you recommend, I will applaud this government.

My question to you is: If they do not, what advice do you have for Her Majesty's loyal opposition?

Mr. Overall: If that does not occur, our position is that on the three crucial issues we are opposed to them and would not want them to be going forward.

Mr. Chairperson: Thank you, Mr. Overall, for your presentation here this evening. The time has expired for questions. Thank you for the time.

Mr. Overall: Thank you.

Mr. Chairperson: The next person on the list is Paul Moist. Is Paul Moist here this evening? Not

seeing Mr. Moist here, his name will drop to the bottom of the list. The next presenter is Edward Huebert. Please come forward, sir. You have a written presentation for the Committee?

Mr. Edward Huebert (Mining Association of Manitoba): Yes, I do, Mr. Chairman.

Mr. Chairperson: Thank you. You may proceed, sir.

Mr. Huebert: Thank you very much, Mr. Chairman, committee members, I appreciate the opportunity to come here.

My name is Ed Huebert. I am with the Mining Association of Manitoba. It is certainly an honour to be here tonight. I would like to start by saying that the Mining Association represents all of the existing operating mines in the province of Manitoba with an employment base of approximately 4000 direct jobs, that is five operating companies with eight mines, as well as the majority of the exploration firms in the province of Manitoba.

I would like to start off by saying that the Mining Association respects that of the 11 issues that were tabled with the Minister, there was agreement and support for 7. I would like to speak to 3 of the 4 issues that management did not support as well as the initial issue that was tabled at the close of the LMRC process.

First of all, I would like to echo some of the comments that have been said earlier. In terms of the settlement of collective agreement, that is an area that caused our employers some major concern. The mining industry right now is going through some major transitions internationally. The Prospectors and Developers Association of Canada recently noted that approximately 80 percent of every dollar raised in Canada is going overseas.

Manitoba right now is rated as a very attractive place to do mining. With that in mind, our concern is not just from a tax perspective, not just in terms of the geological perspective but a regulatory competitive environment. Our focus in speaking to this bill is that we are looking toward a competitive regulatory environment that helps enhance Manitoba's competitive position.

In the history of modern collective bargaining, there has to be the ability of both parties to come together. The veto position that was taken forward by the Minister, it is certainly a step in the right direction. The question is how this will play in the outside world in terms of attracting investment to Manitoba and Canada.

The second issue we would like to speak to is the discipline discharge for misconduct during strike and lockout. I have heard presentations from both sides over this evening. I think where we are focussed on is in terms of clarification on Criminal Code activity. We are realists within the mining sector. We understand that, as some labour representative said earlier, the gloves are off, it is not normal relationships. We would like to see some clarification in terms of what happens under more extreme circumstances.

There is a big commitment to safety at all times. It cannot be put on the shelf during a work stoppage. Whether it is in support of a strike or in terms of opposition toward lockout, our views are quite strong on that position. Safety has to be at all times.

In terms of the certification vote, certainly those secret ballot representation votes that are seen as a standard means of establishing bargaining rites helps in the credibility of the process.

I would like to move actually right into concluding remarks. I have to apologize to the Committee, but I was up at five this morning. I am not used to the regime you people have to put up with, and I am not making a lot of sense right now.

One of the things that my association would like to call for is a more balanced approach in proposing changes to the labour relations legislation. Tonight I am talking about Bill 44, but I think one thing I would like to talk about is our industry association is a staunch believer in working with stakeholders, working with a broad base that make up a labour pool, environmental issues, First Nation relationship building. We believe that there can be a process by which

parties can come together, work on it as a made-in-Manitoba solution. We can come up with some creative solutions to this.

We would urge the members to look at our call in support for other employer groups to look at those three issues. Also, we hope that there can be some lessons learned out of the whole process by which possibly we can have a better systemic approach toward review and changes.

Certainly, we support seven of the proposals; we do have concern with three. From that, I would like to conclude my comments.

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

Ms. Mihychuk: Thank you very much, Mr. Huebert. You represent a very dynamic and growing industry. I am very pleased to have you before this committee.

Of course, I wanted to just inform committee members of the importance of mining to Manitoba's economy, as it is my other hat. Ed, can you tell us how many mining workplaces are not unionized in Manitoba?

Mr. Huebert: In terms of the total workforce, I believe the number would be about 85 percent of the workforces are subject to a collective bargaining agreement. There would be less than 15 percent that are not subject to a collective bargaining agreement.

Mrs. Smith: I appreciated your presentation. I thought it was very cohesive, and I thank you for it. I have a question for you.

Both the Minister of Labour (Ms. Barrett) and your own minister, the Minister of Industry and Mines, repeatedly say that Bill 44 provides a balanced and fair labour relations genre here in Manitoba. In your concluding remarks, I would say that you are pleading for a balanced and relatively harmonious labour relations climate by addressing the three issues that you laid out here. You have heard earlier tonight, almost everyone that has come up to the microphone has done the same thing.

Would you please tell or advise this committee if these three–in your field of mining, the Minister has graciously complimented the growth in the mining field. In the field of mines and minerals, could you tell me, in the event that Bill 44 went through in its form as it is right now, you know, they might do a bit of housekeeping things, but the three major things not being altered, would that affect your mining industry to any degree?

Mr. Huebert: It could affect the perception. I would like to answer that in two parts. The first part is our board took a hard decision in terms of how we approach this topic. What I mean by that is they looked at it and were very supportive of Manitoba as a great place. There is great geological potential. It is a good province. There is a lot that can happen here.

Any direct attention that focusses on the negative in itself impacts negatively on the perception and the free market. Coming here was a bit of a difficult situation to be honest. In fact, if you look at the history of the Mining Association, I do not think we have appeared on labour management relations probably in over 14 years, so it has been some time. Having said that, we cannot say it is going to cause people concern not to come here, but we can say it will introduce more difficulty in selling a project.

Mrs. Smith: I admire your courage in coming here to stand before your minister and talk about this bill. The connotation of your answer was that it would impact negatively or has a high potential for impacting negatively on the mining industry. Would you expect, after this committee meeting tonight, that the Minister of Industry and Mines (Ms. Mihychuk) and the Minister of Labour (Ms. Barrett) would listen to what you are saying and either withdraw the Bill or make significant amendments to it?

* (23:30)

Mr. Huebert: What the Mining Association is hoping to come out of this process, and we are asking for the support of all members, is to help pass good law. Right now it needs some work.

Mr. Schuler: Mr. Chairman, to the presenter, thank you very much. Certainly one of the concerns we have is a bill that was intended to bring harmony, and I think you have probably

heard the question asked of other presenters, and yet we have individuals in our society referring to groups who oppose Bill 44 as the lunatic fringe, they are nuts, they are crazy people. How do you feel that affects the business climate in Manitoba?

Mr. Huebert: First of all, dealing with some of my other components of the mining industry, the Minister of Industry, Trade and Mines (Ms. Mihychuk) will know which group I am talking about, but there are rockhounds of a different sort. I am quite familiar with dealing with lunatics. It does not bother me. I was a prospector myself at one point.

I do not know. You have to be a little bit nuts in the mining business. You know that half the time the commodity prices are outside of your control, you are competing against better projects around the world and money is tight. We have some sympathy and misery with the farming community.

Mr. Chairperson: Thank you very much for your presentation here this evening, Mr. Huebert. The time for questions has expired.

The next presenter on the list is Doug Stephen. Doug Stephen is not here. His name will drop to the bottom of the list. The next presenter is Brenda Andre. Do you have a written presentation, Ms. Andre?

Ms. Brenda Andre (Perkins Family Restaurants): I do, but it is missing a page, so I will have it here tomorrow if that is okay.

Mr. Chairperson: Is that acceptable to members of the Committee? *[Agreed]* You may proceed.

Ms. Andre: I own and operate nine restaurants and employ over 800 employees. The average age of the people I employ is 18, barely old enough to vote. I am here because I am concerned about the devastating impact of Bill 44 on my business and the economy of this province. I am not anti-union. I understand and appreciate the roles of unions, and I support the rights of employees to choose whether or not they want a third party to negotiate their working conditions. However, I think the laws governing the collective bargaining process must be fair, balanced and realistic. This means they must give employees a fair say in whether they want to join a union, as well as their workplace conditions. At the same time, they must allow employers' businesses to remain viable and competitive. The proposed amendments do neither of these. They tip the balance in favour of unions.

I cannot understand how the New Democratic Party can take away an employee's democratic right to a secret ballot vote. This is the way we elect governments in a fair and civilized democracy. Why would we not hold something as important as union certification up to the same democratic standards? Unions argue that a secret ballot vote gives employees an opportunity to change their minds about joining a union because employees become vulnerable to pressure from employers. In reality, a secret ballot vote gives employees an opportunity to choose in a setting free from pressure from employers and union organizers. Union organizers, whose mandate is to get as many signed cards as possible, are not expected to give employees a full and balanced picture of what joining a union means. They are not obligated to tell employees about the costs and responsibilities of belonging to a union or the new workplace rules that may apply. Employers are highly restricted from providing this information without facing an unfair labour infraction and automatic certification.

The card-based certification system also undermines the collective bargaining process because it always leaves doubt in the minds of the employees that did not support the union and the employer that must then negotiate a collective agreement, whether or not a majority of employees really do support the process.

The proposed amendments also distort the checks and balances of the collective bargaining process by giving the Labour Board unprecedented powers to intervene. Although restaurants are increasingly the target of union organizing drives, there are relatively few restaurants that have been certified. This means there is little for arbitrators to draw from when they look for collective agreements with comparable employees performing similar functions in similar

circumstances. With Manitoba's current first contract arbitration legislation, unions can virtually guarantee employees certain working conditions based on a standard collective agreement or the last negotiated contract of a similar business. First contract arbitration takes away the incentive for unions to bargain in good faith. It also results in collective agreements that are not mutually agreed to. This is bad employer-employee relations. If the first contract arbitration model is extended to labour disputes, then government has virtually seized control of the entire collective bargaining process. Employees can calculate whether they can last 60 days on a strike or lockout. After that, they are virtually guaranteed an enhanced package from the employer. By making binding arbitration available to employees only, government is depriving business of a key negotiating tool that remains available to unions and employees. This is blatantly unfair.

You have to understand the dangers of introducing legislation designed for large industrial labour settings that does not accommodate the needs of employees and employers in small informal operations such as mine. This legislation supports a confrontational model of collective bargaining, whereas in small enterprise, relations between owner/operator and employees tend to be more personal and informal. Restaurants and restaurant employees do not fit well into the rigid structures of a collective agreement which is why very few restaurants in Canada are unionized.

I am very fearful of the impact of this interventionist legislation on my business, on the economy and on the competitiveness of this province. Thank you.

Mr. Chairperson: Thank you very much, Ms. Andre, for your presentation. Mr. Gerrard. Oh, pardon me, Mr. Gerrard, Mr. Schuler was first, and then we will come back to you.

Mr. Schuler: Brenda, thank you for your presentation. We certainly would appreciate a written copy. If there is anybody that has had courage this evening, it is you to have come out to make your case. I think it is very telling when we hear actual businesses come out and plead their case. I think you have laid it out very clearly that the business climate in Manitoba is what we all rely on, and I come from small business. I own several myself. We are just so dependent on that good economy that if that falters, we are basically on the front line. It affects us instantly if the economy falters.

I would like to thank you for your presentation. We look forward to your written comments so that we can have a chance to go through them again. Again, if there is anybody who has had courage this evening, I would have to say–

Ms. Andre: Well, a public speaker I am not. I am a restaurateur.

An Honourable Member: Thank you.

Mr. Gerrard: Thank you for your presentation. I was quite interested in your comments about the importance of legislation in this case, which would work for small business and not have legislation which is going to be primarily directed at large industries. The suggested amendments, which would make some modest changes to the 60-day and then binding arbitration, I take it would not provide any real sort of satisfactory change to the legislation, and you really do not want to have the binding arbitration there at all.

Ms. Andre: That is–

* (23:40)

Mr. Chairperson: Ms. Andre, I have to recognize you first so that Hansard can record it. Please proceed.

Ms. Andre: Okay.

Mr. Chairperson: It is part of the procedures of the Legislative Assembly, where we have to recognize you for the Hansard, so please proceed now.

Ms. Andre: What was your question?

Mr. Gerrard: It has to do with whether the–

Ms. Andre: I could not survive a 60-day lockout, if that is what you mean.

Mr. Chairperson: Ms. Andre.

Ms. Andre: Okay, you speak.

Mr. Chairperson: As the Chair, I have to recognize you for the Hansard which is recording these proceedings. It is a process that has been followed here for many years. So please proceed with your answer.

Ms. Andre: Restaurants could not survive a 60-day lockout anyway. It just would not happen. Bigger companies, mining companies, I heard–am I not supposed to talk?

Mr. Chairperson: Go ahead.

Ms. Andre: This is all confusing. Want to just go for coffee someday?

Mr. Chairperson: Mr. Enns, sir, did you have a question?

Mr. Enns: No. I just want to go for coffee.

Mr. Chairperson: Mrs. Smith, perhaps you have a question.

Mrs. Smith: Thank you. I really enjoyed your presentation and I would say--did you say 300 restaurants?

Ms. Andre: No.

Mrs. Smith: How many restaurants?

* (23:40)

Ms. Andre: I have nine.

Mrs. Smith: Well, I think that is quite an up-and-coming business.

Ms. Andre: Oh, yes. It has been up and coming for some time.

Mrs. Smith: Okay. Can you tell me, please, do you think that Bill 44 will in any way enhance your restaurant business or cause your business to grow because it would promote good relationships between the employers and the employees? Can you see that as a business-woman? Is there anything good that could come out of Bill 44 for you as a restaurateur?

Ms. Andre: No, I cannot see anything out of Bill 44 helping the restaurant industry. I feel that being more of an informal employer, we have a good relationship with all of our staff. We go out of our way to do things for our staff that most businesses would not do, such as we are on a first-name basis even though I have nine restaurants. I know most of the people in my stores, and I doubt even if unions would ever get into my restaurants, but I am speaking on behalf of everybody else in the restaurant industry.

Mr. Larry Maguire (Arthur-Virden): Just a comment. You indicated nine restaurants. How many employees? You mentioned the number of employees that you might have.

Ms. Andre: 800.

Mr. Maguire: 800, and their average age was about 18.

Ms. Andre: Most of the serving staff and the bus servers–I do not know if you know what restaurants I have, but personally I have Perkins Restaurants. We are 24 hours, and we are not licensed. Most of our staff are very young, and they would not even understand, I do not think. I went around and polled 150 of my employees and not one of them knew what Bill 44 was.

Mr. Maguire: So they obviously did not ask you for this legislation.

Ms. Andre: Absolutely not.

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

Ms. Andre: Thank you.

Mr. Chairperson: The next presenter on the list is Terry Cooper or Craig Wallis. Is either one in the audience here this evening? Mr. Cooper, do you have a written presentation for committee members? Thank you, Mr. Cooper. You may proceed.

Mr. Terry Cooper (Manitoba Association of School Trustees): My name is Terry Cooper. I am a labour relations consultant with the Manitoba Association of School Trustees, and I am presenting the brief on behalf of that organization this evening. I thank you for the opportunity.

The Manitoba Association of School Trustees is strongly opposed to Bill 44. Manitoba's public school boards employ approximately 12 000 school teachers, administrators and education specialists. Another approximately 8000 support personnel are employed by school boards, the majority of whom are unionized and thereby subject to the provisions of The Labour Relations Act.

Bill 42, The Public Schools Amendment and Consequential Amendments Act proposes that many of The Labour Relations Act provisions be extended to teachers and administrative staff covered by bargaining certificates under The Public Schools Act. MAST has presented its opposition to Bill 42 at Law Amendments requesting that Bill 42 not be passed. MAST is, likewise, opposed to Bill 44 for many of the same fundamental reasons.

As was expressed in our opposition to Bill 42, MAST believes that the amendments to The Labour Relations Act are both unnecessary and offside with the existing labour laws in other provinces. As was expressed repeatedly to government regarding the consultation process for changes to The Public Schools Act, government has proceeded too quickly and without sufficient consultation in introducing major legislative change. MAST finds itself with virtually no time to consult with member school boards regarding the content of Bill 44. MAST is therefore addressing the major areas of the Bill which we believe will be of concern to public school boards.

In the debate about the motivation for amendments proposed by Bill 42, MAST often heard that teachers should have the same rights as other employees in the province. As was indicated in our submission, Bill 42 ensures that teachers will be treated like no other employee group. The Honourable Becky Barrett, Minister of Labour, in responding to questions in the Legislature stated: "Bill 44, we believe, is a balanced response to good labour relations in the province of Manitoba." Bill 44, like Bill 42, removes the fairness and equity of existing legislation and replaces it with proposed legislation that significantly favours the rights and agendas of unions over the rights of employers.

MAST questions the motivation for proposed changes in the area of certification. Amendments made to The Labour Relations Act in 1996 do not appear to have had a negative effect on the number of certifications as evidenced by Labour Board statistics. An automatic secret ballot vote expressing the true wishes of all employees is seen as the fairest and most democratic process for the establishment of a bargaining unit. The existing provisions of the Act are appropriate in this regard and also preclude the need for interim bargaining certificates as proposed by the Bill.

The 1996 amendments to The Labour Relations Act allowed an employer to dismiss or discipline an employee after strike or lockout for conduct that was related to or in support of the strike or lockout. The law should not allow striking employees who engage in activities that constitute or border on criminal activity to act with workplace impunity simply because the conduct occurred in the context of a strike. A strike should not act as a shield to excuse what would otherwise be inexcusable behaviour in society. The current wording of the Act properly addresses the matter of strike-related misconduct and should therefore remain unchanged.

MAST is strongly opposed to the repeal of section 72.1(1) and in fact is proposing that a similar provision to be included for teacher bargaining prior to arbitration in conjunction with Bill 42 amendments, and that is the vote on the employer's last offer.

Expansion of issues eligible for expedited arbitration beyond termination and suspension over 30 days, in MAST's view, is unwarranted. Given the seriousness of termination or long-term suspension, expedited arbitration may be appropriate. Notwithstanding the longer time for referral of other cases, we are concerned about the ability of counsel for the employer and/or

union to prepare for and be ready to present a case, particularly with expanded expedited hearings. Adequacy of Labour Board resources also would need to be reviewed, particularly as teacher unions will now have the access to the expedited process should the provisions of Bill 42 be passed into law. Interpretation matters affecting the collective agreement and bargaining unit should be dealt with in the conventional arbitration process where the parties consent to the choice of arbitrators and control the process, thus lending to the legitimacy of the outcome.

Arbitration during work stoppage. Section 87 represents the most significant change, not only to The Labour Relations Act but also to the fundamental premise of dispute resolution and collective bargaining. It is MAST's understanding that, while certain of the proposed amendments in Bill 44 were vetted through the province's Labour Management Review Committee, the single most important change proposed by the Bill became known only with its introduction. In its presentation to the Law Amendments Review Committee on Bill 42, MAST concluded the legislative change "will have a major and overwhelmingly negative impact on the public school system."

Section 87 interferes with the fundamentals of the collective bargaining process. That the Government would propose this type of change at all, let alone without any consultation, is totally incomprehensible. The limitation on strike lockout will likely result in an increased number of strikes and/or job actions as unions will develop strategies to pressure their employers for settlements without facing the considerable financial risk posed by an indeterminate strike. As a member of the Manitoba Employers Council, MAST endorses the position which has been developed by the MEC regarding Bill 44. MAST urges government to rethink the consequences of Bill 44 and not pass this legislation. Thank you.

* (23:50)

Mrs. Smith: I thank you for your courage and your presentation, to be out here once again at committee because we had presentation on Bill 42. I have to ask you, I personally have my own views, which you already know, about the passing of Bill 42 and now the passing of 44. Sir, can you tell me what the passing of these two bills will do to the public school system in the space of even two years' time from now?

Mr. Cooper: The fear of my employers, and I think it was expressed in the report of the presentation on Bill 42, is that these will have a very negative impact on the labour relations with school divisions and will have a substantial financial impact, particularly to the local taxpayers when these things go through the system.

Mr. Loewen: Mr. Chair, thank you for that presentation. We heard earlier from the president of the teachers' union that the labour legislation that was introduced in 1996 and passed, in her opinion, created a climate that was anti-union and anti-worker in the province of Manitoba. Do you have any comment on that?

Mr. Cooper: I would strongly disagree with her assessment, and I think a review of what has happened in collective bargaining with the teachers since 1996 to date would demonstrate just that, that the parties have worked together, have negotiated. We have had probably fewer arbitrations in the last few years than in the years prior to that, so I would suggest that the labour climate in the public school system was not in need of fixing.

Mr. Chairperson: Excuse me, Mr. Cooper. Mr. Enns, sir, if you would not mind out of respect for presenters here this evening, give them the opportunity. Please proceed, Mr. Cooper.

Mr. Cooper: I think I answered the question.

Mr. Schuler: Mr. Chairman, to Mr. Cooper, clearly he pulled the right committee. I think it was Craig Wallis who gave me a drive home that last committee at about five in the morning. Somebody walked home with my keys, so I could not even drive home that night. Thank you very much for your presentation. I was able to hear it in the back.

Certainly we did get to spend some time listening to your presentation at the last committee, and you have covered some of this off in here. When we do go into the part of the

Committee where we look at amendments, this will be very helpful, so thank you very much again.

Mr. Chairperson: Mr. Cooper, any comment?

Mr. Cooper: No comment.

Mr. Chairperson: Any other questions? Thank you very much for your presentation here this evening.

The next person on the list is Mr. Dan Kelly. Is Mr. Kelly in the audience? No, Mr. Kelly's name will drop to the bottom of the list.

Jim Baker. Is Jim Baker here this evening? Good evening, Mr. Baker, do you have a written presentation for committee members?

Mr. Jim Baker (President and Chief Executive Officer, Manitoba Hotel Association): I do.

Mr. Chairperson: When you are ready, please proceed.

Mr. Baker: Well, it is very short. I am Jim Baker. I am the President and CEO of the Manitoba Hotel Association. I represent approximately 300 hotels in the province and approximately 6000 to 7000 workers in those hotels.

The facts and figures have been well stated tonight. My presentation was intended to be short, and I will try to make it even shorter. The Hotel Association's position on Bill 44 is directed at the same three issues that have been echoed today.

Our position is there is always a fine balance in labour-management relations. Whether that balance is tipped to one side or the other often is a matter of perception or ideology of the observer. Some of the procedures or regulations to be followed in an attempt to achieve harmonious relations are more tangible than others. They may be more concrete, more measurable, more easily perceived. Some are intangible, not easily measured, yet important. I suggest the secret balloting is one procedure that provides an intangible, immeasurable benefit to the process. Our members indicate that they feel that the balloting process culminates the certification procedure and that in a way there is closure. They may not be happy with the outcome, but they have had a feeling that the final process, the vote, has been fair. Removing the ballot removes an element of trust in the system. Trust is what relations are built on. We strongly urge the Government to amend the proposed act to provide for balloting at all levels over 40 percent of members signing.

It is with the same view that our association regards the two other issues. It is our perception that the 60-day rule will create a change in the fundamentals of collective bargaining in Manitoba and that the reinstatement of employees whose behaviour while on strike or during a lockout is not acceptable in our society. The implementation of these latter two measures will disrupt the delicate balance that currently exists without achieving any significant change.

As an association, we have participated in the business coalition because we felt that these concerns had to be raised. We are pleased that the Government has listened to our concerns. The Manitoba Hotel Association is comprised of small business people whose personal finances have been committed to provide a livelihood for themselves, their families and for their employees. The Association has been in existence for over 70 years. Our concerns come from the experience gained over those years and from a desire to continue to participate in the promotion of our province to those who live elsewhere and who are looking at us as a tourist and business destination.

We ask the Government to look at these concerns from our perspective, with our risks. Thank you. I appreciate the attention at this last hour.

Mr. Chairperson: Thank you very much, Mr. Baker, for your presentation. A question from committee members?

Ms. Barrett: Thank you, Mr. Baker. Thank you for staying here for the evening. It is a little cooler than we might have anticipated, but still it is late in the evening and I appreciate your

having taken the time and raised your concerns in a very concise manner. I appreciate that.

Mrs. Smith: Thank you for staying and giving this very valuable presentation. Can you tell me: Have you heard of any hotel people in the business who have endorsed Bill 44 and feel that Bill 44 is going to be useful for their business growth in any way?

Mr. Baker: We sent information on the Bill to all our members.

Mr. Chairperson: Mr. Baker, I am sorry I have to recognize you, sir, first. Please proceed.

Mr. Baker: We circulated the information on the Bill to all our members. We invited their participation, and we received numerous calls. Our board of directors also did their canvassing within their regions, and, no, there was not any indication that this bill would do anything but harm to their business in particular, and really the opposition to the Bill was focussed on the balloting. We are not a heavily unionized industry though there are many properties that are unionized, so the issues on the 60 days are not as important in a heavily unionized industry, but for sure the certification process. I heard that from many individuals saying that we do not like the thought of having to be partners with the union, however, if the employees vote then we feel that justice has been served. We might not like it, as I said in my presentation, but it is done.

Mr. Chairperson: Thank you, Mr. Baker.

Mr. Loewen: Thank you for the presentation, Mr. Baker. Just a quick question. Is it the belief of your organization that if Bill 44 passes in its present form it will have negative impact on investment decisions in Manitoba?

Mr. Baker: I have just returned from a brief holiday business trip down to Minneapolis and golf courses on the way down. I golfed with a number of people from South Dakota and from Minnesota. Their perception of Manitoba, like where is it? As I said in my presentation, we have a very delicate situation here when it comes to investment, when it comes to tourism, and tourism, of course, we are very interested. It is one of our major industries. Of course it is vitally important to my industry.

A slight change in perception is a mammoth change in reaction. I feel very strongly that the investment climate–as it is, to invest in hotel properties, the major banks are not running forward. If it was not for the credit union system probably we would not have some of the expansion, the modernization that we are experiencing right now. The local people, the local credit unions are analyzing the situation. The major corporations, we must admit, have a lot to do with our economy and how things run, are the skeptical people, and this perception, I think, would be very harmful.

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

Mr. Baker: I wanted to speak till twelve o'clock so that you can all go home. I have done that.

Mr. Chairperson: Thank you, sir. Read the list? The next names I have on the list of presenters for Bill 44 are Peter Wightman, Bernard Christophe, Colin Robinson, Bruce Buckley, Brian Etkin, Grant Ogonowski, Ron Hambly or Alfred Schlieer, George Floresco and John Friesen, Cindy McCallum or David Condon, Brian Short, George Fraser, Jonas Sammons, Maureen Hancharyk, James Hogaboam, Kenneth Emberley, Darlene Dziewit, Julie Sheeska, Edward Zink, Donna Favell, Joy Ducharme, Alice Ennis, Kelly Gaspur, Colin Trigwell, Larry McIntosh, Graham Starmer, Gerry Roxas, Dale Paterson, Jerry Woods, George Bergen, Maria Soares, Neal Curry, Bob Dolyniuk, Bob Stephens, Ilene Lecker, Lydia Kubrakovich, Darrell Rankin, Jim Murray, Todd Scarth, John Mann, Rod Giesbrecht, Buffy Burrell, Albert Cerilli, Richard Chale, David Martin, Ron Teeple, Peter Olfert, Grant Mitchell, Robert Ziegler, John Godard, Lou Harris, Mario Javier

Are there any other presenters that I may have missed?

The hour being 12 midnight, what is the will of the Committee?

Some Honourable Members: Rise.

Mr. Chairperson: Committee rise. Thank you.

COMMITTEE ROSE AT: 12:03 a.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Re: Bill 44

The Canadian Council of Grocery Distributors (CCGD) is a national trade association of wholesale and retail grocers. Our members distribute goods to grocery stores and food service outlets in every community in Manitoba. Members conducting business in the province are: Canada Safeway, Federated Cooperatives, Sobeys Canada Inc., The Grocery People, Westfair Foods, Serca Foods.

INTRODUCTION

CCGD members own or serve over 900 grocery stores throughout the province in a sector that employs some 17,000 Manitobans. CCGD estimates that grocery distributors spend, on an annual basis, $124 million on local goods and services needed to run their businesses, most of which are procured from local suppliers. This is in addition to the millions of dollars of locally produced food products that flow through our distribution system. Additional information is provided in the enclosed Industry Profile and Annual Report (attachments not furnished with electronic copy of letter).

The grocery industry is labour intensive, service oriented and very very competitive. Today, over half of the overhead in retail grocery operations is devoted to payroll and benefits. Therefore, labour issues are important to grocery distributors. This is why Bill 44 is of major concern to the CCGD.

Our industry believes that the bill will create acrimony and unneeded strife in the workplace. In the marketplace, Manitobans will be confronted with disruptions in service, inconvenience and potentially unsafe situations during their shopping excursions to stores during times of increasing labour unrest. CCGD has the following comments on three specific sections of Bill 44:

Anyone who has had experience in this environment including the academics that specialize in this field, recommend the secret ballot as the fairest way to allow workers to arrive at a decision. The process allows both the employer and the union to make their respective cases in a fair and balanced way while allowing the employee to make a decision through an unencumbered secret ballot. CCGD urges the Minister to reconsider this section.

REALITIES OF TODAY'S MARKETPLACE

There is no section in the bill with this heading, but it should be top of mind for anyone concerned about the future of Manitoba. As mentioned in the introduction of this letter, the wholesale, retail and food service sectors are amongst the most competitive businesses in North America. These businesses are and need to be focussed on the consumer either directly or through the grocery stores and restaurants that have direct contact with the people of Manitoba.

In a highly competitive service oriented business environment there is little room to absorb increased costs that will likely result from Bill 44. Thus there is every likelihood that these costs will be passed onto consumers.

Today's marketplace is more dynamic than ever before as consumers increasingly demand ...." Anything, anywhere, anytime, anyhow". This means that the distribution channels of yesteryear will not exist into the future. E-commerce is changing the way that consumers shop. Goods can now be ordered, from literally anywhere in the world for home delivery. Dot COM suppliers are challenging the traditional forms of distribution that currently employ so may Manitobans.

CCGD members have a large labour force and significant assets in Manitoba. If CCGD member companies lose their competitive position and find that employees and assets are underutilized, they will have to adjust. Losses in market share to other distribution channels, either warehouse clubs or e-retailers, will not allow grocers to maintain their current workforce since the need for manpower is directly related to sales. Businesses also sell or abandon underutilized assets.

CCGD is also worried about comments from other business sectors which suggest that an unfriendly business climate could result-in reduced investment, cause closures and/or possible relocations. Bill 44 is not business friendly. If the resource industry is damaged in anyway, wholesales will suffer as the sales volumes in grocery stores and restaurants decline and outlets close.

SETTLEMENT OF A COLLECTIVE AGREEMENT BY THE LABOUR BOARD OR AN ARBITRATOR DURING A WORK STOPPAGE.

It is unclear to the CCGD why this provision is proposed. We are unaware of any such legislation anywhere else in North America. Many of CCGD's members have collective agreements and have become accustomed to negotiating settlements with the unions. This process has worked to the satisfaction of both parties in the environment created by the labour laws to date.

We anticipate that this provision will force parties apart and propel the industry to more strikes-lockouts. Management and labour use negotiations to strike a balance in union contracts. This relationship will be negatively impacted if unions simply place their demands on the table knowing that in 60 days the matter will be referred to arbitration. It's likely that both side become intractable in such situations.

Aside from the substantial costs associated with arbitration, CCGD believes that the any arbitrator will not have the intimate understanding of the issues that are well know to unions and management. This is likely to result in bad decisions and an erosion of the owner's ability to manage their operations. THIS SECTION OF THE BILL SHOULD BE WITHDRAWN.

REINSTATEMENT FOLLOWING PICKET LINE VIOLENCE

CCGD cannot understand why the government has included this section in the bill. If it remains in the new legislation it will promote thuggery. If employers are required to reinstate employees that have been found guilty of a crime associated with picket line violence this will poison the workplace and promote discord amongst workers.

This section tacitly implies that the government will condone picket line violence. If this section remains in the new legislation, CCGD predicts that there will be more violence and possibly more criminal activity during strikes. This will put our customers at risk and place more pressure on police services.

It seem incongruent to CCGD that politicians must forfeit their seat if convicted of a criminal act, yet it is a group of politicians in Manitoba that would allow criminals to return to work for an employer against whom they have perpetrated a crime. We believe this provision in the bill is dangerous and unnecessary.

ELIMINATION OF THE SECRET BALLOT VOTE IN UNION CERTIFICATION

This is simply undemocratic! Why is the government, supported by the unions, objecting to a secret ballot? During a certification drive, unions and employees go through a two-step process. Employees who obtain a card then have time to consider the options and in a fair way move to the next step, which is the secret ballot.

Manitobans should not lose what they have worked so hard to achieve as a result of policies and legislation that will likely drive costs up and business down. Bill 44 will have a negative impact on Manitoba and is only designed to appease a small group of union leaders, whom in CCGD's view, do not understand the realities of today's marketplace. Should they win the day with the passage of Bill 44 is will be a short-term victory that ignores the future of a province which must compete in an increasing global economy.

CCGD respects that the government has won., in a democratic process, a mandate to serve the people of Manitoba for then next four years. We urge the government to respect the input from CCGD and it's members on behalf of their customers whom they serve throughout the province each and every day of the year. CCGD cannot see how the aforementioned sections of

the Bill will provide any long-term benefits to Manitobans.

CCGD belongs to the Coalition of Manitoba Business whose members share our concerns with Bill 44. We would appreciate the opportunity to discuss this further with the Minister in the hope that the government would amend the bill as suggested in this submission. We look forward to your response.

Sincerely,

Bryan D. Walton
Vice-President, Western Region
Canadian Council of Grocery Distributors

* * *

Re: Bill 44

Thank you for the invitation that was extended to The Canadian Federation of Independent Grocers (CFIG) to provide comments on the proposed amendments to the Labour Relations Act as contained in Bill 44. While CFIG declines the opportunity to appear before the Committee we wish to provide written comments on certain components of the proposed legislation that cause concern.

CFIG is a non-profit industry association founded in 1962 with the purpose of advocating on behalf of the unique interests of independent and franchised grocery retailers. The concerns of our Manitoba members with the potential impact of Bill 44 are presented from that perspective. Within the context of the high level of corporate concentration within the Canadian food industry, we believe our perspective warrants particular attention.

In 1999, CFIG commissioned a study by ACNielsen-DJC Research on the role of the independent grocer in the Canadian Food industry. A copy of the report, which was supported by Agriculture and Agri-Food Canada is enclosed with our submission.

According to the study, independent grocers represent a substantial part of the Canadian economy. In 1998, they generated over 39 billion dollars and provided employment to almost 240,000 people. The gross output of independent grocers represents almost 1% of the national Gross Domestic Product of the entire country. Independent grocers in Western Provinces also provide about 40.5 thousand jobs (59% of the total food retailing employment of 68,000).

Along with the economic contribution of the independent grocer, our members are noted for the tremendous contribution they make to a myriad of community events and initiatives. Approximately 63% of CFIG members serve and are part of communities with a population of less than 15,000.

But the reality of the grocery food industry is that it is becoming increasingly dominated by major corporations. The trend toward acquisitions and mergers is perhaps most pronounced in the food industry and is of rising concern.

At the same time, in Manitoba, the lack of any protection afforded to many of our members through franchise legislation, (such as that provided in Alberta and Ontario), means that changes to critical laws such as that governing labour relations will subject these retailers to even more significant pressures in the marketplace. We hope the Committee recognizes the disproportionate impact Bill 44 will have on independent grocers in the Province of Manitoba.

The proposed amendment that would provide for settlement of a collective agreement by the Labour Board or an Arbitrator during a work stoppage does not exist in any other legislative provision in North America. A fundamental tenet of collective bargaining is that a union and employer have the right to freely bargain in good faith and concurrently weigh the risks to both, of a strike-lockout if an agreement in that process is not reached. This balance is absolutely critical to effective and fair collective bargaining.

By providing the union with the right to simply opt for third party arbitration after 60 days, it is not difficult to surmise that unrealistic bargaining positions will be taken at the outset of negotiations with the view that the contract will automatically be settled by a third party. This

undermines the spirit of the bargaining process and is not in the public interest.

We are also dismayed at the proposal to eliminate the right to secret ballots as a means of determining the wishes of employees. This is a cornerstone of any electoral process in our democratic system. Even in the political nomination process, whereby party membership cards arc sold by candidates, the ultimate decision of those card-carrying members, is still made by secret ballot at a nomination meeting. Why any labour organization would feel it should be excluded from this process is puzzling at best.

Perhaps the most disconcerting proposal in Bill 44 is that which would repeal existing legislative provisions which allow an employer to refuse to reinstate an employee for reasons which would normally constitute just cause for discharge, if a strike or lockout were not in process. This provides an employee with virtual immunity for any acts or misconduct committed on the picket line.

There is due process under the Labour Relations Board that protects the employee from any unfair loss of job. In our view, the current legislation provides a reasonable deterrent to extreme acts during a strike-lockout and should remain in place.

In conclusion, CFIG believes that the government should pay careful heed to the effect these legislative amendments will have on the business climate in Manitoba. Similar proposals and changes in British Columbia and Ontario during the early 90s severely retarded business investment in both of these Provinces.

In an increasingly competitive global economy, it is difficult to understand why the government is prepared to put Manitoba at a competitive disadvantage, particularly with our neighbouring Provinces of Alberta and Ontario. But these changes will do precisely that, by sending a negative signal to potential investors and present significant challenges for our small business community.

This same small business community includes thousands of franchisees who for many years, to no avail, advocated to respective Manitoba governments the need to pass franchise protection legislation. In that context, and considering the absence of any statistical evidence that indicates Manitoba is experiencing an unusual level of strikes and lockouts, our members are incredulous at the rapid pace, time frame and lack of consultation with which the government is prepared to enact these labour law changes.

Perhaps if the government is unprepared to withdraw Bill 44, we can look forward to the imminent introduction of franchise protection legislation in order to address the interests of our small business community.

Respectfully submitted,

Keith McDougall,
Director,
The Canadian Federation of Independent Grocers

* * *

Re: Bill 44

The Manitoba Motor Dealers Association (MMDA) is an association of all the new vehicle franchised dealers in the province of Manitoba.

The Manitoba Motor Dealers are a key sector of Manitoba's economy and communities, employing over 5000 individuals.

Our industry is very dependent upon a good economy. For that to happen, we need businesses to continue expanding and we need to attract new businesses to our province.

THE PROPOSED AMENDMENTS TO THE MANITOBA LABOUR RELATIONS ACT will stop the growth we are currently experiencing. The three key issues MMDA is opposed to are:

1. CERTIFICATION VOTES

This item is a major priority and concern for our members.

The use of the secret ballot as a means of determining the wishes of a voting constituency is the cornerstone of our

democratic society. Employers are far more likely to accept and respond positively to the results of a secret ballot vote than they are of a card system which usually is conducted in secret and the results of which they never see.

2. SETTLEMENT OF COLLECTIVE AGREEMENT BY THE LABOUR BOARD OR AN ARBITRATOR DURING A WORK STOPPAGE

   The effect of this legislation would be to provide a unilateral advantage in bargaining to one side (Labour) and correspondingly to eliminate freedom of bargaining on the part of the other (Employers). It would enable a union to frustrate bargaining and prolong a dispute by taking an unreasonable position, without any corresponding options being provided to the employer. No reason is articulated to support such a fundamental change in the delicate balance between employers and unions.

3. DISCIPLINE/DISCHARGE FOR MIS-CONDUCT DURING A STRIKE/ LOCKOUT

   Bill 44 proposes to repeal existing provisions which allow an employer to refuse to reinstate an employee for reasons which would constitute cause for discharge if a strike or lockout were not in process and to return to the pre 1996 system whereby employees had virtual immunity from disciplinary sanctions for acts committed during a strike or lockout.

In conclusion, we ask whether these amendments are necessary, coming as they do during a time of relative labour peace, rising wage settlements and low unemployment. Our province already faces significant challenges regarding increased funding for health care and education, and increasing pressure to cut taxes to remain competitive with neighbouring provinces. We feel that the emphasis in labour law should be to maintain the current balance and foster economic development on that basis.

Shirley Canty
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