Third Session - Thirty-Fifth Legislature

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Legislative Assembly of Manitoba

STANDING COMMITTEE

on

INDUSTRIAL RELATIONS

39-40 Elizabeth II

Chairperson
Mrs. Shirley Render
Constituency of St. Vital

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Thirty-Fifth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS

Monday, June 22, 1992

TIME – 7 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mrs. Shirley Render (St. Vital)

ATTENDANCE - 10 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. Gilleshammer, Praznik, Hon. Mrs. McIntosh

Mr. Ashton, Ms. Barrett, Mrs. Carstairs, Mr. Martindale, Mrs. Render, Messrs. Rose, Sveinson

WITNESSES:

Bill 85–The Labour Relations Amendment Act

Susan Spratt, Canadian Auto Workers

Peter Olfert, Manitoba Government Employees Association

Howard Raper, Communications and Electrical Workers of Canada

Paul Moist, Canadian Union of Public Employees - Local 500

Bill Sumerlus, Canadian Union of Public Employees - National

Terry Clifford, Manitoba Teachers' Society

Richard Orlandini, Choices

Bernard Christophe, United Food and Commercial Workers

Roland Doucet, Private Citizen

Bill 64–The Child and Family Services Amendment Act

Rob Grant, Manitoba Coalition on Children's Rights

Jean Altmeyer, Choices

Mike Bills, Knowles Centre, Inc.

Bill 70–The Social Allowances Amendment and Consequential Amendments Act

Genny Funk-Unrau, Private Citizen

Pat Woolley, St. Matthews-Maryland Community Ministry

Diane Sobie, Manitoba Anti-Poverty Association

Erika Wiebe, Winnipeg Child and Family Services - Central Area

Shirley Lord, Choices

Renate Bublick, Social Planning Council of Winnipeg

Greg Selinger, Councillor for Tache Ward, City of Winnipeg

WRITTEN SUBMISSIONS:

Bill 85–The Labour Relations Amendment Act

Ross Martin, Brandon & District Labour Council, CLC

James Cowan, Graphic Communications International Union

Neil Harden, The Professional Institute of the Public Service of Canada

Sandy Hopkins, Winnipeg Chamber of Commerce

Grant Mitchell, Private Citizen

Bill 64–The Child and Family Services Amendment Act

Dennis Schellenberg, Child and Family Services of Central Manitoba

Jerry Ross, Private Citizen

Gillian Colton, Private Citizen

Gale Pearase, Director, The Street Kids and Youth Project

MATTERS UNDER DISCUSSION:

Bill 64–The Child and Family Services Amendment Act

Bill 70–The Social Allowances Amendment and Consequential Amendments Act

Bill 85–The Labour Relations Amendment Act

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Madam Chairperson: I would like to call this committee to order to resume presentations regarding Bill 85. I would also like to advise committee members that I have received a fourth

written presentation. This is from the Winnipeg Chamber of Commerce. They were, as committee members may remember, scheduled to appear in person, Sandy Hopkins representing the Winnipeg Chamber of Commerce.

I would now like to call upon Roland Doucet, Private Citizen. I will then call upon Susan Spratt, Canadian Auto Workers union and there will be a presentation distributed. Would you like to go ahead?

Bill 85–The Labour Relations Amendment Act

Ms. Susan Spratt (Canadian Auto Workers): Sure, thank you very much.

The CAW Canada represents working women and men in over 27 workplaces in Manitoba. Our members work in foundries, the aerospace industry, furniture manufacturing, farm equipment manufacturing, the service industry, the public sector, auto parts and servicing industry workers, and workers in many other industries including the carmen in the railways.

The proposed changes to The Labour Relations Act in Manitoba are, in most areas, a step backwards for working people in this province. In the Labour minister's announcement of the proposed amendments to the act, he stated that the amendments are the result of a lengthy review of Manitoba's labour legislation and are designed to improve the operation of the current act, and that these amendments uphold the right of employees to join a union. Minister Praznik goes on to say that their purpose is to provide greater certainty in the certification process.

Nothing, in our opinion, is further from the truth, and the minister's comments show a total lack of understanding of the real labour relations world in Manitoba.

The CAW Canada submits that the majority of the amendments as proposed are designed to thwart the union certification process and are in response to pressure from the business community. There are no proposals in Bill 85 which are a direct request from the labour community.

The amendments to Bill 85 and Section 8, 10 and 11, which have the approval of the Labour Management Review Committee, we are not in opposition to. The current provisions in the act under Part 1, Section 6, although not perfect, are working well and all parties involved, The Labour Relations Board, the business community and labour all know the past practice, history and the working of these provisions. To change it, in the minister's opinion would be to bring Manitoba in line with other jurisdictions.

The CAW strongly protests the changing of this section. The proposal in Bill 85, Section 3 which deals with subsection 6(1), 6(2), 6(3), will make it easier for the employers to interfere in organizing drives and to circumvent the certification process by the use of fear tactics under the guise of reasonably held opinion.

Employers will now be able to say, if these changes receive Royal Assent, almost anything to their workers in an attempt to deny the workers the opportunity to join a union of their choice by catering to the fears of their workers by making statements so long as it may be even remotely reasonable.

These changes will only draw out the certification process and will, we submit, have the parties before the Labour Board on issues such as reasonably held statements many more times, which only serves the interests of employers in an attempt to keep unions out of their workplaces. If it is not broke, do not fix it.

The Bill 85 proposed amendments in Section 6, dealing with subsection 41, is another step backward, in our opinion, with respect to the expansion of secret ballot vote on applications for certification. The lowering of the limit to 40 percent is meaningless, since the majority of times unions rarely make application with a low percentage of support.

In the CAW-Canada's opinion, this is a change which is not required, but we will accept. On the other hand, increasing the percentage required from 55 percent to 65 percent to receive automatic certification makes the whole process more lengthy and will increase the amount of votes which have to be held. It will also give employers more of an opportunity to intimidate their workers by drawing out the process.

You are most certainly aware that unions operate with a great difficulty when organizing due to the fact that unions do not have access to the workplace, nor do unions have access to the names and addresses of the employees. If this government wishes to be progressive, we would submit that the present level of 55 percent be lowered to 50 percent, which is based on a simple majority of the total number of employees in the unit.

This, we submit, would be more democratic. The amendments in Section 7, regarding subsection 45(4), vis-a-vis information on initiation fees and regular membership dues is, to say the least, a shock. This issue to our knowledge has never been discussed in the Labour Management Review Committee and the proposal comes right out of the wilderness.

There is no other jurisdiction in Canada with even a remotely similar provision and this, once again, leaves the process of certifications to challenges, delays and lengthy hearings before the board. There is no need for this proposed change, nor was there even a request from the management interest on the committee; therefore, it would appear that nobody wants it, nor is it required.

The CAW Canada fully endorses the brief which was previously submitted by the Manitoba Federation of Labour regarding Bill 85, and our submission deals only with the most contentious issues in this bill.

We thank you for the opportunity to appear before you today. Thank you.

Madam Chairperson: Thank you.

Mr. Steve Ashton (Thompson): By the way, I share your puzzlement about the section in regard to initiation fees and membership dues. I think quite a few of us on the committee are wondering where this was developed from, because it really has no history and seems to–probably a little more to, as I have said before, the feeling that some of the Conservatives have, that when workers say yes to a union, they do not really mean yes.

There seems to be an attitude in the bill, as expressed, that the bottom line is they either made a mistake or did not know what they were doing, that it can somehow be a fairly easy process of people signing union cards without any thought to the consequences.

I want to ask you, from your experience in the labour movement, is that the case? Is it the case that people make the decision to join a union lightly? Do they not ask questions about the dues structure? What is going to be involved? Do they sign their name without really meaning it? When they say yes to a union, are they really meaning maybe or no? Or in your opinion, is the government perhaps misleading the public in terms of what actually happens in that process?

Ms. Spratt: It has been my experience and the experience of our organizing department with the Canadian Auto Workers that the process to organize the workplace is very complicated, and that if you go in to meet with workers, it is a very long, slow process. They ask many, many questions. They want to know about the constitution of the union. They wish to know questions in relationship to unionization.

* (1920)

Many times you will go and talk to workers, two, three or four times to specifically answer concerns that they have with respect to the union, and I think that the union movement takes the same position that the women's movement does. When a worker says no, it means no.

If they require more information, then that is what an organizing person is there to do is to give them that information. I could not agree with you more that this is something that, to our way of thinking, is quite bizarre because for anybody, and perhaps nobody on the side of the House who has actually gone to do organizing would realize, this is a very complicated matter. Workers think many, many times before they sign a card. They have questions, and initiation fees and union dues are not an issue.

Mr. Ashton: Just one other question, as I know there are many presenters, and I would like to ask many more questions if time permits, but the other major concern that has come up about this bill is the opening up, as you pointed out in the brief, of the ability of employers to participate in the certification process by making it much easier for employers to say what they feel in the case of opinions reasonably held, which is the exact term used.

Now some people will say, well, that is freedom of speech, but I am wondering from your perspective and looking in an organizing situation if you can outline to members of the committee who perhaps have not been in the situation of being a worker thinking about unionizing and worried about a lot of things, particularly–I would say from experience, that many workers have gone through in certifying drives–of losing their jobs if they happen to support a union, and that certification drive does not succeed.

What really happens in that situation? I notice from the brief, as many other labour representatives have said, the argument is that we should not in any way or shape be opening up. Can you perhaps explain to some of the members of the committee

who have never been through that or even remotely close to it, why in fact there should be protection against the ability of employers to become heavily involved in the certification process?

Ms. Spratt: We take the view that this is a decision between the workers and the union if they wish to be in a union, and it is then up to the Labour Board to decide whether or not these workers should be unionized and who should be their certified bargaining agent.

Once the employer becomes involved in that process, a whole array of questions and things can be said in the workplace. I will give you a couple of examples from organizing drives that I have done myself. With the new language in the proposed act that says "reasonably held" there is nothing stopping an employer under this new act.

It has happened in the past, an employer saying that if you unionize the plant will close immediately. The plant will relocate. We can go to Alberta, we can go to Saskatchewan, we can go wherever, but we are not going to open up here if there is a union, and if you have a certified bargaining agent, we are not going to do that.

If there are immigrant workers, it has been held and has been argued before the Labour Board where intimidation has been found, where employers have said to immigrant women that perhaps they may be deported or perhaps they will have visitations from immigration officers if they think about organizing into unions.

There have been other issues around issues of equity in the workplace and the whole question of misinforming workers on the true intent of a union in the workplace and telling workers that have 25 or 30 years seniority: Well, the union does not want you; they will get rid of you and protect somebody younger.

These are the kind of comments. I find it ludicrous that we are having taken away the right to electioneer on the day of an election, but right up to the day of the vote and right up to the day of any balloting an employer can interfere with the whole process under this new act. So those are the things that do happen in Manitoba. Those are things that do happen on an ongoing basis in organizing drives.

Mr. Ashton: As I said, I wish we had the opportunity to get into more depth on that, but I thank you for outlining those kind of experiences to members of the committee, and I am hoping that at least some members of the government caucus will think about what is happening with this particular bill and the opening up, really, of the floodgates in terms of ability of employers to engage in the kind of activity you are talking about, which to my mind I think is absolutely unacceptable in Manitoba in the 1990s. So, thanks again for an excellent presentation.

Mrs. Sharon Carstairs (Leader of the Second Opposition): Yes, in your presentation you focused on a number of things, but there are two–and maybe it is not possible for you to choose between the two–but which do you find the most offensive? The increase from 55 to 65 percent, or the right for the employer to become involved by being able to say, in essence, what they will to the employee and potential union member?

Ms. Spratt: I find both equally distasteful to be perfectly blunt. In my mind, they are both undemocratic. You know, you are moving the vote up to 65 percent, the employer is becoming involved in something. Then, on the other hand, the question as to whether the employer can interfere or speak to employees, I take the view it really has nothing to do with the employer. It is a decision that is made by the workers to be in a union. They are both distasteful.

Madam Chairperson: Are there any further questions? Thank you very much.

Ms. Spratt: Thank you.

Madam Chairperson: I now would like to call upon Peter Olfert, Manitoba Government Employees Association. Mr. Olfert, do you have a written submission?

Mr. Peter Olfert (Manitoba Government Employees Association): I just have one copy.

Madam Chairperson: Okay, thank you.

Mr. Olfert: Madam Chairperson, members of the committee, good evening. I am here representing the Manitoba Government Employees Association. Our union represents some 25,000 workers in the public sector in this province. The people I represent work in personal care homes, universities, community colleges, government offices, hospitals. They are the backbone of all services Manitobans enjoy and are entitled to receive from their government.

Lately, however, the pride of public sector workers and the services they deliver have been

assaulted by this government. Time after time, through regulation, legislation and administrative whim, people working in the public sector have been subjected to arbitrary layoffs, wage freezes, the loss of collective bargaining rights, privatization, contracting out, and the list is very extensive.

While these attacks were underway, many of our members and, indeed, many hundreds of people throughout the public sector, had their personal lives shattered. How does a 55-year-old find work in today's economy? How does a single parent whose income has dropped by 20 percent keep her family together? What about families suffering because of the job stress placed on one parent or another? There is then a little-known or understood human side to what has been happening. Yet, in spite of the cruelty of these changes, watching the news coverage of this process over the last couple of years especially, I am continually amazed by the language governments use to explain what is being done.

This government's public persona, if you will, is that of a consultative, middle-of-the-road, moderate and caring government. I am here today to bear witness to the radical and reactionary agenda which is being foisted on this province. Let us look at the reality. Is it moderate to arbitrarily freeze the wages of 50,000 workers? Should they be singled out to bear a disproportionate share of the so-called war on the deficit as they were under Bill 70? Is it middle-of-the-road to change Workers Compensation to an experience-rating system which rewards the bad employers and punishes the workers? Is it caring to destroy final offer selection, a process which gave Manitoba the fewest days lost to strikes in this country? The answer to all these questions is, no.

The sorry fact of the matter is that the government says one thing and does another. It is a matter of trust. The latest piece of labour legislation, Bill 85, is no exception. The minister said that this legislation is a result of consultations. I want the record to show that for my part as president of the MGEA there was no time when we felt that the so-called consultations were anything more than a polite ritual on the part of this government. This was a one-way process only. After even the most cursory review of the bill, it is abundantly clear that the Chamber of Commerce got an awful lot more than the polite hearing we received. So let me serve notice to you, the members of the committee and to every member of this government, we in the labour movement will expose this strategy at every opportunity. How can we take part in any more consultations which only serve as window dressing for this antilabour legislation? How can we co-operate with you if you continue to attack workers that we represent in this province?

I would like to turn for a moment to several specific aspects of Bill 85 to illustrate exactly why we cannot accept this legislation. First, the amendments on certification votes propose that the range be changed from 45 percent and 55 percent for a mandatory certification vote to between 40 percent and 65 percent. Our position is that if more than 50 percent of the unit have signed cards, there is no need for a mandatory certification vote. A majority is a majority is a majority, and in this case it is more than 50 percent, not the 42 percent who elected our Premier (Mr. Filmon) in Tuxedo. By raising the upper limit, however, it is quite clear that the opportunities for employers to intimidate their workers before a vote is held will be substantially increased.

* (1930)

Amendment 7(1) is also destructive. What it is saying is that the union must explain its dues structure before a worker signs a union card. First, I can see from this clause that the minister probably has never been involved in an organizing drive. During any drive the first questions asked by workers are, what benefits can the union provide for me, what are the dues or initiation fees?

This amendment is also highly insulting and paternalistic. Unions are not in the business of conning people to join. Workers who choose to join a union know very well why unions are needed and they do not need you to protect them from us.

Finally, this amendment is yet another tool for management to undermine legitimate organizing drives. I can just see it now, managers will only have to find a few antiunion employees to sign cards and then testify that the due structure was not explained to them, even if it had been. Conceivably, the certification process could be entirely derailed because a clause like this, quite simply, is impossible to monitor.

Section 8 is a counterpunch to Section 7 amendments. This section restricts activities by managers and unions on the day of the certification vote. The restriction talks about, other activity, and again a loosely worded, wide open, catch-all phrase

designed to provide management with a tool to entrap legitimate union activity to delay certification.

When taken in its entirety, it is evident that the government is saying that fairness does not matter. Each of the changes gives management a bigger club, a bigger lever to use against their employees. It is obvious to everyone in the labour movement that the Chamber of Commerce has lobbied hard to have their agenda paramount in the drafting of this legislation.

This bill smacks of the whole philosophy so often espoused by the Fraser Institute, the Business Council on National Issues, and others of their ilk. When taken as a whole, these changes illustrate that for the government to claim that this bill came out of a consultative process is patently absurd. It is not compromise or consensus at all. It is quite simply another direct attack on workers and their collective rights as trade unionists.

When taken as a package, there is clearly a common theme linking each amendment, each bill affecting labour, each decision taken by this government. This government does not want workers to organize, to gain reasonable benefits, or to be treated fairly by their employers. In fact, this legislation states unequivocally that there shall be no fairness for workers; there shall, however, be more and more ways to reward employers.

Thank you very much.

Mr. Ashton: I just want to ask one question, but an important one. As I have said before, I really believe many members of this committee not only have not been through organizing situations as you have said; have not faced that choice; have not ever been a member of a union so perhaps do not even understand how unions operate in terms of the due structure, et cetera. I want to give you the opportunity to address, not so much those who might come upfront, and maybe some government members in this committee, and say the real purpose of this bill is to prevent people from unionizing, because I suspect that is part of it.

It is a deliberate attempt to make it more difficult, to prevent employees from unionizing, but there may be some, as I said before, who perhaps do not come out and say that directly, who perhaps thinks, as I said before, that when someone says, yes to a union, they do not really mean, yes, they mean, maybe or no; they were either mistaken or hoodwinked or coerced or whatever to sign a union card. We have already heard some pretty clear testimony from people today, and again tonight, pointing to how difficult a decision it is for people to make.

I just want to ask you, with your experience in the labour movement, to give perhaps to those on this committee who might have something of an open mind on this, how you would explain to them how that decision is. Is it an easy decision? Is it a flippant decision? Is it a difficult decision? When someone signs a union card, do they really mean it?

Mr. Olfert: I can certainly vouch for the fact that it is certainly a long process. It is not something that you can go in and organize generally in a matter of days or weeks. Many times it is months before you get to a point where you may be in a position to apply for a certification.

In speaking to people, there is no question that it is one of the biggest decisions of their lives. Because in today's—and especially in today's economy, when jobs are tough, there are not very many jobs out there to begin with, and people are certainly fearful for their jobs. So they view this as a very big risk for them to take, to put their job on the line in terms of signing a membership card. It is not an easy decision, a long process.

There is no question that when you get a group of employees together they want to know everything about your union, what kind of services they can provide to you, what services you can offer to them. They always ask what the dues—and we are very upfront about the dues question and initiation fees. Many of those things are discussed with them and, generally speaking, many meetings have to be held with groups of individuals, and people have to be told over and over that the union is there to fight on their behalf.

So it is a long process and one that people do not take lightly.

Mr. Ashton: I appreciate the information to the members of the committee, and I do hope that at least some of the government members on the committee will listen to the advice of people such as yourself and others who know what the process is and how it is a serious process and how much this bill will damage the ability of workers to freely choose to say yes to a union. So thank you very much.

Madam Chairperson: Are there any further questions? If not, thank you very much.

I would now like to call upon–now, I am not too sure about the spelling here and the pronunciation– Howard Raper.

Mr. Howard Raper (Communications and Electrical Workers of Canada): Thank you. It is pronounced Raper.

Madam Chairperson: Thank you very much, Mr. Raper. When you are ready, please proceed. You have a written presentation, and I believe everybody has a copy of it.

Mr. Raper: I would like to thank you for the opportunity to appear before this committee. I am here representing the Communications and Electrical Workers of Canada. This is a union of approximately 40,000 members across Canada, some 2,000 of whom reside in Manitoba. All of our Manitoba members have the same employer, the Manitoba Telephone System. In other provinces, a large percentage of our members are employed in the manufacturing and servicing of electrical and electronic products.

We are proud of our reputation as a union that works to build a positive relationship with the employer, in which both parties act to expand and improve the business in order to enhance the working condition and employment security of our members. We believe that labour relations legislation should reinforce the concept of the partnership of labour, business and the government.

In our view, Bill 85 fails miserably in this respect. It reinforces an adversarial relationship between labour, business and, indeed, with the government. We have reviewed the suggested changes contained in Bill 85 and would like to address a few of the issues in this legislation. Because I have been directly impacted by the current Labour Relations Act, I feel well qualified to provide some constructive criticism on some of the proposed revisions.

* (1940)

The first issue I would like to address is the repeal of Section 6(2) and the addition of Section 32(1). We see this as a change that could make organizing in this province next to impossible. We have already had occasion to see first-hand the effect this kind of intimidation would have. During a recent organizing campaign, employees in the plant were told to attend a meeting during working time on the employer's premises. At this meeting, an antiunion petition was circulated and, of course, anyone refusing to sign was immediately categorized as a union sympathizer. The person who organized this meeting was a so-called independent objector. Management claimed they had no knowledge of the meeting and had not authorized it. No action was taken against the independent objector, of course, even though she had supposedly taken people off the production line during working time without authorization. I wonder what would have happened if an employee who was a supporter of the union held such a meeting under the same circumstances.

We, of course, sought legal counsel to see if it was possible to successfully file an unfair labour practice. We were informed that unless we could prove that the employer had initiated the meeting we would be unsuccessful before the Labour Board.

Imagine what the impact would be if employers could freely campaign in the workplace. We already have a flood of consultants eager to collect exorbitant fees from employers for showing them how to stop organizing campaigns. Now labour lawyers will be making a lot of money arguing what defines a statement of fact or an opinion reasonably held with respect to the employer's business.

The proposed changes to Sections 6 and 32 constitute an open invitation to employers to intimidate their employees. This would extinguish the principle of an employee's right to freely decide without coercion or intimidation by the union or the employer whether or not they wish to join or to work in a unionized workplace.

I would like to say that in talking about having people sign cards, and I heard Sid Green earlier say that the workers in Manitoba are not easily intimidated. Well, let me tell you that they are very easily intimidated. Certainly, there are a core of fighters who are willing to risk their job to join a union, but those are in a very small minority in any workplace, where you have a core group that feels so intense about the thing that, yes, they are willing to put their job on the line.

My experience is that the first thing that you tell somebody when you are asking them if they would like to join a union is you assure them that the only people that will know that they have signed a card are yourself and usually there is one other person with you. You assure them that nobody else in the plant will be aware that they have signed a card, and that is for the simple reason that they are concerned that somebody in that workplace is going to tell the

employer that they have signed a card and then they are really concerned about their continued livelihood.

So we make it a practice to assure them of the privacy of the act of their signing a card. They are very easily intimidated, and it is certainly one of the most popular tactics by employers. I experienced it in the union drive that I am just talking about where managers tell employees, well, if a union comes in here the employer is going to move out of this location and everyone is going to lose their job. When you approach an employee who has been told this you say, I have heard that you were told this. Is this true? Yes, it is true. Are you willing to testify to that effect? No, I am not. They will not testify before the Labour Board that the employer has intimidated them, because they, again, are fearful of their continued livelihood.

The next revision I would like to address is Section 45(3.1). Our union is recognized for the wide powers given to members to make decisions. One of the decisions made by local members in our union is the amount of dues that they pay. Members of newly formed locals decide by majority vote how much is required to operate the local. This is usually done at a membership meeting held shortly after they have become certified by the Labour Board.

There are no specific dues set for members of a newly created local. Our two locals in Manitoba now pay a different percentage of their wages in union dues. This is because the members of these two locals have made different decisions on how much is required to operate their local organization.

In our organization, the dues are set by the members and a lot of the differences in the dues that members pay depend on their organization. If it is a local representing people that are all under one roof in one plant and they are all, say, located in Winnipeg, their dues can be set quite lower than the dues of a local such as we operate now in Manitoba.

We have two locals that represent telephone workers right across the province. To have meetings we have to fly representatives from Thompson, The Pas and Flin Flon to Winnipeg so that they have a voice in the affairs of the local. That is a very expensive local to operate. However, under other circumstances, like I say, if the plant is all under one roof, the dues can be much lower because the local does not require as much dues to operate.

People recognize the fact that an organization requires funding in order to provide services. They should be given the right to decide what is an appropriate dues structure. This revision of the act would take away the right to make that decision from our new members. The decision would be taken out of the hands of our members and placed in the hands of the officers of the national union.

This is contrary to the democratic principles on which our union was founded. We would have to set some rate that we thought would be appropriate and tell the people we were organizing that this is going to be your union dues. They would not have that right to decide for themselves.

The changes to the percentage figures in Section 40(1) are another example of how this government wants to make it more difficult for employees to freely associate in an organization. To give the outward appearance of fairness, the percentage to trigger a vote in the workplace was lowered.

I know of no union that has knowingly submitted cards to the Labour Board of less than 55 percent in order to have a vote in the workplace. Unless there is over 55 percent support, unions have no desire to have a vote conducted. The decrease in the percentage required to trigger a vote is meaningless. It will have no impact at all.

Union leaders realize that once their intention to organize is made public, employers will attempt to dissuade union membership and some of the initial support slips away. They also realize that stalling tactics by employers to delay a vote will further erode support. The union movement has many study results indicating the longer a vote is delayed, the less likely the vote, when taken, will be in favour of the union.

* (1950)

The percentage of 65 percent required to trigger an automatic certification is totally unrealistic. How many provincial or federal governments can make claim to have the support of 65 percent of their constituents? Not many. This revision is an out-and-out attack on the labour movement of Manitoba and a concession to business interests who want to eliminate the labour movement from the picture in Manitoba.

We propose that an indication by a majority of employees that they want to organize, as proven by a majority of bona fide cards signed by the employees, should result in automatic certification

of the union. Only those applications which fall between 45 percent and 50 percent plus one, should initiate a vote to determine the wishes of the majority.

I would now like to turn to the proposed new Section 48.1, regarding electioneering on voting day. It appears quite reasonable on the face of it, but I have seen enough of the message used by so-called independent objectors to be wary of this type of legislation.

This section puts no restriction on independent objectors. I suspect there will be many instances where independent objectors, on the advice of high-priced lawyers, will be interfering with the free vote by the employees while thumbing their noses at the Labour Board. There have to be severe penalties levied on any individual who interferes with a free vote in the workplace.

I experienced firsthand how independent objectors operate. Two or three individuals, who earn less than $10 an hour, somehow have the financial resources to retain legal counsel, an example of whom you saw earlier today, whose fees run well over $100 an hour. They somehow find the financial resources to rent meeting halls and distribute antiunion literature to all employees in the potential bargaining unit. Yet they can act with impunity and scoff at the Labour Board. There are no penalties that the Labour Board can impose on these individuals. There is no obligation put on these individuals to disclose the sources of their funding.

If this legislative committee really wants to make an honest attempt to ensure that employees have the right to decide about union representation without coercion from anyone, then make revisions making independent objectors responsible for their actions. I ask you to consider changes to Bill 85 that would address this problem and to ensure that independent objectors are truly independent.

Thank you.

Madam Chairperson: Thank you very much.

Mr. Ashton: Madam Chairperson, I find your brief particularly interesting, because it focuses in on, I think, one consistent theme throughout this, which is the question of democracy. Presumably, the question of certification relates to the democratic will of the employees involved.

I know when going through the bill, one of the concerns that many of us have had is the fact that this is a very undemocratic bill. It has provisions in here in terms of elections, which would never be found in any elections act. Your reference in terms of the numbers is quite accurate again. I mean, this government does not have 65 percent of support–never has, never will.

Even in terms of the independent objectors, once again we have election regulations in terms of disclosure of campaign funding and limitations in that regard. Even in terms of the question of employer interference, to my mind, what is being proposed here would be equivalent to having the United States campaign in our elections, because they are affected by Canada-U.S. free trade. They have a stake in it, so why should they not they be able to come in here and explain their position to us? I do not think too many people would expect anyone to think anything of that nature.

I want to ask you that because you specifically pointed to a case of a so-called independent objector pulling people off the line during company time to circulate an antiunion petition–and that is even by current legislation, and it shows that there are limitations even in current legislation.

I want to ask you to go one step further with this Bill 85. What do you think it is going to do in terms of organizing drives? You made some very strong statements here. This would make organizing this province next to impossible. How is it going to do that? What impact is Bill 85 going to have, given that some of this stuff is already going on?

Mr. Raper: I believe that the example that I gave where a so-called independent objector called people off the line to circulate an antiunion petition and to ask people if they were supporters of the union or not–I think that is going to be done, or similar kind of things, maybe not a petition, but certainly there are going to be meetings called by employers of the employees in a particular plant or whatever the employers' organization is going to be.

The employer is going to have a forced audience because they are on company time, they cannot choose whether they attend or not, and people are going to hear the employer's line as to why it is not in their interests to join a union. I think that is moving the line way into the employer's favour when it comes to a free decision without coercion and intimidation by an employer on employees.

So it is just going to make it so that while we will have to encourage people to come to our meetings;

they will be forced to attend the employer's meetings on company time and at company expense.

Mr. Ashton: So essentially what this bill does is handcuff the ability of, not even just strictly the unions involved, but particularly the employees in that particular workplace who want to be represented by a union.

I just want to take that further because one thing that I found again is that a lot of this bill seems to be coming more from the bias of the government than any particular rational reasoning. Some of the sections that have been pointed to already tonight as basically coming out of thin air do not exist in any of their jurisdiction, were not even asked for by the Chamber of Commerce, but are being pushed here. [interjection]

Madam Chairperson, the Minister of Consumer Affairs (Mrs. McIntosh) will have her opportunity in debate on third reading if she wishes to debate this or ask questions. I would be interested to know where the government came up with some of these brilliant ideas, quite frankly.

But what I want to ask is, because once again you get these stereotypical pictures put up by the Conservatives and by some people, not everyone, in the business community that somehow big unions descend upon small employer uninvited, somehow bamboozle the employees, and then they join a union, can you perhaps explain to people on this committee who do not understand how it works? I mean, do unions go into areas—are they going to get very far if they are not wanted by the employees if there are not employees supporting having a union there? What is the process? What is organizing? Let us maybe go back to some of the basics, because I really sense some of the government members, apart from those that are just dead set against unions—there are probably a fair number in that category—there are some who just do not understand how someone signs a union card and the process that goes into it, and how an organizing drive begins and the role of the employees themselves in that process. I am wondering if you can give some indication from your experience.

Mr. Raper: Well, my experience in organizing is that a call is made to the union office by an employee in that work group who feels that there is a need for a union in the work group. From that you attempt to see if they have at least a small circle of friends who would be interested in helping you to organize that group. If you do, then you start talking to the people in the plant, usually in their own home. Sometimes there are leaflets at the plant gate and that kind of thing, but what I found is the best way is to go to the person's home, ask to be invited in. If they slam the door in your face, that is the end of the story. I mean, you cannot force your way into someone's home.

If they allow you in to discuss the issue, then you get asked—I have heard earlier presenters go into what is asked. One of the few things that is asked is about the union dues. One of the things that we, because we have been asked so many times in the past, say right upfront and usually at the start is that if you decide that you would like to sign a union card there is an initiation fee. We tell them what the initiation fee is, and we tell them a range of dues that are quite likely to happen in their instance, but we inform them that is their decision to make once they get an idea of the union structure.

* (2000)

The most important thing we find to tell them is that if they sign the card, no one other than the two people that they are talking to at that time will know that they signed a card. If we do not do that, we found that we had very limited success because they are very concerned that their intention is not made known to their co-workers, some of whom they may not trust to keep their mouth shut in front of the employer and some of whom they might not trust to just have it slip out somewhere where it does not belong. So we ensure the secrecy of that card and we collect the initiation fee.

As someone said earlier, usually it takes two or three visits to really answer all the questions that they have. In fact, I have made it a practice of my own not to sign up somebody on that first visit, to give them time to think about it, look through some of our literature that we have given them, and make an informed decision when I return. My big concern is that the whole independent objector thing is the one thing that has plagued unions throughout. These are people who supposedly are acting on their own behalf with no interference from the employer, but I strongly suspect that most of them are. I have seen the actions before, during and after an organizing campaign, and it has convinced me that few if any of these independent objectors could really meet the test of being independent.

I really feel that an employer using the so-called independent objectors to defeat the campaign should not happen anywhere. I think an employer has the same right to determine whether their

employees should be unionized as the employees have the right to determine whether that employer joins an organization like the Chamber of Commerce or some other employer association.

Neither unions nor employees should be able to determine that, and I do not believe employers have any right to determine whether their employees belong to a union organization or not.

Mr. Ashton: Madam Chairperson, I would just like to thank the presenter. I cannot help but be struck by the similarities between what happens in this case where workers are democratically deciding who represents them and what happens in an election where we face the same reaction. I mean, some people close the door and then some people invite you in; some people want you to come back two or three times.

In each and every case, you do not get anywhere unless you are wanted. You do not get nominated, you do not get elected unless there is a core group of people out there that believe that you have something to offer. I really cannot be struck by anything more than what you have said, which is the same thing with people saying yes or no, their choice as to whether they join a union.

Unfortunately, the government with Bill 85 seems to be saying that what is good for politicians and elections at a political level does not apply in the workplace. So, thanks again for giving us some real insight.

Madam Chairperson: Are there any further questions? If not, thank you very much, and I would like to call upon Rob Hilliard, private citizen. Rob Hilliard? The next presenter, Rob deGroot, private citizen. Rob deGroot? Next person, actually two people, Bill Sumerlus and Paul Moist, CUPE National and Local 500. Their written presentation is just being distributed right now. Whenever you are ready, please, gentlemen?

Mr. Paul Moist (Canadian Union of Public Employees - Local 500): Madam Chairperson and committee members, my name is Paul Moist and I work as a national representative for CUPE in Manitoba. With me is Bill Sumerlus, our legal and legislative rep, who will take you through our brief in a moment. I will just say at the outset that CUPE represents some 20,000 workers in Manitoba, largely in the health care, education and municipal sectors as well as some Crown corporations.

We were created just down the street, 29 years ago, at the Hotel Fort Garry in 1963. At that time we were 79,000 strong. We are now 430,000 members across the country, and I say that not to talk about our bigness, but to advise you that 80 percent of those employees are employed in units of 50 or under. Unlike the previous presenter before you broke at six o'clock, we are not part of that 25 percent of the work force that was organized prior to these rules being put into place; CUPE's membership has been organized almost entirely since 1963. Most of the units, as I said, are not big, large strong units, they are under 50 employees in size.

With those preliminary comments, I will turn it over to Bill Sumerlus and we will both field questions afterwards.

Mr. Bill Sumerlus (Canadian Union of Public Employees - National): Thank you. Madam Chairperson, committee members, honourable minister, I am just going through the brief, you will note I have noted the preamble to The Labour Relations Act of Manitoba at the outset in the brief. It reads: "WHEREAS it is in the public interest of the Province of Manitoba to further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining between employers and unions as the freely designated representative of employees." That is the preamble to our labour legislation.

I would submit that the practice and procedure of collective bargaining will not be encouraged by Bill 85. Rather, the amendments to The Labour Relations Act contained in the bill will work to delay the certification process with needless and costly litigation for both sides. The certification process is designed, actually, to be a quick and clean one, in which the employer really has no business.

Now I appreciate that there may be some members of the committee who may not consider that to be accurate in terms of an employer's business and whether or not a union comes into his plant. I can tell you, however, that really it is a decision which is made by the employees for the employees. That is properly where it is left. It is up to the employees to decide whether or not they want to unionize.

One effect of Bill 85 is the potential for greater employer involvement in the certification process. Due to the vagueness and uncertainty of other

provisions of Bill 85, another potential effect, as I indicated earlier, is increased litigation. The invitation to increase litigation will only serve to get the process of collective bargaining off to a bad start.

The animosity which is engendered–and I am familiar with this on a personal level, in terms of my practice of law–the animosity engendered by a hearing before the Manitoba Labour Board may do serious damage to labour relations and the labour relations climate in any enterprise. The amendments contained in Bill 85 will work to a certain extent to increase the likelihood of such hearings.

Changes to certification, in totality, suggest, I would submit, an American-style sort of campaign approach to unionization which has been demonstrated to impact negatively on unions. I would submit with respect that the legislation generally is biased against unionization. Decreases in unionization in the United States show why these approaches should not be followed. Public policy in this province and across our country is in support of unionization and collective bargaining. Proposed changes, I would submit, are not consistent with this broad policy.

I read something by the Minister of Labour (Mr. Praznik) which indicated that the purpose of the amendments was to provide greater certainty in the certification process, to eliminate the misuse of the first contract provisions and to provide for some general housekeeping of the act. I would submit again with respect that the amendments will slow down, complicate and delay the certification process, while at the same time enabling greater employer interference in a process which the employer really has no business in at all.

Section 5(1) of our Labour Relations Act reads that every employee has the right to be a member of a union, to participate in the activities of a union, and to participate in the organization of a union. In a labour law text which is often used before the Manitoba Labour Board, George Adams notes that "The certification process is at the heart of our system of collective bargaining and has a fundamental impact on labour relations . . . . Modern collective bargaining laws were enacted to eliminate recognition conflicts."

I would submit that the amendments to The Labour Relations Act contained in Bill 85 will serve to increase recognition conflicts and negatively impact on labour relations in the province. The enactment of the Wagner Act in the United States almost 50 years ago resulted in an end to strikes for recognition. By allowing greater employer interference in the certification process, this legislation represents, I would submit, a step backward in labour relations philosophy.

It is particularly important in these tough economic times that government, business and labour work together to build Manitoba's economy in an effort to regain lost jobs. I would submit that legislation of this nature will only further divide and create more areas for confrontation in the certification process, which is really an effort to sort of get labour and management together in collective bargaining.

* (2010)

Dealing firstly with the amendments, the first section which I would bring to your attention is Section 3(3)(g) dealing with employers' statements to employees during organizing drives. This amendment, which you have heard a considerable amount about, expands the statements that employers or supervisors–that is, a person in a management-related capacity–can make to employees during an organizing drive to include statements of fact or a "reasonably" held opinion. I think it is quite clear that this amendment is likely to generate a wealth of hearings before the Manitoba Labour Board to determine whether the statements made were fact or opinions which were reasonably held.

In its current form, The Labour Relations Act is clear in this regard. Both parties know what is permissible and what is prohibited in the course of an organizing drive. The amendments in Section 3(3)(g) of Bill 85 introduce, I would submit, a greater vagueness into the process. The time of the Manitoba Labour Board would be better spent dealing with other serious issues which come before it, rather than determining whether an opinion, expressed by an employer or a manager, was "reasonably" held in the circumstances of the particular case.

In the Adams' text, which I quoted to you earlier, on page 529, it is noted: All Canadian labour relations statutes afford employees the freedom to join and participate in the activities of the trade union of their choice. Reflecting the high value placed on this right, legislation generally prohibits employer interference with or participation in the formation or administration of a trade union, and more

specifically forbids threats or other coercive or intimidatory behaviour which might compel someone to become, refrain from becoming or continuing to be or ceasing to be a member of a trade union. Underlying these provisions is the belief that an employer's superior economic position and control inherently lends significant import to the views expressed by it in the context of collective bargaining.

I would submit, members of the committee, that this legislation will simply further enable an employer to exert its superior economic control in terms of expressing its opinions on the appropriateness of the fact of certification. Reducing the limitations on an employer's right to make comments to employees concerning the effect of organization will only increase their ability to chill organizing drives, and, therefore, interfere with the rights of employees to become members of a union and bargain collectively.

This amendment will clearly interfere with an employee's right of freedom of association. It is interference which is enacted under the guise of the right to free speech. I mean, it is often said: Well, why should an employer not be able to say what he wants to, when he wants to? It is a free country. Why can I not say what I want to. It is enshrined in our Charter of Rights.

The right to free speech is not a totally unfettered right, as I am sure you will hear in the news dealing with that case that is going on right now, with the Ku Klux Klan case. It is not an unfettered right, and the right to participate or become a member of a union and bargain collectively without employer interference is a reasonable limitation, I would submit, on the right to employer free speech.

The section I have noted in the Canadian Charter of Rights indicates: The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits as prescribed by law and as can be demonstrably justified in a free and democratic society.

I would submit that the right to free speech is limited reasonably by an employee's right to organize, pursuant to Section 5(1) of our Labour Relations Act.

In the American Airlines Inc., Toronto, Ontario and Brotherhood of Railway, Airline and Steamship Clerks' decision which is a decision from the Ontario Labour Board, noted on page 5 of my submission, I have taken a quote from the Ontario Board at page 104 of that decision. It reads: We cannot stress enough the unique relationship that exists between an employer and his employees and the privileged position it puts the employer in to influence those employees. From this unique relationship, the employee perceives the awesome power of the employer to fire him or her at any time, in other words, the power over life and death. Any involvement by the employer in the exercise by the employee of his or her basic right to join a union puts unfair pressure on the employee.

An employee joining a union must not be put in a situation of a second-class citizen who is adhering to a secret society and being ashamed of it. Either the right is recognized or it is not. If it is, it must be exercised in full light and without fear.

In that same decision the board also notes, it is quoted at page 6 of my presentation: The exercise by its employees of their fundamental right to freely join a union, which consists essentially in the expression of their desire to change their relationship, that from individual bargaining to collective bargaining, almost invariably brings a negative reaction from the employer, to what degree depends on each individual employer. That reaction stems from the employer's views that it is contrary to its interests that its employees do become unionized. It is recognized by employers, as a fact of life, that additional financial benefits are obtained by union representation but, most important, that the possible future collective relation will mean a significant loss of their management flexibility.

The importance, I would submit, of keeping employers out of organizing drives is readily seen in decisions such as this. The amendments in Section 3(3)(g) of the bill will only serve to increase the possibility of that involvement and consequently of further hearing before the Manitoba Labour Board.

The next section, Section 6, is the one I would ask you to consider now. It is the section increasing to 65 percent of support necessary for automatic certification. It changes the parameters from between 45 and 55 to between 40 and 65. I would submit again, to a certain extent this represents an unwarranted interference with the employees' right to organize. It is essentially, I would submit, unfair to unions. It undermines the principle of majority determination which is basic to our democratic system.

Once it is agreed that a simple majority of support is sufficient to determine the issue of certification, then I would submit there is no valid justification for increasing the support required from 4 percent to 14 percent, rather than a simple majority for automatic certification.

I would also bring to your attention the sections of The Labour Relations Act which currently exist. I have included them at the back of my submission for your easy reference. Section 45 of The Labour Relations Act, and specifically Section 45(2), (3), (4) and (5) contain clear and unequivocal restrictions on membership requirements and proof of membership in a union, as well as provisions dealing with intimidation, fraud, coercion or threatened penalty by the union in the solicitation of memberships.

Pursuant as well to Section 45 of the current act, the board may examine records, make other inquiries and hold hearings for the purpose of determining whether employees in a unit, on the date of a certification application, were members in a union.

These built-in safeguards more than adequately ensure the accuracy in ascertaining membership in a union for the purposes of an application for certification. Therefore, I would submit there is no need to increase the amount of support required for automatic certification to 65 percent.

Something else I might indicate to the committee, although not included in my brief, is that it is plainly not fair. Why move up 10 percent to 65 percent and not move down 10 percent, but only move down 5 percent? I would submit that clearly that indicates a bias against certification and the certification process.

* (2020)

Dealing with Section 7, the next amendment included in Bill 85 is the information to be provided to the employee on an application. The amendment, as indicated earlier before this committee, is unique in Canadian labour legislation. I will submit again that it will only serve to delay applications for certification by increasing the likelihood of excessive litigation at the Manitoba Labour Board concerning what information has and has not been provided to an employee at the time the employee is solicited in support of an application for certification.

As indicated, no other jurisdiction in Canada, including the federal government, has seen any merit in legislation of this nature. The potential for abuse obviously outweighs any benefits which might be provided by this section. As noted earlier, The Labour Relations Act already contains provisions for the protection of employees in terms of the information provided them by a union in an organizing drive.

Further, pursuant to Sections 49 and 50, which are also included at the back of this submission, the act provides and makes provisions for applications by dissatisfied employees to cancel or terminate the certification of bargaining rights of a union. This amendment, I would submit, in that respect is therefore unnecessary and, as I indicated, will result in further and unneeded delay, potentially expensive not only for unions but for management as well.

If the will of the government is to proceed with this amendment notwithstanding the appurtenant problems, there should at least be a provision included in the act, and there should be consideration made whereby a signature on a card containing information required by this section is deemed sufficient compliance with the section in absence of evidence to the contrary.

Going on to Section 8, the electioneering provisions, the amendment restricts activities by unions and employers on the day workers vote on certification. It creates an unfair labour practice for anyone who distributes printed material or engages in electioneering or engages in any other activity for the purpose of influencing the vote on the day of the vote. Along with the other amendments mentioned above, it is clear that this amendment will only fuel more potentially lengthy and really unnecessary litigation before the Labour Board.

The issue of what amounts to any other activity for the purpose of influencing the vote is, I would submit, vague and ambiguous. It will have to be continuously defined and redefined by the Labour Board. Employers obviously have an unfair advantage already in connection with votes of this nature. The fact that it takes place on the employer's premises where management is easily aware of who votes and who does not vote is in itself, I would submit, a detriment or deterrent to ascertaining the true wishes of employees. This amendment will only further adversely affect unions in applying for certification.

Further, one point that is not contained in my brief, but I would ask you to consider, is the fact that it makes reference to unions, it makes reference to management, but it makes no reference at all to objecting employees. You heard a very strenuous advocate before six o'clock on behalf of objecting employees. This section completely omits objecting employees, completely omits restrictions on anything that is done by objecting employees before, after, during, in the course of, on the election day, or anything like that. I would submit that it should, and some consideration should be given to restricting what is done by objecting employees as well.

Really, again, members of the committee, employers do not have anything to do with the issue of certification in any event. If the issue of the numbers is determined, that is to say in an application for automatic certification, an employer really does not gain very much by intimidating, or the possibility of intimidating his employees, but if there is a vote, clearly there is more incentive on the employer's part to do something in terms of intimidating employees, and I would ask that the committee consider that in terms of this particular amendment.

The final section which I would ask you to consider is Section 9, which is a report to the board regarding the first collective agreement. This amendment, I would submit, appears to be incongruous with Section 68(3) of The Labour Relations Act and Section 11 of The Department of Labour Act. It makes the opinion of the conciliation officer that the parties have made reasonable effort to conclude a collective agreement and are not likely to conclude a collective agreement a mandatory step in the Section 87 Labour Board settlement of a collective agreement. But if either side wishes to challenge the opinion of the conciliation officer, according to Section 68(3), which has been included at the end of my submission, as well as Section 11 of The Department of Labour Act, the officer is neither a competent nor compellable witness and conciliation reports are inadmissable in any proceedings.

While I do not have any quarrel with the question or the principle of noncompellability in relation to conciliation officers, I would submit that it certainly does present a problem, when considered in the context of the amendments of Section 9 of Bill 85.

Before I conclude, I would also ask to bring to your attention, or I would ask you to consider, the amendment which deals with the removal of the provision which says that supervisors essentially can become members of unions. I would submit that this is something that should be considered by this committee. It is really unfair to supervisors, because the act before was clear. Supervisors were entitled to become members of unions. I would submit that the repeal of that section will only serve to again exclude people from the right to collective bargaining who formerly had that right and make more difficult the process by now having to go to the Labour Board again to determine whether or not this supervisor is really employed in a managerial or confidential capacity. So I would ask the committee to consider that as well.

Again, in conclusion, it should remain clear that an employer has no legitimate interest in whether its employees join a union or not. The interest in employers in applications for certification should be restricted to the description of the bargaining unit and not the issue of certification itself. Employers have no business in the decision of employees to bargain collectively. That is the reason for the longstanding legislated restrictions on employer practices which could interfere with this decision.

The amendments again contained in Bill 85 enable increased interference and delay an employee's ability to organize and legally participate in what happens to them at their place of employment. These amendments will help to preserve employer monopoly of control in the workplace contrary, I would submit, to the aims and goals as noted in the preamble of The Labour Relations Act stated at the outset of this presentation. It is therefore submitted that this committee should recommend the withdrawal of this legislation or at least its return for further study and refinement.

Thank you.

Madam Chairperson: Thank you very much.

Mr. Ashton: Madam Chairperson, I appreciate–while I missed part of the presentation, I had the opportunity to read through here–the detail in which CUPE has gone in terms of providing an insight on the legislation. I particularly just want to focus on one aspect of the bill. You have gone into quite some detail in the brief, noting some decisions, Ontario Labour Board decisions, particularly dealing with the question of free speech, freedom of speech,

because this is one of the flags that I know the Conservatives have been raising on Bill 85, that somehow this is to give employers freedom of speech.

I note from previous presenters that some people pointed to some other areas where obviously we have some limits in terms of freedom of speech. Sexual harassment is getting a lot of attention, which it should, in the workplace, and obviously that is a question of balancing off the employers or anybody in a position of authority's ability to say something, freedom to say it, vis-a-vis the power and influence and to the degree of harassment that can create for the employee.

I just want to focus on this, because once again I do not think a lot of the people on the government side understand what they are doing with this bill. I think some of them do. They want to stop unions from being able to certify. They want to stop employees from being able to say yes to a union, but in case there are any of them who are a bit more open-minded, can you perhaps explain to them the concern that is being expressed here as to why it is reasonable to say that an employer who has ability to hire, fire or promote should have restrictions, some pretty severe restrictions over a decision that is essentially not the employer's decision anyway, it is the employees? Can you perhaps give anyone with an open mind on the government side some indication why they should not be opening up the floodgate as they are with Bill 85 by allowing employers to have much more latitude to interfere in the process?

Mr. Sumerlus: I can just advise that I think it is quite clear that an employer is obviously in a very superior position and an–well, I will not say unfair, but in a very, very more powerful position in an application for certification than the employees who are generally scurrying around hiding and afraid that anybody is going to see them. Once you allow–and the provisions of the previous act were quite clear in terms of comments which were made by people in management, people who would likely have some influence over an employee or who could even be perceived to have some influence over an employee, about the very careful restrictions on comments which are made by those individuals at the time of an application or at the time of an organizing drive.

By allowing this amendment, dealing particularly with the right of free speech, it is not really enabling free speech. It is like saying, well, you are entitled to spread all sorts of hate, and you are entitled to make any kinds of comments you want simply because you have the right to free speech. This is a right. The right to organize is recognized by our labour legislation. It is not something that is not unrecognized by our very statute in Manitoba. So that I would submit, dealing with any sort of opening or any reduction of that right is only going to increase the already, I would submit, unfair advantage that an employer has in an application for certification and in an organizing drive.

* (2030)

Mr. Ashton: Madam Chairperson, I would just like to thank the presenters, and I can indicate that we will be introducing a whole series of amendments covering many of the sections that you have identified. While you understand, obviously, that our position is one of strong opposition to the bill, we concur with many of your observations that the bill takes a bad principle and applies it in an even worse way. So we will be paying very close attention to some of the very good suggestions about the weaknesses of this bill.

Thank you very much.

Madam Chairperson: Mr. Sumerlus, did you wish to say anything in response?

Mr. Sumerlus: No.

Mrs. Carstairs: Yes, I would like to just ask you a little bit more detail about your concerns about Section 7(1), subsection 45(3). That is with regard–you have proposed the idea of a signature on a card, indicating the information with respect to there having been given information about what dues would be and what the initial initiation fee might be. Would you anticipate such a change in the bill or in the regulations with respect to the bill?

Mr. Sumerlus: I would expect that either way that change came about, the significance of the change should be that that be considered prima facie evidence of compliance in absence of evidence to the contrary. It seems to me that right now there could very well be problems if it was enacted as the minister indicated earlier, in terms of what was needed and what was wanted or what was necessary. That is one of the problems that I have with the legislation, in that it just sort of opens the door for greater and greater litigation and more and more problems in terms of interpretation of what is actually required and what is actually needed.

So whether it be by regulation or whether it be in the act itself–I mean perhaps it might be easier in the regulations–but I think it is something that should be considered if the will of the government is to proceed with this. Again, I am not trying to indicate my support for it. I am only indicating that if it is the will of the government to proceed, consideration be given to something like this which will hopefully expedite the process for both sides.

Mrs.Carstairs: Would you envision something, for example, and I do not have a union card in front of me, but I am interested in joining the union. I have been informed of the union dues, et cetera, and then the signature.

Mr. Sumerlus: Something along those lines. Yes.

Mrs. Carstairs: Thank you.

Madam Chairperson: Thank you, Mr. Sumerlus.

Hon. Darren Praznik (Minister of Labour): Yes, I would just like to point out to Mr. Sumerlus, he made reference to the repeal of Section 2(2) of the act, that that provision was a unanimous recommendation of the Labour Management Review Committee, in which Mr. Kostyra, your union, is a representative on that committee, and I just wanted to pointthat out for your information.

Mr. Sumerlus: Thank you. I will be speaking to Mr. Kostyra about that.

Madam Chairperson: Are there any further questions? Thank you very much.

I would now like to call upon Donna Poitras and Dennis Ceiko, spokespersons, Communication and Electrical Workers of Canada Local No. 7.

I would now like to call upon Terry Clifford, Manitoba Teachers' Society. We have our written presentation from Mr. Clifford, which is being distributed right now. When you are ready please, Mr. Clifford.

Mr. Terry Clifford (Manitoba Teachers' Society): Thank you, Madam Chairperson, on behalf of 13,000 public school teachers in Manitoba, for the opportunity to present at this committee.

Public school teachers in Manitoba are not presently covered by The Labour Relations Act. They derive their right to bargain from the provisions of Part 8 of The Public Schools Act. However, it has long been the position of the Manitoba Teachers' Society that Part 8 of The Public Schools Act, which has not been substantially amended since 1957, is out of date.

The society is seeking and will continue to seek to have legislation enacted to provide teachers with rights similar to those provided to other employees under The Labour Relations Act. As a result, the society is legitimately concerned whenever any attempt is made to reduce the rights enjoyed by employees under The Labour Relations Act.

Indeed, even if the society were not seeking improvement of collected bargaining rights of teachers, we would be concerned with any attempt to lessen the rights of employees in general to unionize themselves in order to bargain collectively.

At present, The Labour Relations Act prevents an employer from making statements that might intimidate employees into not joining a union, and requires that a union be certified without a vote if 55 percent or more of the employees have signed union cards.

The amendments proposed by Bill 85 significantly weaken employees' power to organize themselves and strengthen an employer's ability to defeat an organization drive. The present requirement that a union can be certified without a vote if 55 percent of employees have signed union cards more than satisfies the requirements of democracy. The proposed requirement that would increase this number to 65 percent makes it even easier for a minority of employees to thwart the wishes of the majority and provides all the more opportunity for the employer to become aware of the unionization drives and institute countermeasures.

It removes the definition of what constitutes interference in the formation of a union. Under the present act, an employer is expressly forbidden from indicating to employees that he or she objects to unions or prefers one union over another or that the employer's attitude will change if the union is certified.

The proposed amendment removes this express prohibition and adds a new right to the employer, the right to communicate to an employee a fact or an opinion reasonably held with respect to the employer's business. This opens the door to legal arguments over what constitutes interference and what constitutes reasonable opinion.

An employer might be able to threaten employees that the formation of a union could lead to plant closure and defend him or herself by arguing that it was a reasonable opinion. It certainly allows an employer to debate with the employees the advantages and disadvantages of becoming

unionized. This is not a question of the right of freedom of speech nor a question of free political debate.

The current Labour Relations Act guarantees employers freedom of speech as long as they do not use intimidation, threats or undue influence against the formation of a union. However, the expression of a fact or opinion reasonably held with respect to the employer's business may be difficult to distinguish from an attempt to unduly influence employees against forming a union.

* (2040)

The fact is that the parties to the question are not equal and, regardless of labour legislation, never have been. The employer always has the employee in his or her power and debate between them can never be between equals. In the words of the learned Judge Hand:

Language may serve to enlighten a hearer, though it also betrays the speaker's feelings and desires; but the light it sheds will be in some degree clouded if the hearer is in his power. Arguments by an employer directed to his employees have such an ambivalent character . . . the privilege of free speech protects them; but so far as they also disclose his wishes, as they generally do, they have the force independent of persuasion . . . . Words are not pebbles in alien juxtaposition . . . but all in their aggregate take their purport from the setting in which they are used, of which the relation between the speaker and the hearer is perhaps the most important. What to an outsider will be no more than the vigorous presentation of a conviction, to an employee may be a manifestation of a determination which it is not safe to thwart.

In its attempts to shift the balance of power in the employer/employee relationships further towards the employer, Bill 85 contradicts almost 50 years of Canadian public policy which has supported unionization and collective bargaining as the most desirable method of mitigating industrial conflict.

Previously, when the force of law has unequivocably arrayed against unionization, Canadian society was racked by debilitating industrial conflict. The legitimation of collective bargaining and statutory support for the rights of workers to organize has institutionalized industrial conflict and stabilized our society as a whole. The Manitoba Teachers' Society opposes Bill 85 insofar as it reduces employees' rights to organize themselves for free collective bargaining and turns the clock back towards a meaner era of industrial malevolence.

Madam Chairperson: Thank you, Mr. Clifford.

Mr. Ashton: I appreciate the perspective of The Manitoba Teachers' Society organization, not directly affected by The Labour Relations Act, but obviously affected in the sense that any collective organization is affected. I have always looked at what has happened in Bill 85 and other bills as not being that far from what might be another step which has been talked about, the right-to-work legislation, another misnomer, but essentially a direct attack on the ability of any organization to collect dues, to operate as an organization.

I appreciate the perspective. I just want to focus on one point and ask one specific question because I think it bears emphasizing. What you are saying, as I understand it from the brief, and I found the quotation to be quite useful in that sense, is that essentially what has to be looked at here when we are talking about supposed freedom of speech or the employers, is not so much what is said or what not is said, but the impact–partly the intent, but even with or without intent–the impact of what is said given the fact that an employer obviously hires, fires, promotes, demotes, and what an employer says to an employee in the exact same words may have absolutely no meaning outside of the workplace, but may have extreme meaning if you are an employee and you are concerned about being laid off, demoted or, I suppose on the other side, perhaps getting some advantage in terms of promotion.

So is that basically what you are saying, that this opens up the ability for comments to really be made which use this position of power to exert undue influence on the employees?

Mr. Clifford: The debate has got to be among equals and an employer-employee relationship is not.

I would be quite happy to debate with an associate various factors of this; I would be a lot more cautious if I were debating the same concept with my superintendent.

Mr. Ashton: Thanks again. I think that perspective is important to the members of this committee. I appreciate the views of the MTS. Thanks very much.

Madam Chairperson: Are there any further questions? Thank you very much, Mr. Clifford.

I would now like to call Richard Orlandini, Choices. Mr. Orlandini, do you have a written submission that has been circulated, that can be?

Mr. Richard Orlandini (Choices): No, I do not. In the way of an explanatory note, I do not have a written submission because I was informed that I would be appearing before this committee this morning, and it really did not afford me the time to do a comprehensive submission.

As a background, however, to what I want to say, a year ago I had the opportunity to be one of the people who helped co-ordinate the fight back against Bill 70. In the course of that hearing, I watched with dismay what I considered to be an abrogation of democratic rights. It will remain in my mind forever that 4:30-in-the-morning sitting, when the Chair read 500 names into the record on a Sunday morning, and 500 people were refused their participation in this hearing because of that essentially antidemocratic behaviour.

I had hoped in coming before this committee that you would have learned something out of that experience. The phone call this morning that informed me that I would be appearing today dissuaded me of that hope. It brings to mind what a French republican once said of Louis XVIII, that he had surrounded himself by men who had forgotten nothing and learned nothing.

I come before you today not to deal with the specifics of Bill 85, because the trade union representatives, I think, have been more than eloquent in their protestation as to what that bill entails, but I would like to deal with something that is more general in nature but yet specific to Bill 85. We in Choices view this particular piece of legislation as reactionary, regressive, part of a continuing erosion of workers' democratic rights. We asked ourselves, why might they be doing this, aside from the ideological considerations that that is to be expected from the Tories?

I hear ministers of the Progressive Conservative government constantly prattling on about meeting a level playing field to go into the negotiations for the North American Free Trade Agreement, and I think that is the crux of the issue here. I think you are trying to erode workers' democratic and trade union rights so that you can establish what you consider to be a level playing field, and in your toadying to your federal counterparts, you are hurting the people of Manitoba. In looking for a level playing field, you are trying to take our labour legislation down to the level of the right-to-work states in the United States. That is an injustice to the workers of Manitoba.

I had an opportunity to see those right-to-work states in action before they were called right-to-work states. In 1965 I was a civil rights worker in Alabama for Martin Luther King, and we saw what that government was prepared to do to people's rights; and, flowing out of those battles, we see what they are prepared to do to workers' rights in terms of right-to-work legislation. This legislation, if enacted, is the goose step back into the 1930s. This legislation, if enacted, will be part of an erosion that if you carry to its ultimate you will not only be eroding workers' rights–but why do you not take it to full course? Why do you not in your level playing field institute voter literacy tests, for instance? You will be on a par with Manitoba.

In your right-to-work legislation, and that is what we are talking about here, in levelling that playing field, you can take the workers of Manitoba to the same level that child labour is in the United States.

Yesterday's edition of the New York Times on the front page carried a very interesting article about the right-to-work states, and that is where you are taking it. More children are employed, often perilously, and they are talking right-to-work here. On the job they suffer amputations, burns, deep cuts and electrocutions. At least several hundred a year are killed. Child labour–14- to 16-year-olds. Is that the kind of !ɘvel playing field that you want to enact? Because that is the direction you are taking with this kind of legislation, this kind of erosion of the hard fought rights that workers have achieved over a period of time in this province.

* (2050)

It is appalling really to watch the direction you are going. If this government had any guts at all, rather than bringing in this kind of reactionary bill, you would be fighting a North American Free Trade Agreement and then you would not have to worry about this bloody level playing field. As it is, you are taking us down a long and rocky road, hardly a worthy one of any government in Canada.

Finally, in dealing with some of the specifics of Bill 85, I noticed that you are calling for changing automatic certification from 55 to 65 percent. An interesting, if not antidemocratic concept. Perhaps we should apply the same measure to election of a Legislature. Sixty-five percent, I would hazard a guess that most if not all of you at this table would

not be here. Given that, maybe the measures do have some merit. Given a 65 percent majority, maybe the measure does have some merit.

The legislation is working. It ain't broke; you do not have to fix it. In fixing it you are only going along with, in my view, repressive legislation that is coming forth on the international scale for the North American Free Trade Agreement. We do not need it. The workers do not need it. This government would be doing itself proud to withdraw it.

Thank you.

Mr. Ashton: I, first of all, want to indicate that I remember 4:30 in the morning last year, last July, quite well, and I can indicate that you are right, it was not democratic and I can assure you that it will not be forgotten, not just in terms of the incident but the hopes, to my mind, that our committee hearing process will never sink that low again. I really thank you for that statement again, that reminder to members of the committee and other members of the public about what happened last year.

Just one question, because I appreciated the perspective you applied in terms of right-to-work states, and what is happening in the United States because quite frankly, I have expressed concern for a number of years, going back to statements made by members of this government, then in opposition by the way. A little less fettered in terms of what they say or what they do not say when the Conservative caucus then said they supported right-to-work legislation.

I really believe that the only thing that is preventing us from slipping into that sort of situation–and it is a misnomer, right to work is not right to work, it is right to destroy any collective organization, including unions. The only thing that is keeping it from that, I think, is the efforts of people such as yourself, people within the labour movement, the public of Manitoba who would just not accept that, because I really believe that, given the chance, many of the Conservatives would introduce that.

But I want to just ask you one very specific question in regard to that and in regard to the comments you made about the North American Free Trade Agreement. Is it your opinion that, from what you are saying, this bill is being driven not just by the local Chamber of Commerce having some election IOUs to the Conservative Party, but by a broader agenda, and that is levelling the playing field, presumably not only with the United States but with Mexico? Do you think it is part of a bigger agenda?

Mr. Orlandini: Oh, I believe it is. I believe that it is certainly part of a bigger agenda. I think the worst elements of this bill are even beyond the scope and imagination of some of the troglodytes in the Chamber of Commerce. It is very, very distressing legislation. I could offer some unsolicited advice, that if the bill does pass, it not be sent in the federal mail. There is antipornography legislation in place and I would suggest to you that this bill is both obscene and has no socially redeeming values.

Mr. Ashton: You have no disagreement from our caucus on that. Thanks once again. I note that last year you did not get a chance to present at committee. I am sure it must have been awful tempting at times. It was quite an educational process, I think, for all of us in terms of some of the concerns expressed. Similarly, with this, I really welcome your comments and your participation in this committee. Thanks very much.

Madam Chairperson: Are there any further questions? Thank you very much. I would now like to call upon Bernard Christophe, United Food and Commercial Workers. I think all committee members have the written submission in front of them.

Mr. Bernard Christophe (United Food and Commercial Workers): Tory blue? Oh, my God. Perhaps this is to appeal to their senses, you see, perhaps to have some greater interest in what I am going to present.

Madam Chairperson, members of the committee, my name is Bernard Christophe, and I represent the United Food and Commercial Workers Union, Local 832, which represents 14,000 members in the province of Manitoba. We are the largest private-sector union in Canada and Manitoba. We negotiate collective bargaining agreements for some 145 different bargaining units. Some collective agreements cover two or three employees, and others 4,000 employees.

First of all, I am not so sure I want to give any credence to one person who spoke before six o'clock, but he mentioned my name and I did not have a chance to rebut. I want to do it now.

I do not want you to think for a moment that we sued a defenceless little girl for a million dollars, and did it deliberately so, without the other side of the story, which was: We had a strike against Westfair,

which you are all too familiar with, and certainly I was. A strike vote had been taken. The majority had voted in favour of. She decided to exercise her right and cross a picket line, and was, with the help of management, inside the store circulating false information about the position that the union had taken.

As a result of that, we filed alleged unfair labour practices, and alleged that the other 1,400 members whose majority has decided to vote in favour of strike action, that this employer, and we named 10 other management representatives, was assisting that person in weakening the effect of the strike and passing false information. We said that their right was affected, and all of them were affected, and we multiplied 1,400 by 2,000, which is the maximum penalty under the act, and that obviously amounted to millions of dollars, but I should tell you that it had the necessary effect.

Our application was withdrawn. She never lost her job even after the strike was ended. So I just wanted to correct the record. There is one thing I want to make clear too. There was a sad incident which, I think, during the strike–a tragic one–which illustrates why there should be labour legislation, and even then the labour legislation we were seeking at the time was not in place, and I am talking with the final offer selection.

One produce manager went home. He was working in the store during the strike. He had chosen to cross the picket line and he had the right to do that. Sometime during the evening he heard a noise at his back yard, he took his revolver, and believing that somebody was tampering with his car, shot the person, which happened to be his neighbour, who had nothing to do with Super Valu.

The tragedy is, and the moral of the story is, if there were other means to resolve labour disputes than by strikes, when the employer decides to continue to operate, some unfortunately ugly incidents take place. We were suggesting at the time another humane way to resolve the dispute, other than the labour dispute–and final offer selection was such an event–this tragedy may never have occurred.

During that strike, too, the legal profession was involved drawing lines on the pavement as to where people should picket. One learned judge who was of, I think, the Jewish faith, went as far as saying he had a problem with not identifying picketers and perhaps what they should do is paint a number on them so that they could be identified. Of course, our legal counsel happened to be of the same Jewish faith, and said, hey, wait a minute, do you not remember in Germany they used to have numbers too on them? I think he abandoned this idea.

But I would like to tell you, of all the time spent, the money spent, the aggravation, the tragedy, which labour legislation in Canada and Manitoba, fortunately, had brought within perspective–and we no longer have to do, as they did 60 years ago, to overturn buses and go to prison–to have the right to represent workers. I surely do not have to tell you the contribution the labour movement has made to this province and this country over the years. I think this has been recognized, I am happy to say, by most governments.

However, when it comes to amendment to Bill 85, we believe that it will tilt the delicate balance between management and labour in favour of management. There are no facts or evidence that exists to justify these changes or amendments. The Manitoba business community has not suffered or gone out of business or had difficulty in operating its business because of the existing Manitoba Labour Relations Act.

* (2100)

We believe the amendment as a political commitment made by the present government to the Winnipeg Chamber of Commerce. The changes will make it easier for some employer to take advantage of Manitobans earning minimum wage and will make it more difficult for employees to be represented by a union. I want to make two points here: I am not suggesting that the Chamber of Commerce does not fulfill a role among employers, but when it comes to labour relations, they have always, in my opinion, been living in the past. They always believe that–and I have a quote later on from an employer, not in Manitoba but in Ontario, who illustrates the knee-jerk reaction of employers who are not yet unionized about the coming of trade unions.

The Chamber of Commerce in Manitoba, in particular, has always believed that if trade unions come into their establishment, that will be the end of their business. I do not know of one single trade union or this union when organizing or representing their employees who has wanted to put them out of business, or, in fact, which resulted in them going out of business after they sign a mutually satisfactory collective bargaining agreement, or

even one that was imposed by a first agreement, by the way.

So I just wanted to say that in regard to some of their requests, it is not justified. The amendment in the present form might be a recipe to stop unions from being certified. Businesses which do not do well in Manitoba, do not locate in Manitoba, do so because of the recession or free trade and not because of existing Manitoba Labour Relations Act.

These amendments, we believe, are antiunion following two successive years of antiunion amendments, specifically the removal of the final offer selection, and I can tell you that it worked because it acted very often as a deterrent by both, with the union and the employer not to have the selector select for them. It compelled the party to reach an agreement that was acceptable to both sides.

Although many applications have been made– and I tell you, I am very proud and happy to identify myself or ourselves as one of those two unions who have made frequent use of the right under The Labour Relations Act, but we do so because we are in the private sector. We do so because it does not say, you shall only use the act twice a year. We do so because we have planned to deliver for the membership we represent. They do not want to wait three years and when it comes, for example, to expedite arbitration, they want their grievance settled and settle them quickly without going to arbitration.

Because we accept anybody who wants to join our union, being small or large, and because many of the employers in the private sector do not want a union, do not even want to make the effort to negotiate a fair collective agreement, we are often left with no alternative to apply for first contract legislation or go expedite at arbitration. But I want to tell you this, that from the many applications we made, and the record will show, only about four or five, for example, a very few, actually go all the way to the arbitrator having to make the decision, or even in expediting arbitration, the same happened.

In 70 or 80 percent of instances, grievances are settled without going to arbitration through the assistance of a conciliation officer, who do an outstanding job, by the way, to bring parties together. So I just want to say I make no apology for utilizing it because I think it is there for the benefit of employees who are citizens of this province.

In regard to Section 2.2, our view is also that the repeal of this section is clearly intended to deny employees the benefit of being represented by a labour union in the same bargaining unit as other employees, even though they may have a community of interest.

Before the minister reminds me that I am on labour relations committee, he is right, I do not know if it was jointly accepted, and if it was, then the employer must have been very persuasive, I did not attend one of those meetings. But anyway, I just wanted to say that to you.

The next point has to do with the amendment 3, if you will, in striking out the word "Every" and substituting "Subject to subsection 32(1) . . . ." We have no objection per se to this amendment.

In regard to the repeal of subsection 6(2). The repeal of subsection 6(2) removes the onus on the employer not to interfere in the formation of a trade union. This removal very clearly, in our view, clears the way for employers to do everything possible to stop their employees from forming a trade union. The only persons who will benefit are the employers who, in some instances, may continue to pay their employees minimum wage and treat them unfairly and unjustly.

The reason I mention that is because these often are the reasons why people join trade unions, obviously. I am not going to suggest for a moment that all employers are treating their employees in that way, even those who are nonunion. I am saying that there are many who, when doing so, may deny these employees who need the representation of a union the opportunity to be represented by them. A further amendment to The Labour Relations Act later on in fact clarifies this intent and that disturbs us.

In regard to items (a) to (f) of the same Section 3, we have no objection to these amendments, which we consider cosmetic; however, the new subsection (f) gives licence to an employer to say whatever he or she wants to stop an employee from joining a union. The words "communicates to an employee a statement of fact or an opinion reasonably held with respect to the employer's business" disturbs us greatly. Clearly, this could mean that the employer's "reasonably held opinion," is that if the union, although democratically chosen by its employees, comes in, he will hold the opinion that he will go out of business because he will not be able to pay the wages and benefits, without often the

benefit of collective bargaining or even looking at the proposals that the union might make.

Many employers in this province who are nonunion hold that view. In a recent statement in The Globe & Mail as related to the province of Ontario, by the way, some employers were recorded as saying, if the union comes in the front door, I will close up business and move out through the back door. I believe some employers in Manitoba and in the Chamber of Commerce hold that view without justification, but this is the myth or the image they have of trade unions. That amendment will give them an opportunity to say that.

I should tell you that although under the present legislation, they are barred to employers' interference, I can, right off the top of my head, give you three recent ones that we are in the process of organizing, and the Manitoba Labour Board record will substantiate what I have to say. One with Northern Meat, which we organized, and two employees were fired for, we alleged, union activities. We went to the Labour Board, the Labour Board agreed with us, had them ordered reinstated, the employer still refused to reinstate them, and I think finally they gave in.

In another instance, the Thunderbird truck drivers, which are a native group who drive, I think, handicapped people around. One of these employees was also fired during the organizing drive. We have no doubt whatsoever that the intent was to intimidate the other employees. The matter, I think, is before the Labour Board, has been dealt with. I am not so sure of the outcome at that point.

In another organizing drive we are in the process of being involved in, one employee has been fired. I cannot name the employer at this time, but it is a case where the firing of an employee has frozen in their track the will of the other employees, obviously to join the union.

What I want this committee to know is intimidation, in spite of what is in the present act, still happens. If you allow an employer to have that position of telling their employee an opinion that they reasonably held–once again some hold the opinion, reasonably, that if the union comes in, that is the end of them, they might as well fold their doors and go out of business. We will communicate this to their employee. That, in my opinion, would obviously discourage the employee to join the union.

* (2110)

The employer, remember, has already an immense influential power over its employees because the employer pays the wages, hires the employee, fires the people and any words or indication of displeasure will be interpreted by the employee as detrimental to them, even though the opinions, reasonably held, are sometimes false and baseless.

We personally have no objection for an employer to communicate to an employee any statement of facts dealing with its business as long as it is factual. This, however, as long as it is not designed to discourage employees and intimidate them and as long as again it is factual.

We propose, therefore, that the words "or an opinion reasonably held with respect to an employer's business" be deleted from the legislation. If this statement stays, the employer has a captive audience. A statement made by the employer will not be rebutted, particularly when the trade union may not be given such information, or the statement that the employer had given.

In addition, we propose that if this government keeps subsection (f) in The Labour Relations Act, or introduces it, that a statement of facts be made in writing to employees and said statement be given to the trade union on request. In this fashion, if the employer statement is false or incorrect, then a prospective bargaining agent will have an opportunity to rebut them.

Further, in amendment No. 7, the union organizer is required to explain the union's restructure before the workers sign a union card. If that is so, and if these similarly should be required to give its employee a statement of fact and give a copy to the trade union, what is good for the goose is good for the gander.

In regard to the removal of the words "threat," "intimidation" or "coercion" from the titles, the removal of the heading here simply removes the emphasis that threats, intimidation and coercion are not acceptable and we believe should be retained.

We object to the increase for automatic certification to have 65 percent or more instead of 55 percent. This once again clearly is designed to make it more difficult for an employee to join a union and gives greater opportunity to the employer, with the previous amendment, to threaten or intimidate its employee from joining a trade union.

Governments in Manitoba are elected, or can be elected for the whole province with a 35 percent

vote. If it were to be equal, then trade unions should be able to represent all employees and bargain for them with only 35 percent support. Instead, this proposed amendment makes the percentage needed more difficult and again clearly casts this government as antiunion as they make it more difficult.

Again there was no basis and factual evidence to show that employees who have indicated more than 55 percent support of their own free will did not want a trade union.

Therefore, the increase by 10 percent is unfair and undemocratic. The 55 percent should remain. Let me tell you that most organizing drives do not happen within a few minutes. We do not sign all the cards instantly. There have been instances where, from the time we began the organizing drive and began signing people, some people have chosen of their own free will to cancel their cards. They can do so now. They have done so; of course, we have respected that and taken their card out and, in fact, have not, naturally, utilized their card.

In some instances, we have not applied for certification because of those happening. So the opportunity is there if they want to send back the vacuum cleaner, as somebody indicated. Again, no organizing drive takes place in the middle of the night while nobody is looking, and the next morning everybody is signed up. It just does not happen that way. Sometimes it takes several months, and during that period of time, if they wish to change their mind, they obviously can do so and have done so.

Insofar as lowering of the 45 percent to 40 percent to obtain a vote, I can only repeat what some of my colleagues have said, this is totally meaningless. My experience has been that 40 percent or more of the employees support unions. Unless there is management interference, a vote will not change the result—40 percent support is 40 percent support. It does not translate to 55 percent or 65 percent.

Now, dealing with the provision of 7(1), this in itself is not an unreasonable request and is an item that is routinely provided by union organizers. When I say it is not unreasonable, it is because we do it all the time, and I really object, too, that this be in fact legislated. The most disturbing aspect of it is what follows.

Amendment 7(2), however, changes the real intent of 45(3.1) by allowing the Manitoba Labour Board to dismiss, emphasis, the application for certification if a union or a person acting on behalf of a union fails to provide this information to a single employee as out of perhaps a unit of 1,000.

This is clearly an antiunion amendment and engineered deliberately to make employees who want a union fail. It is impossible during an organizing drive when you organize hundreds of people to necessarily absolutely guarantee that each and every employee will be given that information, although they are very often asked for it. It will make it easy for persons acting on behalf of the employer to have this application or certification fail.

While I was sitting there and hearing other people making presentations, and the same caveat that my colleague made, although I am not in favour of it, if the words "dismiss the application," if this wording was removed, and, to answer Mrs. Carstairs, some statement in the legislation, not in the regulation, to this effect, would be made part of the act: if a statement signed by an employee who has signed a union card indicates that she has been given information in regard to what he or she will be expected to pay or reasonably to pay in regard to union dues, or the procedure that the union intends to utilize to arrive at union dues, this shall constitute proof and compliance with Section 45(3).

I think this is something that perhaps under the circumstances could be acceptable. The reason I said to add the words or the procedure to arrive at union dues, because I think Mr. Raper made a very good point. He said that in his union structure they may form a local union with this new bargaining unit and the employees democratically will decide how much their union dues are going to be. He would never be in the position to be able to tell them what they will be because the workers themselves would decide what it would be.

So, if you had words, again, indicating that if they sign a statement and if they have signed a union card, that indicates they have been given that information or the procedure to arrive at the dues, that shall constitute proof of compliance.

In my opinion, that would be more acceptable than, for example, the proposition that any employee who alleged that his card will be removed, the only problem with that is that we would not accept that necessarily. We would want evidence of that. We would have to go before the Manitoba Labour Board. Then how is the board going to decide when a union organizer meets an employee alone somewhere and this organizer explains the

due structure to him, and then maybe because he wants to change his mind or whatever, then he will say, no, it was never explained to me?

It is going to be very difficult to induce evidence and would create delay or the Labour Board to have to decide who is telling the truth. To have that in, I think might–although I am not in favour of it, would be something that probably we could, if it has to be in the act, then we could perhaps deal with it that way.

In regard to amendment No. 8, the electioneering on voting day, I realize one of my colleagues makes a point to eliminate the part dealing with other acts and so on, which I really agree. But basically, I have no objection to this amendment as such. I think basically employees in most instances have made up their minds before the voting date which way they are going to vote, probably the same as when they elect politicians. The last day may not necessarily be the day that they are going to make up their minds. So in that instance, and I think at the Labour Management Review Committee, I think we had some agreement in regard to that issue.

In regard to item No. 9, we are opposed to these changes which will destroy–this is where the conciliation officer now becomes involved in judging whether the parties have made reasonable effort to conclude an agreement. We are opposed to these changes which would destroy the neutrality of conciliation officers who have traditionally played an impartial role in trying to bring both parties to reach an agreement. It will destroy their neutrality because it will have to determine or make a judgment that the parties have made a reasonable effort or not made a reasonable effort to conclude an agreement.

One person's opinion may differ from another in regard to what reasonable effort means. Besides, that conciliation officer does not want to be placed in the position of being an arbitrator, a judge or a labour board. This has potential for a delay in the bargaining process.

If this section were to remain, there should be a maximum number of days such as 30 or 60 days from the date the conciliation officer has been appointed. Otherwise, if the conciliation officer is too busy with other cases and cannot meet, this could drag on for a very long time, which in my view would be unfair to both management and labour.

* (2120)

Perhaps, if you were to add another (c) part to the 68(3)–again, I do not think it should be there–but if you had a (c) part that would read "or 30 or 60 calendar days has elapsed since the appointment of the conclliation officer and a collective agreement has not been reached, then the conciliation officer shall, for the purpose of 7(1) notify the board and the party in writing that, after making reasonable effort, no first agreement has been concluded."

We have no problem at all in making an effort to reach an agreement before the Labour Board deals with the question of imposing a first collective agreement. We have no problem with that at all. I think it should be there.

Conciliation officer now, by the way, it is mandatory, either according to the rules of the board or the legislation, that before the board deals with a first contract application, a conciliation officer be appointed. I have no problem with that, but it should not be open ended.

Again, I think the conciliation officer would feel much more comfortable to indeed assist the party to reach an agreement providing that on their shoulder they do not have the weight of deciding who has made the reasonable effort and who has not. As I said, they have been, I think, overall very successful in Manitoba, are respected by both labour and management and now they are going to take sides. I do not think many of them feel very comfortable with that, but if there was a time limit, I think that probably would be more acceptable.

Item 10, although this section was not a mandatory section, it nevertheless was a clear indication which both sides could look at during collective bargaining and should have stayed as is in the present legislation.

Number 11, again this is a follow-up on the conciliation officer, and we are opposed to the conciliation officer becoming a judge or substituting for the Labour Board. We have made a suggestion for that.

In regard to amendment 11(2) to 11(6), we have no objection to the party selecting an arbitrator to settle their first contract. If both feel comfortable that it should be the case, then I think it is worthwhile to perhaps have.

Item 11(2) to (6), I think is a repetition of what I said.

Item 12, we are opposed to the removal of subsection 130(6) because a vice-chairperson of

the Manitoba Labour Board should have the opportunity also to act as an arbitrator in an arbitration board, which is an additional source of income based on the fact that the position of vice-chairperson for the board is not a full-time position. It would make it less likely to have someone familiar and experienced in labour relations if this additional opportunity was removed from them.

In conclusion, again many of those amendments are unnecessary; not based on facts or evidence; will not improve the economic situation in Manitoba; will not create jobs; will not entice business to locate in Manitoba; have the potential to deprive employees on minimum wage to be unfairly treated and not represented by a union; are indeed some of the recommendations of the Chamber of Commerce; are not in the best interests of the citizens of Manitoba. Many of those amendments should be either withdrawn, substantially changed or amended. For these above reasons, I ask you either to vote against or change them or amend them.

Madam Chairperson: Thank you, Mr. Christophe.

Mr. Praznik: Mr. Christophe, first of all, I would like to thank you for an excellent presentation. I like the format of it. It is very easy to follow through all of your proposals. If I may just for a moment, I appreciate as well identifying those proposals in which you have agreement, or would recommend that they find their way into this act.

I am curious with respect to your comments on fact and opinion reasonably held in terms of disclosure. With respect to opinion reasonably held, does the inclusion of the word "objective" opinion, does that give a little more satisfaction or a little more comfort? I can appreciate the point one makes about a subjective opinion that bears no resemblance to fact of being the concern that you raise. Would that provide a greater comfort level? Because I think our intent was to allow someone, as you agreed with, to make a statement of fact. Sometimes the facts are objective opinions as to a particular matter, but they have to be tested against some standard. I am just wondering if that would–

Mr. Christophe: No, it really would not because objectives in the pure definition of the word are, I think, understood in the dictionary, but in the context of the workplace where the employer has a captive audience, that would not satisfy my fear and my concern because, again, we often would not hear about it. The previous presenter, I think it was Mr. Raper, who correctly indicated that if the employer threatened the employees in some way or another, it is very difficult for the employees to testify to the board against their employer, against their boss.

My suggestion only in terms of fact, if there are some facts, and they say, look, this is our balance sheet; you can see it clearly demonstrated; this is our profits and losses; you should know about this. Then, if that is made available to the employee, the trade union should have the right, as I suggested, to obtain a copy in the event that this fact would not be substantiated or correct.

That would be the only–I prefer not to have that, quite frankly. I prefer not to have the other proposal or amendment. My concern is within the confines of the plant of the unit. The employer who now fires employees during organizing drives will have even more freedom to intimidate them and scare them.

"Statement of fact," their facts, that is one thing, but "opinion reasonably held," this is loose. They will hold the opinion that, if the union comes in, they will go out of business, the employees will lose their jobs, that would be the end of it. It never is the case. That alone never contributed to an employer losing his business.

Mr. Praznik: Mr. Christophe, you, on page 7 of your presentation, refer to the heading and we have had some discussions. I think our draftspeople made some changes there, so your point is certainly noted, and I would have you look at that–

Mr. Christophe: I had not noticed.

Mr. Praznik: –valid point.

On page 9 of your draft, the intent of that particular provision–some of the other presenters have made references to it–was, by and large, to mirror the controverted election provisions of The Elections Act, which is that each vote, whether a vote would be counted out or not, whether or not you would have an election or change the scheme or the result, would depend on the number of people affected. So your comment is certainly appreciated and noted by myself.

I also note here that one of–your reference to having some sort of statutory wording was an issue that we had considered. It was our decision, at the time, to leave that to each individual union to determine. I wanted to have flexibility in that provision. I gather that it would be very likely that most unions would include some reference on the

membership card. I have had a chance at looking at the membership cards that UFCW uses and other unions, and they are fairly extensive in their information. So I take it, it would not be too difficult to add an appropriate wording to the card which likely would have evidentiary purposes before the Labour Board.

I am a little concerned about a statutory wording because then I have restricted what you can put on your card, but I do note your comments about process as well.

* (2130)

Mr. Christophe: Yes, process is the key because even if we put this on the card, this may or may not be accepted by the board. This may or may not be challenged by the lawyer representing some objecting employee, and this statement will have a guarantee of what your intent is, and also our guarantee that if we comply, if we provide them that information, the employee agreed that we did, then there will not be a hearing on whether indeed did we provide, did we not.

Mr. Praznik: Mr. Christophe, your point is certainly noted, and I wanted to indicate to you, as well, that your comments with respect to the use of first contract, I certainly appreciate if it is in the law, it is there, it is a tool to be used, and there is no harm in that. The concern that we had in bringing this forward was that there should be an opportunity for conciliation to work. Your concern is noted as well and we are certainly going to take that into consideration.

I should just point out to you, though, we were talking about Labour Management Review Committee. I understand the repeal of Section 83 was one of the unanimous recommendations, as well.

Thank you for your presentation.

Mr. Christophe: Thank you very much.

Mr. Ashton: Madam Chairperson, I also wish to commend the presenter on a very detailed, very useful presentation. We are very much in a similar situation to yourself in the sense of looking at a bill, large sections of which, in substance, are objectionable to us. On the other hand, we are in the dilemma that if we simply oppose and not try to amend it, we will end up with a bill that will be far more disastrous than even a bad bill would make it.

I want to focus in on a couple of the points you raised to get some clear indication to the committee, some of the things you are suggesting. On the information to be provided to employees on due structure, et cetera, you are suggesting a specific wording that would be signed off, which is more evidentiary, more of an affidavit that individuals have been provided the information, so as to avoid extensive complications that might arise under the current wording.

Mr. Christophe: Yes, well, what I am suggesting is perhaps the addition of a sentence on the card or whatever that would clearly reproduce the words that I suggested. If they were contained on the card, when the person signed the balance of the card, it would contain that statement. That would be a proof in compliance with Section 43 as opposed to having a hearing as to whether an employee alleging that he has not been given information is correct or not.

Mr. Ashton: Which I think is a very useful suggestion. It is something I think that this committee should look at in terms of amendments.

I just want to go a little bit further as well and to clarify in terms of, on the other side, what an employer can make, whether it be a statement of fact or opinion, and you got into that. I think that we are fairly clear in terms of that. You are suggesting that if there is going to be wording of this type, that it be in writing in a similar way that you are suggesting for the information to employees.

Mr. Christophe: Yes, you see, it is not that I am– thank you, Madam Chairperson. I realize I have to wait for the tape presumably to go on.

I have no problem with people, union or employer, disseminating factual information. If it is fact and if it exists, the key is when and how and whether they are in fact factual or not. That is our concern.

If they are factual, and we have an opportunity to what it is, then we have–and if it is incorrect or false, the same as the employer would correct us, we would like an opportunity to do the same with the employer, if this is allowed. I would prefer that it not be there, but if it is and we know about it, then if it is incorrect, we have an opportunity to rebut it. The employees can really decide then which is the best way for them to go.

Mr. Ashton: Once again, it seems to be some way of getting some more balance in what we feel is an unbalanced bill, and it is certainly a legitimate suggestion from them.

A further question: In terms of the section in regard to the powers of the board in dealing with the question of information provided to employees by the union in terms of dues, it very clearly states in the current act as proposed that the board may have the ability to dismiss the application in the proposed Section 45(4). Now you have suggested wording on the sign-up that might prevent a lot of dispute prior to getting to that stage. Although the minister said the intent is not to allow that, would you recommend, based on your reading of this, that section on dismissal of the application be taken out, in the sense that one disputed card would then not be able to be used to dismiss the entire application?

Mr. Christophe: Well, most definitely. I think the dismissal just on a card or two cards is the ultimate penalty and could result in no certification almost ever succeeding. That would be devastating if allowed to go into the bill. It is a penalty imposed that should not be there.

Mr. Ashton: Madam Chairperson, I appreciate some of the other comments, by the way, and suggested amendments. I just have one final question.

Throughout the day and into this evening, I have been referencing the fact that obviously the government caucus has brought this bill in and there may be different views within the government caucus. I think some people would probably say upfront that they are against unions, but it appears there is another influence in the bill. That is, some might not say that, but, as I have said earlier, seem to feel that when people say yes, to a union they do not mean it, or they are really saying only maybe, or they were coerced or intimidated.

You probably read Hansard, I am sure, many times. One of the sort of scenarios that often is built up is some union comes in unwanted, and then forces employees to sign up and they do not know what they are signing up for. Then all of a sudden they are a member of a union, and the mentality being, and much of it in this bill, to my mind, being that something happened along the way.

Your union is in terms of volume of certifications obviously one of the most significant. It is the largest union in terms of the retail sector, et cetera, in Canada. Also, because of the nature of the retail sector, you have a lot of different units. You are involved with a lot of certification questions, a lot of different units applying for certification.

I am wondering if you can give some sense to anyone on this committee on the government's side who perhaps has not been in that sort of situation–many may not have been a member of a union, or even thought about what it is like–what happens as to whether it is a serious decision or not? Does the union just go in, decide this is going to be certified, or does it require the support of people in the workplace itself? What really happens in a certification drive?

I am hoping through your expertise that you can give members of this committee perhaps a bit of a better idea than is demonstrated certainly in this bill of what really happens when workers say yes to a union.

Mr. Christophe: Well, I think some of my other colleagues have clearly explained that, I think quite adequately in the sense that when an employee wants to form a union, we obviously do not go there and sign the card for them; they have to make their own decision of their own free will, and sometimes we succeed and sometimes we do not.

There are instances, I do not mind telling you, not too long ago where we did not succeed. We did not have a majority of people. I do not mind telling you the place; Canadian Tire was one of them, and the management had done a very good job, I guess, to convince people that we should not represent them. Right now I think they, whatever they did was effective and we were not, so no matter how much we wanted to organize this particular company, we were not successful. We are not always successful, we do not come in the middle of the night as some people believe and the next morning everybody is signed up and nobody knows what they did. It does not happen that way.

I also explain that an organizing drive takes some time to organize from the date the first card is signed. Almost invariably, on occasion, there are some people who change their minds and we accept that. I mean, they have done it and we have withdrawn their application and they were not part of the card we submitted, or we did not apply at all.

So there is already–and there is one more thing people should know, once a union is certified, we are not there necessarily to represent the employee forever and a day. As the act says, after a year and a half or two years or three, every year there is a window of opportunity, and if the employees do not want the union, they can apply for decertification, so we have to earn their support. It is not just a

one-shot affair. If they are not satisfied with us, they will get rid of us. I mean, it is that simple. We have no illusions about this. It already exists in the act; so, this is why we said, and my colleague said, and I said that there was no need for these changes or these amendments, and if there were some, then they should be changed so that it does not tilt the balance, which was a delicate balance. Amendments to the act in the past were not just taken out of the air; they were based on many experiences.

* (2140)

There was one I shall never forget. I should relate that to you. Valdi opened some small convenience store in Manitoba, perhaps some of you remember. Valdi was owned by Steinberg, a company who since have been selling their stores in the province of Quebec and elsewhere. When they came to town we proceeded to organize them. The manager called some of the employees one at a time, or told his manager how to stop the union by firing them and so on and so forth. But it did not stop there. They were so intent on stopping the union, they advised two of their managers to park in front of the Labour Board with their cars to see which of their employees were going in.

Lo and behold comes a policeman and their car–it was like a Keystone Cops operation–was parked right in front of a bank because there is a bank right across on Portage Avenue.

So the cop came and said, "What are you doing here, what is your name?" They thought they were casing the place. So they got their names and we utilized those policemen to testify in our favour that they really intended to stop their employees and go to the extent of watching who was going in.

So if you think–and in those days by the way, there was no ability for the board which now exists if there is interference by the employer and where they stop the employee they have the discretion at one point to certify, did not exist in those days. But the board took a strong stand at that time and ordered, very unusual that we be allowed to go in the store, they had to post a notice, but the reason I illustrate that is that it became a textbook case, by the way, right across Canada, as to what not to do in an organizing drive, to what extent the employer goes sometimes to stop trade unions. Valdi was a typical case of what could happen.

Mr. Ashton: Madam Chairperson, I would like to thank the presenter. I hope that some of the detailed amendments and some of your experience that you brought to the committee will help persuade some of the government members of the committee, at least, to understand that all that is really being asked for in terms of labour relations is the same democratic principles that we have in everyday life, which is the ability to choose without being subject to intimidation or–I cannot imagine anyone going through anything like that with the process of voting in a provincial election, of being spied upon and harassed and losing their job, et cetera.

So I can indicate that is our fight on this committee, is to make sure those principles, as far as possible, are followed in The Labour Relations Act. So thanks again, for an excellent presentation.

Madam Chairperson: Are there any further questions? Thank you very much, Mr. Christophe. I am just going–oh, one more name to call, Harry Mesman, Private Citizen.

Okay, I am going to go through the list one more time for people whom I had called earlier and who were not present: Roland Doucet, Rob Hilliard, Rob deGroot, Donna Poitras or Dennis Ceiko. I am sorry, your name is–

Mr. Roland Doucet (Private Citizen): I am Roland Doucet.

Madam Chairperson: Okay, Roland Doucet, do you have a written presentation, Mr. Doucet? Okay.

Mr. Doucet: First of all, I am not going to go specifically through the amendments and to try to detail what is going on because we all know that. That has been covered thoroughly by several people far better than I could.

I would just like to say, we know exactly what is going on here. No matter how many details there are, no matter what it might look like, we all know the purpose of the amendments is to make it more difficult to organize. It is as simple as that.

It is amendments to the legislation that has been put forth by the Chamber of Commerce, and its purpose is to make it more difficult to organize. We all know that the people in our economy who have a strong bargaining position do not have all that much trouble to organize, possibly. So amendments such as these, they will make it difficult for those who need to organize the most, the most vulnerable, of course.

Before I really get going, I would like to quote something from the very first paragraph, the very first page of The Labour Relations Act as it stands:

"WHEREAS it is in the public interest of the Province of Manitoba to further harmonious relations between employers and employees"–in the public interest, it says–"by encouraging the practice and procedure of collective bargaining between employers and unions as the freely designated representatives of employees."

Just about every jurisdiction across Canada, probably every one of them, has a preamble to their labour relations act that is similar to this.

Since after the war, when PC 1003 was enacted by the federal government to legalize or to recognize legally the presence of labour unions, this was the focus of having labour unions: the public interest of trying to increase the power of workers, trying to right the imbalance between labour and capital. That was the intent, not because they liked certain workers or they liked unions. It was perceived to be for the public good, because we all know individual workers are completely vulnerable in front of their employer, and without the right to organize we know what happens.

Employers do not make any bones about it. Their bottom line is the bottom line, maximize their profits, and they know very well how to do that. Vulnerable employees cannot possibly deal with any strength in trying to get decent wages and decent conditions. The long and short of it is, of course, that without trade unions workers fall into poverty. It is as simple as that.

So the people of Manitoba can expect more from their government than to have a piece of legislation–in this day and age, a piece of legislation, an amendment to legislation that is strictly for a very, very small interest group in the province and that obviously is going to cause real hardship to a lot of people, a fair number of people. Again I have to stress, it is those who are the most vulnerable.

I work for Amalgamated Clothing & Textile Workers Union. I represent people who work in the garment industry. Lots of people who work in the garment industry work two jobs. A lot of them make minimum wage. Those who make more than minimum wage do not make too much more than minimum wage.

There is hardly any plant that is unorganized in the garment industry where the workers would not like to be. I have contact with plenty of them. They would like to be organized. They want to be organized. All they want is democracy of the workplace. That is what they want. They want some democracy of the workplace. It is supposed to be an absolute legal right to be able to have democracy of the workplace.

Yet, in this day and age, we have a government that passes legislation, an amendment that we know–we do not need to think twice about it–that is meant to make it difficult, if not impossible, for some of these people to have some kind of democracy. Of course, the most vulnerable are recent immigrants, women, single women, poverty-stricken women who work two jobs just to barely make it.

What kind of recourse do people like that have if they are harassed on the job? Nothing, absolutely nothing. I talk to people who get harassed by supervisors, sexually harassed. They do not have recourse to anything–police, lawyers. What can a poverty-stricken woman do?

The trade union is absolutely the only avenue of having some recourse to some justice, some collective action, some democracy of the workplace, a steward to go to, somebody who has some ideas of how to proceed where there is an organization behind to give her some protection. These are the people who will not be able to organize because of the demands of these amendments, requiring 65 percent that has been covered before. Imagine if we had such a requirement for elected office. Only Mr. Ashton here would be elected from comments I heard before.

The simple point, we have to keep going back to the simple point, is democracy. People want to unionize and it is already extremely difficult. It is now possible for employers to intimidate people and they do it. It is possible for them to fire them. The last presenter, Mr. Christophe, covered it extremely well–all of the things that the employers will do to prevent unionization. Now it is going to be even more difficult.

* (2150)

I would like to refer to comments made by the Labour minister (Mr. Praznik) in the Free Press, I think it was the day after the amendments were proposed, in which the Labour minister said it was repugnant to deny the employers basically their rights of free speech. The word he used was repugnant that employers did not have the right to say basically what they wanted to say to prevent a union from organizing.

Well, it is interesting to note that the Supreme Court of Canada, in a decision, Davidson v. Slate Communication, does not exactly see it the way our present Labour minister sees it. In that decision, the court held that because of the inequality in bargaining power between workers and their employers, it was reasonable in a democratic society to place restrictions on the free speech rights of employers. It is reasonable for obvious reasons, because of the imbalance.

I have a right to swing my arm. I think we all agree to that. I have absolute right to swing my arm. It is my business. I can swing it ali I want. Where, for instance, where the Labour minister's nose begins, my right to swing my arm ends abruptly. I do not have the right to do that.

Certain rights that we have in certain situations are okay. In other situations, they put other people at a tremendous disadvantage. There are all kinds of rights of free speech that we do not have. We do not have the right to say things about other people that will harm their reputation even if it is true in certain circumstances. We do not have that right. If they cause harm to people's reputations, there are some situations in which we do not have that right.

For an employer to have the right to say certain things with the express purpose of preventing people from exercising their legal right to have workplace democracy under the guise of free speech is a sham. It is an absolute sham and it is going to hurt.

I want to tell the minister, I want to tell this government that your amendments are going to be effective. They are going to be effective. There is no question about that. You did not waste your time. If you want it to be effective, you will be effective. Some people out there who have no hope of improving their work situation, of dealing with things like harassment, dealing with intimidation by the employer, their only hope is to organize, it is collective action. You have taken that away from them.

Thank you.

Mr. Ashton: Madam Chairperson, I wanted just to ask one very simple question, but I think it is important because we have a bit of paradox here in one sense.

The people who are going to be most impacted by this bill, as you have said, are those who are not organized, by definition, people who might like to be organized, but currently are not, or may not have the opportunity because of some of the changes in this bill. You particularly mentioned something I think that is something that should be relayed to this committee. You mentioned in the garment industry, largely the employees are women, as you said. The vast majority are new immigrants, many single parents, I know. Wages are not exactly that high to begin with, to say the least.

I always hope in these committees that there is somebody with an open mind on the government side that could look at some of these issues outside of their political biases but, looking at this bill and what it is going to do, I am wondering if you can relate to anyone who might have an open mind on the government side how you think this bill is going to impact, particularly the section that allows employers now to make a statement of fact or opinion honestly held. We have heard a lot of people tonight say that that could be, well, unionize and you are going to be closed down, I will leave the province, et cetera.

What kind of impact do you think that is going to have on those women in the garment sector who are already pretty vulnerable to begin with? I do not think anybody in this room really can come even close to putting themselves in that position. With your contact and your knowledge of people, how do you think Bill 85 is going to impact on them?

Mr. Doucet: Well, it is already extremely difficult to do anything about unfair labour practices as it is now. It does not matter where the onus lies, it always lies with the union to try to prove something that is very difficult to prove. So, as has been covered by other speakers, it is extremely easy for employers to intimidate and to prevent unionization as it is.

As you have mentioned, the people that I represent and the people who work in the industry that I represent and who we would like to organize, they have less bargaining power, they have less strength, they have less confidence, they have less wherewithal in our society than, well, probably the least. They are the most disadvantaged.

They are the ones who the threat of losing their job, even if it is not all that realistic–I know in an organizing drive, I have talked to some people who were involved in an organizing drive, and they were told that the plant would shut down. Right? How imaginative this employer was. He threatened to shut down if they unionize. The same old story. He

said that the work would be–it would all be homework. The work would all be sent home. This is a factory that produces parkas, et cetera. So we all know that it does not make any sense. They can send a lot of work home. You can do pockets and hoods and things, but you cannot do parkas, et cetera. You cannot do the whole process at home like you can with the sophisticated machines they have in the shops.

It was still effective. People who do not understand the language too well, who come from traditions where they come from sometimes where authority is wielded by people who are not exactly fair, to say the least, the intimidation factor was extremely powerful. This was another union. They had signed quite a few cards, enough to have an election, and the intimidation managed to, on the part of management, it ended up that they voted against the union overwhelmingly because they had been scared to death.

They had been told that their coffee that they have would be taken away from them, that was provided by the company, that the use of the company parking lot would not be there anymore, et cetera, but especially that the plant would be shut down and that the work would be sent home.

That is the way things are now. So now it is going to be easier still. So you can add something to that. It gives you an idea of how virtually impossible it is going to be to organize from here on in.

Mr. Ashton: Thanks very much for giving us that sense because that is important. I really hope that some of the government members in this committee will think about what is going to happen when this bill is passed. I really wish they could be in the shoes of those women you were talking about. Thanks very much.

Madam Chairperson: Are there any further questions? Thank you very much.

Mr. Doucet: Thank you.

Madam Chairperson: Before Mr. Doucet made his presentation, I read through the list of people who had indicated they wish to make a presentation. There were no more responses. I would now like to ask the committee: Is it the will of the committee that no further presentations be heard on Bill 85? Agreed.

Just a quick reminder to committee members that we have four more bills to deal with. I understand, from speaking with committee members, that Bill 64 is the next one that we are going to be dealing with. Is that agreed? Agreed.

Mr. Praznik: I look to my two critics, the member for Thompson (Mr. Ashton). I understand that we will be going on to the clause by clause on this bill tomorrow when we take that committee.

Madam Chairperson: Is it the will of the committee to take a five-minute recess? Okay.

* (2200)

Now before you all escape, let me, just so that we are ready to go quickly, the first person to be presenting for Bill 64 will be Mr. Rob Grant. We will come back in five minutes–10:05? Agreed.

* * *

The committee took recess at 10 p.m.

After Recess

The committee resumed at 10:14 p.m.

Bill 64–The Child and Family Services Amendment Act

Madam Chairperson: I would like to call this committee to order to consider Bill 64. If there is anybody in the room who would like to make a presentation tonight, would they leave their name with the Sergeant-at-Arms at the back of the room.

I would like to call on Rob Grant, Manitoba Coalition on Children's Rights. His presentation has been distributed to committee members. Mr. Grant, when you are ready.

Mr. Rob Grant (Manitoba Coalition on Children's Rights): I guess to preface my presentation, I just want to mention that I am presenting on behalf of the Manitoba Coalition on Children's Rights. It is an organization that has a lot of members. There are no particular membership fees or anything like that so it is hard to pin down exactly the number of members.

A lot of what I am going to talk about in the presentation came out of committee work that was sanctioned by a workshop that we had recently that was attended by over 100 organizations and individuals from around Manitoba, specifically on the issue of children's rights. At that conference, there was a real clear sanction, really overwhelming sanction, from that group to strike a committee to look at Bill 64 with the specific goal of offering some recommendations to strengthen that legislation.

As a background to what that committee did, and I guess one reason I am saying this is, I know that when the minister has spoken about this bill before, he has referred to some of the origins of this coming from various reports and different models of child advocacy across the country. I think we followed kind of in that trend as well and took a look at what is happening around Canada and in our own province.

We took a look at what was happening in Ontario and Alberta. I had the privilege of speaking to the Child Advocates from both provinces personally, had some good conversations with them about the functioning of their offices.

We had a good look at the B.C. Ombudsman's report, and I believe an excerpt of that is contained in our submission.

We considered Manitoba reports done by Kimelman, Reid-Sigurdson, the Aboriginal Justice Inquiry and recently the Suche report. We also took a look at something that was happening in Quebec where they have set up advocacy committees for the Young Offenders Act. That is in addition to the expertise that I think members of the Manitoba Coalition on Children's Rights offered, and that is years of experience from a diversity of people who have worked with children before, worked in the system, parents, that kind of thing.

We did our homework and there seemed to be–I guess this will bring me right to my first recommendation. One thing that all of those reports, all of those sources clearly stated was that an office of Child Advocate would be most effective if it was impartial and if the needs of children were dealt with in a very holistic way and not being compartmentalized to any specific function of government, but really specifically looking at what do children need and how can we lobby best to make sure that the services that government are providing, there is some kind of recourse to ensure that children do get their say and can actually have some kind of input into the services that are being provided for them.

All of those reports, and our stance as well, is that this bill would be much stronger if the office of the Child Advocate was reporting to a legislative committee, that it was not responsible directly to one ministry, and I cannot say that any more strongly. There are a couple of reasons and one is the impartiality that would bring in. When we are talking about advocacy, I think it is just implicit that the people responsible or the office responsible for that, be both impartial in practice and also perceived as impartial by the public as well.

Secondly, if the office of the Child Advocate was reporting to the Legislature it would have the capacity to address more than just one small portion of a child's needs. As it stands right now the Child Advocate bill describes an office that will respond to inquiries or requests or complaints about specifically services under The Child and Family Services Act, but what about The Mental Health Act, education, justice, recreation, and the list goes on and on.

You cannot expect a child's life to be that easily compartmentalized, and I think that anyone who has worked in the system knows that when a child is vulnerable and in some kind of a situation it is not particularly under the guise of one particular minister who could respond to that or one particular office that could clearly respond. Quite often they are very complex issues.

That whole notion has been reflected in reports right across the board. All those reports that I mentioned, particularly a really extensive bit of work that was done in Ontario, that was suggesting that one of the most critical issues in children's and family services was that it was too diversified and there was too many ministries taking care of it, and actually a recommendation that they had was to take a look at a ministry of children so that it all can be pulled under one umbrella.

I think by limiting the scope of the Child Advocate, what has happened is that we have missed a real opportunity, because I think that, you know we really credit the government for bringing forward this idea, it was about time. What has happened is that we have missed the chance to do something really important for children. We are going to do something for children but it is not going to be all that important, I do not believe.

We have a chance to do something really important but by limiting the scope I think we are needlessly limiting the potential of what we can do with the Child Advocate in Manitoba. Failing this, if indeed the Child Advocate reports strictly to one minister and within one ministry, I think also that from the coalitions' point of view that there is still a lot of potential to improve the service and to strengthen the service that can be offered. In a couple of ways I think that right now the Minister of Family Services (Mr. Gilleshammer) is responsible

for several bits of legislation and service and we are wondering why, even in a limited way, that the scope of the Child Advocate could not be spread out to take a look at other bits of legislation that have a direct impact on children. We just know that there are vulnerable children who specifically are impacted by those bits of service that the government provides.

* (2220)

One other point about that is that we feel also the Child Advocate's office could be expanded to somehow include cross-ministry issues, even if it is not reporting to different ministries. There are issues, it is just inevitable that those are going to come up, and in what way can that advocate really creatively and really effectively respond to issues that do cross ministry boundaries?

That would not even necessarily be breaking new ground. If we want to look at models for that, Ontario already has that within their mandate, and in some ways, try to address that issue, so there is a Child Advocate around that is addressing that. The advocate in Ontario did have the editorial comment to that that they are lacking the funding to do it really well, but certainly within the mandate of the Child Advocate, they can cross ministerial boundaries.

To be truly effective, I also believe that the Child Advocate needs to be active and I would even suggest proactive. The office cannot just sit back and wait for complaints much like a department store or a complaint department. Right now, reading the description of what this advocate is empowered to do and its mandate, a lot of it is to respond and to react to things.

We already know there are weaknesses in the system. We can identify them real clearly, and we know there are vulnerable parts of the system that are leaving a lot of kids vulnerable. I am wondering why we cannot empower the advocate to take a proactive stance.

I suggest the areas of special needs children; the co-ordinating and making available assessments for children and how that all happens in the province; tracking of children experiencing multiple placements and placement breakdowns; culturally appropriate placements–all of those things–it is well documented, and those are very troublesome spots in the system.

I would suggest that the advocate can take the bull by the horns and start tracking those and stay right on top of those situations. Within that legislation, I would say, if anything, an advocate would be dissuaded from doing that. Basically everything in that bill specifically talks about investigating once reports are received at the office, as opposed to saying, well, we know there are vulnerable kids, we know some of the reasons why, we know where there are weak spots in the system, so let us really do some advocacy and get out there and address those.

The question about accessibility is really important. I think the advocate's office is only as good as it is accessible. Accessibility to children is really kind of a tough one. It is not a clear issue. Adults, I suppose, could have easier access to an office or to a phone or to write a letter or whatever, but when you are talking about children, you are talking often about a second or third party having to advocate for that person to get to the advocate, talking about a really diverse province in terms of geography and cultural make-up.

I know this is not particularly an issue of the bill itself, but maybe about the implementation of it, but I find it hard to believe that three people working in Winnipeg are really going to be able to respond when it is needed. Again, I think it will be three weeks after the issue responding to some issue, as opposed to being right there when kids might potentially need it the most. I am thinking of kids from the North, from rural Manitoba, that if their only recourse is to make a long-distance call to Winnipeg and talk to some guy on the end of the phone, that a lot of those calls are not going to get made. Again, I just kind of throw that out, wondering how can we ensure that this office truly is accessible to all kids in Manitoba.

In terms of a recommendation in that area, I think one thing that perhaps is missing from the mandate of the advocate's office, is the role of encouraging, supporting and developing natural advocates that happen. There are all sorts of people and groups around the province that can play, and presently are playing, a very important role in advocating for children. If the office was able to utilize these resources, help these resources, offer training to different groups–by groups I am talking about parents groups, Metis locals, aboriginal groups, women's groups that already exist around the province, that we know can be very effective advocates for children.

I think it is really important to have central co-ordination of these things, and that is where the advocate's office could come in. I wonder where in that bill, that would allow for that kind of thing to happen, or whether it would again be dissuaded, because now we have the advocate. Does that take the onus or even the responsibility or the impetus out of those kinds of groups to do the advocacy that is going on?

About that particular suggestion, it is pretty cost-effective, as well. It is not a big-dollar item when you say that we can go out to the community and recruit and train and have in place natural advocates. Looking at the model in Quebec, where for the Young Offenders Act, they have a whole system of community advocacy committees that as far as I have heard are working all right.

That is about it—maybe one last comment. I guess the application of the word advocate to this particular office troubles me a little bit in that I hope that it does become a strong voice for children as it presently is. I would hate to see people misled into thinking that setting up an office with three people in Winnipeg suddenly means that all children in Manitoba have an advocate. It is very narrow, and so I think there is a lot of qualifications that need to go along in educating Manitoba about what exactly this office is, and what it can do. We have to be upfront and say, it is not near the general Child's Advocate that someone may think we have in place if this bill goes through.

Thank you.

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

Ms. Becky Barrett (Wellington): I appreciate your verbal report and your written recommendations and background information that you have given to us. I just wanted to have a brief comment that I thought your report covered most of the concerns that we have about this legislation. You have helped us clarify what our position is and many of the major concerns that we have, particularly, the staffing component.

I think you are absolutely correct when you say that three or four staff are not going to be able to adequately deal with the issues that are going to be raised, and the expectations that are going to be raised by the children and the people who work with children in a province as diverse as Manitoba. So thank you very much.

Mrs. Sharon Carstairs (Leader of the Second Opposition): Well, thank you for an exciting presentation on what a Child Advocate should be. I particularly liked the differential that you made between investigation and advocacy, because I think the only function that this office can possibly have in the format that has been presented, is an investigative one. That is even limited, as you indicated, by the lack of investigators in the field, if you will, that can respond to the children who have fallen through the cracks. If you had an ideal scenario, doing the kinds of things that you have outlined, all of which I think are extremely positive, how would you see a Child Advocate's office working in the province of Manitoba.

* (2230)

Mr. Grant: I guess there would probably be two parts to that. I think one is, we can look at another model. Since we are looking at models from other provinces, et cetera, I think we have a model existing in Manitoba in the Ombudsman's office. We can take a look at that. It is an office that reports to the Legislature. It is independent and, in terms of structure, that would be the way to go.

I would add, when we are looking at different models, that both the advocate from Ontario and from Alberta stated that if their offices reported directly to the Legislature they would be much more effective.

I also wanted to state, in looking at the model from Alberta, which I understand was part of the process of developing this, we are looking at new legislation out there as well. Their advocate's office has not been in place all that long, four or five years, and they are in the testing kind of ground as well, so if we want to latch onto something that is in the testing phase, the advocate out there himself readily says, well, you know, it could be improved. I think we are kind of looking the wrong way, particularly when you have a model like that in Manitoba.

The one thing, the organization structure, I would look to the model of the Ombudsman's office perhaps as a model to look at. In terms of the service provision, the ideal model, I would look towards the community and take a look at empowering people throughout the community and identifying areas of natural advocacy. I think that is the only way that an office like this would ever be accessible to children.

Mrs. Carstairs: As you know, there will be an amendment to this bill which will at least give us a mandatory review at the end of three years, which hopefully then can broaden the base of what the advocate will do and also in the recommendations of community activists such as yourself make it independent of the ministry, since we are not able to get that at this particular point in time.

Can I just encourage you to monitor this advocate very carefully for the next three years and then come back with all your ammunition to make this a much better bill as soon as possible.

Mr. Grant: I will mark it on my calendar.

Mrs. Carstairs: Okay.

Madam Chairperson: Are there any further questions? Thank you, Mr. Grant.

Mr. Grant: Thank you.

Madam Chairperson: I would just like to advise committee members that written submissions have been received from Dennis Schellenberg, Child and Family Services of Central Manitoba; Jerry Ross, private citizen; and Gillian Colton, private citizen. I think committee members have those written submissions.

I would now like to call upon Gale, and I am not sure how to pronounce the last name, is it Pearase?–P-e-a-r-a-s-e–I am not too sure whether it is–Director, the Street Kids and Youth Project, and committee members have that presentation here in front of them. Is she here tonight?

I would like to call upon Jean Altmeyer, Choices. Do you have a written presentation? No. Okay.

Ms. Jean Altmeyer (Choices): One of the things I notice looking at the room is that we are obviously talking about children in poverty, because there has been a gender shift in the audience.

Choices is A Coalition for Social Justice. We do not pretend to be experts on this issue. I would like to think we may be one of the natural advocates that Rob was just referring to. Certainly Choices would be in support of the Child Advocate position. We do not happen to believe this is one. When you call somebody an advocate and then tie them specifically to the minister for whose department they are supposed to advocate, it does seem to be a contradiction in terms. It also then fits to limit this advocate to The Child and Family Services Act and has been noted by Rob, and I am sure probably shows up in some of the other submissions, that is a pretty limited view of things that affect children.

This is particularly true in light of the fact that an independent advocate was recommended by Kimelman in '83–you have probably heard this list a hundred times–Reid-Sigurdson in '87, the Aboriginal Justice report last year, and the Suche report this year. Having somebody called an advocate who reports to the minister seems to compromise the very principle of independence that would be crucial to what I would consider to be an advocate function.

My understanding is that the experience of the Ombudsman, who is independent and who is more directly responsible to the House, even the experience of that office in getting a response from Family Services has not been particularly wonderful. This would not seem to bode well for the experience of the civil servant who reports directly to the minister.

Certainly, if one reads the papers these days, some of the stories and issues that are being dealt with there are revealing that children in families who are supposed to be taken care of by this ministry clearly have not been, and that the internal investigations were not, in fact, sufficient. So again, hard to understand how an advocate's position would change that.

I think it is also telling, I mean, partly it is the process of this, which would tend to be an intimidating procedure for people who find themselves caught up in the Child and Family Service system, so they are not here. Our understanding is that a number of the groups who would be a member of the coalition or groups who would have a great deal of expertise to offer on this issue, are not here either, and that is, frankly, a lack of safety on their part, that they could, in fact, appear and speak.

I find that pretty depressing overall for our community, because if the very people who have the experience, the expertise and the skill feel constrained because of their connection to the existing system from appearing before this committee, then we have lost access to a whole group from whom we should hear.

I would also just like to reinforce the point made about the language used in the bill, advise the minister, review and investigate complaints she or he receives, not finds, but receives, responds to requests, submitting an annual report which goes to

the minister, and then I understand within 15 days is to be sent to the House unless the House is not sitting, and then when it decides to sit again, then the report gets submitted.

I understand there has been some discussion about a review after three years. I suppose that is better than nothing, but three years is a significant amount of time given that the Child and Family Services Crown corporation was created a year ago and there has not been any annual report on that, nor has there been a review or procedures for a review. I am not reassured by this.

In addition to our primary concern about the reporting mechanism for the advocate going to the minister is the fact that this is limited only to the CFS act and apparently–and I am not a lawyer, nor do I want to be one–but as I have read the proposed bill, it sounds like this advocate can only seek information that is from agencies that have status under The Child and Family Services Act. So it is even more constrained.

One would think if a child is in the system but is being affected by other systems that are not covered by this system, the advocate cannot talk to those folks, and that seems significantly bizarre.

As well, and I am particularly sorry that we were not able to hear SKY's presentation, because I feel quite limited in my ability to speak on behalf of the youth served by SKY and similar groups but, as a result of some work that was done by some students, it becomes very clear that some of the children and youth most at risk in Winnipeg and in the province are the very children who are evading the Child and Family Services system, not the ones who are in it. If a child has evaded the system and if the advocate can only deal with children as part of that system, you have again cut out the people most vulnerable.

I also, and this would be very consistent with Choices positions on a number of things that this government has chosen to do, and that is, this again tries to create the sense that something has happened so that something is seeming to be done. You use the right words, but you structure it in such a way that it in fact contradicts itself and counterbalances itself.

We would recommend because, besides the brickbats that we throw at the choices people make, we do try and present alternatives. We would recommend that the advocate be independent of the minister, that he or she report directly to the Legislature, and we would see this position becoming part of the Ombudsman's office. We would see the advantage of this that clearly then the advocate would cover all ministries and would not be limited to CFS.

This more clearly retains the principle of independence. It avoids another layer of bureaucracy, as was clearly stated by the Ombudsman at the conference on children's rights, that this will now be another layer that the Ombudsman will monitor. The Ombudsman also has stronger legal authority, because it is my understanding from reading some of the comments on this bill that it does not appear as though the advocate has the right to retain counsel on behalf of children and youth.

Thank you.

* (2240)

Ms. Barrett: Thank you. Again, an excellent presentation which covered many of the concerns that we have been expressing over the last three or four months. I particularly liked your comments that this is not an advocate. It is sort of what the previous presentation stated as well.

I agree that it is not unlike other actions taken by the government which are fine sounding and high sounding and, when you get down to line by line, you realize there is very little proactive content to this bill.

I enjoyed your recommendations and hope that we will be able to convince the minister that some of these changes that you are recommending will come to pass to make this bill, at least begin to make it a true advocacy bill, rather than an investigative function that probably cannot even do that very well.

Thank you.

Mrs. Carstairs: Thank you, Ms. Altmeyer, for your presentation on behalf of Choices. I will be pleased to share with you SKYs report because I have a second copy, so I will give you my second copy. Essentially, their comments are identical to your own, and I think it is clear that anybody who is involved in the field, whether it is the four reports you mentioned or indeed those who have worked, like Rob Grant, in the field for many years, they are all in fact making exactly the same suggestions.

The difficulty that I think we are all faced with now in a majority government is, do you defeat the bill as it is with the amendment which we hope at least will give a mandatory review, do you at least start the

process, or do you vote against the Child Advocate and not have it established at all? If you were in that legislative position, what would you do?

Ms. Altmeyer: Good question and it is the brilliance of this government's strategy that you are dammed if you do and you are dammed if you do not, because we all know that if people were to vote in opposition to it, the government would be very quick to jump all over them about, you guys voted down a Child Advocate.

If I am going to retain values and integrity, I would say you have to vote against something that clearly is a contradiction of what it is intended to do because once it is in place, you have become co-opted, and so I would say that it should be voted down because it is in fact an abrogation of what it claims to be doing.

Mrs. Carstairs: Thank you.

Madam Chairperson: Are there any further questions? If not, thank you very much.

I would just like to advise committee members that the report presented or submitted earlier by Gail Pearase, Director of the Street Kids and Youth Project, is now going to be considered as a written submission since she was not here earlier.

I would like to call upon Victor Schwartzman. Mike Bills, Knowles Centre. Mr. Bills, do you have a written presentation?

Mr. Mike Bills (Knowles Centre Inc.): No, I am sorry, I do not.

Madam Chairperson: No problem.

Mr. Bills: Approximately at three o'clock this afternoon, my executive director sat down with me in his office and he said, would you mind going and addressing this committee tonight. I am thinking from what I have heard from Rob and what I am hearing from Jean, I am going, were they in the office also?

I will make a very quick speech to you. I do not know what I can add really that is different than anything else at all. Basically, the concerns we have at Knowles would be the scope is limited. Again, it should not apply to just children in the CFS act. It should apply also to people in education, to corrections and mental health as well. We have some serious concerns about the number of staff required. It seems very insufficient actually. I guess the model is the most important thing. We are looking in terms of more of a recommendation regarding a model toward an Ombudsman's, not reporting to one individual minister, but to the Legislature in general.

What I can add other than that–I think it is an excellent idea. We have talked at Knowles for quite a long time about a Child Advocate. It is something the kids really need, not just at Knowles but in the entire system. Again, the government has the opportunity to make a very unique choice at this point and do something really great for all the kids in Manitoba. I would hope that they make the choice to make it a larger scope. That is basically what I represent.

Madam Chairperson: Thank you, Mr. Bills.

Ms. Barrett: I appreciate your comments and particularly your statement that you agree with most of what was stated before without having to restate it at this hour of night.

I am wondering if you can just give us a brief example of what you see from your position as working in Knowles, what you see as a problem with the current scope and structure and reporting mechanism of the Children's Advocate.

Mr. Bills: I look at the advocacy system as something we present to children when they first come into Knowles. They have an orientation package that we talk about–these are your rights. In fact, we just had a recent general meeting at the AGM. We just gave a copy of the rights to Mr. Gilleshammer, presented by one of the children at Knowles.

We talk a lot about kids coming in and do not know what their rights are. They do not know how to be treated. They do not know what is right. They do not know a variety of different things, so we really talk about those with the children. We, in fact, give them a copy of our orientation package and go through it line by line with the staff within the first shift, shift and a half that the kids are actually there in the cottage, so literally they understand what the rules, routines are. They ask questions.

At the same time that we do the actual admission, we talk about if you have problems with how you are treated, who do you approach? I am one of the people they can approach. They may not feel comfortable. That is fine. There are other child groupers and there are therapists at Knowles. There are people on our board of directors. In fact, we have just recently voted in a member of the board who was one of our previous residents at Knowles which is a first for us, again, to act as an advocate.

We, at the same time, talk in terms of the system. If you do not like how you are being treated here at Knowles, you can approach your social worker. Who is your social worker? Who is your social worker's supervisor? Who is available to you at the Child and Family Services Directorate? Who is Evelyn Mathers? Who is Pat Alphonso–people who they can call if they choose to.

They are allowed to, again, if they choose, all they have to do to access anybody is phone the main office literally and talk to the switchboard operator, and she will make arrangements for people to get in contact with the child. I am not aware of many kids actually using the system, but it is there for them. Kids will come and ask, can I use this? How do I go about this again if I need to? So it is there.

What I see as the Child Advocate is another part, a further extension of our safety plan for each child in the Knowles. At the same time, I would hope to see it as something we at Knowles can use on behalf of our kids. If, in fact, they are electing to make a phone call, if we are having problems with a specific agency or a specific ministry, we can make contact with the advocacy. It is not meant just for the children. It is meant also for us in terms of if there is red tape for the reasons we would hope that the person could do that. Again, if in fact, the reporting mechanism is only to the Minister of Family Services (Mr. Gilleshammer), we have some concerns about whether in fact we can actually access that.

Ms. Barrett: That is fine. Thank you.

Madam Chairperson: Are there any further questions? If not, thank you very much.

I would just like to call Victor Schwartzman once more–Victor Schwartzman.

Is it the will of the committee not to hear any further presentations on Bill 64?

Some Honourable Members: Agreed.

Madam Chairperson: Agreed.

* (2250)

Bill 70–The Social Allowances Amendment and Consequential Amendments Act

Madam Chairperson: We will now move to Bill 70. The list of people wishing to make presentations was distributed this afternoon at 2:30 when the committee initially sat, so I will not go through that list right now. I will simply start at the top.

The first name is Tim Knight, Union of Manitoba Municipalities–Tim Knight.

Genny Funk-Unrau, Private Citizen. Do you have a written submission?

Ms. Genny Funk-Unrau (Private Citizen): Yes, I do. I have some copies here.

I realize it is late for all of us, but thank you for sticking around and listening.

My name is Genevieve Funk-Unrau, and I reside and work in the inner city of Winnipeg. I have many friends and neighbours who currently are on both city and provincial social assistance, and for this reason, I have chosen to speak today to your committee.

I believe it is the government's responsibility to create a safety net for those who are unable to survive in our current capitalist system we have here in Canada. We have one of the best social systems in the world, yet I see it deteriorating over the last decade as a more Darwinistic philosophy, the survival of the fittest, has set in.

My world view, however, calls upon me to look out for my neighbour and give a helping hand as needed. Therefore I feel it is up to the haves to give to the have-nots, while working toward a more just and equitable society.

I realize the likely response will be that the haves have been giving a lot already, especially those in the lower middle class, as they too are losing their jobs and ending up as have-nots, yet I feel it is our moral responsibility to give proportionally as we can. Therefore I call upon you and those who can give more to do so.

Our society cannot afford to continue to increase its army of unemployed and those no longer capable of even being in this army of unemployed. As we continue this decline, social costs will increase in areas such as health, education and justice. It is time, rather, to stop this decline and work toward a more equitable and just society.

I want to applaud the Manitoba government on its move to standardize social assistance rates. However, what concerns me is what level of rates the government will choose. Will the government take into consideration the difference of costs of living within the province and therefore choose the highest level for all to live on, or will some people be seeing their allocations of money decreasing, therefore finding it even harder to survive?

In studying the current welfare rates in Manitoba, I see that families on City of Winnipeg social assistance as being the most likely to lose. These families are currently receiving one of the highest financial allocations in Manitoba. In light of the Social Planning Council's report on child poverty in Manitoba which states that at least one in four children in the city of Winnipeg lives in poverty, would it not make more sense to assure that the children will not face further hardship? Would it not make more sense to at least keep the new standard with the City of Winnipeg rates?

Using my family as a hypothetical example, we are two adults with a one-year-old child. If it were necessary, we would be put on municipal welfare. The City of Winnipeg rates would give us about $973.36 every four weeks, which works out to about $1,054.47 every month. In comparison, the provincial social assistance would give us $976.60 every month, a difference of $77.87 a month or $934.44 a year.

Since to date we have not been told what level of assistance will be used to standardize, we can only assume that the cheaper route would be used, which would mean that they would use the southern Manitoba's municipal rate which should give us about $946.67 a month, which again, compared to the City of Winnipeg rates, would mean a difference of $107.80 a month or $1,293.60 a year.

* (2300)

Even though the City of Winnipeg's rates are at the highest level, they still are substandard if you compare them to your own Manitoba Agriculture Report on the cost of raising a child in Manitoba. The provincial home economists say that a family of three, as previously mentioned, needs $1,284.41 a month to be able to survive in Winnipeg. This is a difference of $229.94 a month from the current city of Winnipeg rate, or $2,759.28 a year. To compare this as to possible standardized rate using southern Manitoba rates, for example, this is a difference of $337.74 a month or $4,052.88 a year, or $300 a month. That, ladies and gentlemen, is a lot of money that could be used to assist a family in living, not just surviving.

As previously stated, this extra money each month, in the long run, would make a long-term difference in the Health, Education and Justice budgets as poverty is closely linked to these. In looking at the current rates, I have no quarrel with the current food budgets. However, all the other budgets and especially the housing allocation are too low, and since the food budget is not a fixed expense, money has to be taken from it to pay other budget items.

In closing, I would recommend reassessing the other areas of the welfare budget and bringing them up to the actual cost of living. That rate should then be chosen for your standard rate. Secondly, since the current welfare rates are about 52 percent below the poverty line, I would recommend that the deductions taken off from the welfare budget such as employment or CRISP be only deducted once the income actually reaches the poverty line.

Thank you.

Ms. Becky Barrett (Wellington): Just one comment. I particularly liked your recommendations, and seeing as how this bill does not tell us, or the minister has refused to tell us, what the regulations will be, I certainly hope that he listens very closely to your recommendations about raising the rates and making sure that the rates other than food, at the very least, are raised so you do not have families required to take money from their food budget in order to meet things like shelter. Excellent recommendations, and I hope the minister listens to them. Thank you.

Madam Chairperson: Are there any further questions?

Mrs. Sharon Carstairs (Leader of the Second Opposition): I thank you too for your presentation, and obviously, we all have somewhat the same dilemma on Bill 70.

I think all of us are on record, all three parties, as being in favour of a one-tier system across the province. But the critical issue is rate setting. My concern is that the City of Winnipeg simply will not have the additional dollars in their budget to pay these additional rates if they are not going to get 50-50 from the province, and that is the critical question we have not yet had answered from the minister, which is what those rates are going to be.

So I thank you for perhaps making the case better than I was able to make, since he did not seem to listen to me.

Madam Chairperson: Are there any other questions? Thank you very much.

I would like to call upon Pat Woolley, St. Matthews-Maryland Community Ministry. I think all committee members have a copy of her presentation.

Ms. Pat Woolley (St. Matthews-Maryland Community Ministry): I have additional copies if there were not enough brought down this afternoon.

Madam Chairperson: Okay, I think we are doing fine.

Ms. Woolley: I thank you for the opportunity of appearing before the committee. I am a member of the board of St. Matthews-Maryland Community Ministry, and I am presenting this brief on behalf of our community minister who was not able to be present tonight.

St. Matthews-Maryland Community Ministry is an active member of a food working group, with representatives from our food bank and several other food programs. We are committed to responding to people's immediate food needs with dignity and to addressing the root causes of hunger in our city.

The vast majority of users of our food banks are people receiving social assistance. The inadequacies of this allowance to cover the cost of basic needs such as housing, food, clothing and personal needs forces people to rely on charity to feed themselves and their families.

We have made a number of presentations highlighting our concerns about the welfare system and the inadequacies of current social assistance to meet people's basic needs. We are concerned about the implications of standardization of social assistance rates suggested in Bill 70 and the impact these proposed changes will have on the poorest of the poor in our province.

It is the experience of the people we work with that current social assistance allowance from either municipality or province does not reflect the actual cost of living within the province of Manitoba. It is our conviction that Bill 70 provides an opportunity to review the overall rates, to bring the rates up to the actual cost of living in Manitoba, and to ensure that everyone who is eligible for social assistance receives equal access and information with dignity and respect.

We would like to highlight some particular areas of concerns which have been raised by people who depend on social assistance to meet their basic needs and the basic needs of their families. Inadequate housing allowances severely restrict people's access to safe, decent, stable housing. Many people are subject to frequent moves, always hoping for a better place. High migrancy rates in inner-city schools and frequent disruptions in children's education are the result. These certainly carry a hidden economic cost in the long run.

Recently introduced practices around damage deposits, which allow only one damage deposit to recipients, when coupled with the high incidence of damage deposits withheld by landlords without just cause, cause undue hardship. When people move and are unable to get their damage deposit back, they must come up with a new deposit by dipping into their food budget.

Telephones are still not considered a basic necessity by welfare, although they are necessary for full participation in our modern society. The budget allowed for personal, laundry, home cleaning supplies was last adjusted in 1983 and does not reflect current real costs. Even for long-term recipients of social assistance, such as single parents with dependent children and disabled people, the budget makes no allowance for recreation expenditures, although the federal regulations would allow for this to be cost-shared.

People continue to report great difficulty in accessing special needs allowance for essential furniture or larger household items. We are very concerned that people are instructed to use their GST rebate to purchase these items. The GST rebate is to reimburse people for GST paid and should not be considered income.

The changes to distribution of provincial income tax credits will make it more difficult for people on assistance long term to have a lump sum for purchases of household items. We are very concerned that this redistribution of funds will be treated as an increase in welfare benefits.

These inadequacies often must be compensated for by using money budgeted for food to pay extra rent for better accommodation, rent a telephone or supplement personal expenditures. As a result, we see a phenomenal increase in the number of people seeking help at food banks and soup kitchens. People are forced to choose their food from other people's surplus, a supply which is unpredictable, unsustainable and only the most short-term response to the crisis of poverty in our province.

Our food bank serves an average of 200 households each month. Forty-six percent of the individuals represented by these households are children. The number of people we are unable to help continues to rise. Charity is not an adequate response to the crisis of hunger, which is directly

related to economic poverty. Charity does not ensure redistribution of wealth to protect the most vulnerable; rather, it redistributes goods and services that may or may not have value for the recipients.

The time is overdue for a review of the social assistance rates in consultation with the poor and the organizations that work most closely with the poor, so that our social programs are publicly accountable, not privately directed, and so we can support life and promote justice and harmony in our community. The economic cost is worth the social benefits of ensuring that everyone has adequate means to meet their basic needs and the needs of their children.

We would welcome increased regulation of rural municipal rates which may currently be set arbitrarily by councils. In rural areas, many municipal rates are woefully inadequate, based on totally archaic estimates of basic needs. We have also heard horror stories of people having to appear before the council to plead their need with little or no respect for that person's rights, privacy or dignity.

As you are aware, the City of Winnipeg welfare rates are significantly higher than the provincial welfare rates, recognizing that even then, people cannot always be assured of adequate access to their basic needs of food, shelter and clothing.

As I have outlined above, both the municipal and provincial current rates are inadequate. If Bill 70 provides an opportunity to standardize the minimum rates, we are very concerned that the lowest rates will be chosen as the standard. We would urge you to use rates which reflect the actual cost of living in Manitoba as a standard.

* (2310)

Currently, people on City of Winnipeg social assistance receive significant other benefits. If they are eligible for Child Related Income Support Program and 55 Plus, they are allowed this income in addition to social assistance, whereas people on provincial social assistance in receipt of these income supplements are subject to an equal reduction of social assistance benefits and so receive no net benefit.

It is our hope that standardization would extend these benefits to all eligible people. The extra money would allow people to lessen their dependence on food banks and charity, thus increasing their financial security and ability to meet their own needs. We believe that the long-term social benefits of such an increase would far surpass the short-term economic cost.

The work incentive component of City of Winnipeg social assistance allows people to earn $125 for part-time work or $245 for full-time work without penalty, whereas people receiving provincial assistance are only allowed $50 earned income or a certain percentage of the earned income. Many people are actually discouraged by this policy from working when on provincial social assistance. The allowable earned income actually serves as a disincentive.

I would argue that a strong work incentive program with higher allowed earned income be part of a standardized rate system. This would address the recommendation of the Social Assistance Review Committee with regard to employment-related initiatives. Efforts to encourage and assist recipients to become independent of social assistance should be reinforced by increasing funds available for employment-related initiatives, targeted specifically to municipal social assistance recipients.

Thank you.

Madam Chairperson: Thank you very much.

Mr. Doug Martindale (Burrows): I would like to thank the presenter for this excellent brief presented on behalf of St. Matthews-Maryland Community Ministry. Because of the lateness of the hour, we are not going to ask questions. I regret that because it is an excellent brief.

I would like to comment on the second paragraph where you said the government was provided with an opportunity to bring rates up to the actual cost of living. I think it would be nice if they would bring them up even closer to the poverty line, but I note that you feel that they had an opportunity and they missed the opportunity and you regret that. We regret that. and that adversely affects everyone on social assistance.

Thank you.

Hon. Linda McIntosh (Minister of Consumer and Corporate Affairs): Thank you for your presentation and for waiting so long. I know, having at one time been an advocate sitting in the audience, what it is like to wait and wait. I think you have been very patient, and all of the people who are waiting deserve that commendation for their patience.

Thank you, as well, for your brief and the good work that the St. Matthews-Maryland Ministry does.

I just have one question. It is partly because it pertains to one of the divisions in my department, and I am just wondering if you could clarify for me–I know you are presenting on behalf of someone else, so maybe you cannot.

In the last paragraph on the first page, you have indicated that the damage deposit to recipients–sort of halfway down the paragraph, it has, recently introduced practices around damage deposits–that line–which allow only one damage deposit to recipients, that this is a policy of Family Services, but it is the next line that I would like some clarification on–when coupled with the high incidence of damage deposits withheld by landlords without just cause.

I am not sure if you are able to clarify that for me or not. The landlords are not permitted to withhold damage deposits without just cause, and damage deposits that are in dispute are referred to the department to settle. If there is not just cause, they must be reimbursed to the tenant. Do you have any specifics there?

Ms. Woolley: I am afraid I cannot give any examples. I am not a staffperson, but a board member. I presume the problem is a difference between the judgments made as to whether there is just cause or not.

I understand from staff that there are many people who do not get their deposit back but actually should, but I cannot pass judgment on it. I just know it is a problem.

Mrs. McIntosh: I will look into that for you then. Thank you.

Madam Chairperson: Are there any further questions? Thank you very much.

I would now like to call upon Diane Sobie, Manitoba Anti-Poverty Organization. I believe every member has a copy of her written presentation.

Ms. Diane Sobie (Manitoba Anti-Poverty Organization): We are living in the most difficult economic times since the Depression in the '30s. Bankruptcies and layoffs are increasing in alarming numbers. There are more and more people who are out of work who are becoming the new poor. With the recent changes to UIC with benefits running out faster and with fewer jobs available, people have no other choice but to turn to welfare.

The stereotype of people who are on welfare as being lazy, irresponsible and drinking their money away does not wash. People we talk to at MAPO are caring and responsible and are on the system by circumstances, not by choice. The frustrations of being on welfare can destroy a person's self-esteem and emotional well-being. This becomes even harder when money is constantly being juggled around each month for things not covered in the initial budget.

The welfare food budget is adequate enough to cover for food, but it is this part of the budget that gets constantly eaten away to cover for other expenses that are not included. Given the welfare rental guidelines, it is difficult to find decent housing. Basic rent for provincial welfare is $282 a month for one person, utilities included, and city welfare is even less, $229 for one person, utilities included. Sometimes a person on city welfare is asked to make sure that the place is furnished as well for this amount. If a person does find housing over the guidelines and the department agrees, the excess rent comes from the food budget.

With the household and personal budget, what is not taken into consideration is the actual cost of personal and household needs. Laundry soap, cleaning supplies, toilet paper, haircuts and feminine products are expensive, and when the taxes are added, it costs even more. Where does the money come from to cover for these items? The food budget, once again.

Prescriptions for over-the-counter drugs are no longer covered by welfare due to the recent budget cuts. This is now another expense that comes out of the food budget.

Welfare does not allow for a basic phone allowance except for health or safety reasons, considering a phone to be a luxury. If a person decides to have a phone, it comes out of the food budget. A phone is essential for a parent with small children. If an emergency occurs, the nearest pay phone can be blocks away from home, and in an emergency situation, every second counts.

Small children are at risk by leaving them unattended for any length of time, and if there is no other adult to look after the children in an emergency, then the person is considered to be a negligent parent. People should not be put in these kinds of situations by the system.

Transportation is another issue in an emergency, because getting a cab to a medical facility has to be

cleared with the department first, but it is not easy getting through to the worker.

Other areas not taken into consideration are for things like recreation or for children in school. The costs of field trips or school pictures has to come out of the food budget again. A person looking for work has to pay for postage, paper and transportation out of the food budget again, as these items are not part of the initial welfare budget.

An employer has no way of contacting the person for an interview if there is no phone number to reach them at. With the employment situation, there are a number of people applying for the same job, and an employer is not going to take the time to inform you of an interview in writing.

After covering all these expenses, there is little money left for food, and people are again left with no other choice but to have to turn to food banks and soup kitchens.

Food banks are already overloaded and provide a temporary band-aid solution. Food banks are for emergencies only and will not carry a person long term. If a person needs more than a couple of days food assistance, depending on the circumstances, sometimes welfare will provide an emergency food voucher. Unfortunately, the person is then dealing with an overpayment, causing even more of a strain on their budget for the next few months until the overpayment is cleared up.

These are some of the recommendations that we have at the Manitoba Anti-Poverty Organization. First of all, we applaud the provincial government's move to standardize welfare rates. MAPO has been actively advocating for a one-tier system for the past decade. However, there are a number of major issues that need to be considered in this recommendation:

(1) Current welfare rates do not reflect the actual cost of living within the province of Manitoba.

(2) This is an opportune time to review the overall rates, policies and procedures and to ensure that they adequately cover the basic necessities. Rental guidelines need to reflect the actual cost of rental accommodation. Household and personal rates must realistically cover the costs paid out by families and individuals. Regular telephone and recreational expenses are also basic necessities and should be included in the welfare budget.

(3) Any changes to the current legislation should include consultation with community organizations, such as MAPO, who work directly with welfare recipients and who have valuable insights into the needs and conditions of people who are on the system.

(4) Job creation programs should be a government priority. The welfare system needs to be supportive and to encourage people in becoming independent.

(5) Education and training programs must be realistic and lead to real jobs that pay enough for the individual and their family to live healthy and productive lives. The current minimum wage reinforces poverty and keeps people living below the poverty line.

If the proposed changes to the social assistance legislation are to be effective, these issues must not be overlooked.

In closing, the government of Manitoba and each of the municipalities in the province must, not "may", as states in The Social Allowances Act, Section 2, ". . . take such measures as are necessary for the purpose of ensuring that no resident of Manitoba, lacks . . . such things" as essential to a person's health and well-being.

MAPO is committed to working with the province and municipalities to develop a social allowance program that accurately covers basic needs for all its residents.

Thank you.

Madam Chairperson: Thank you.

Ms. Barrett: Yes, again, a comment, two comments actually. I do not know that I have read or heard a much more evocative description of some of the problems of living on social assistance than on page 2 of this presentation.

I thought it was excellent and certainly puts into very clear perspective some of the problems that are faced by people on social assistance, to just use one example, who cannot automatically have a telephone. It was excellent, just excellent, and I certainly hope the government listened and was as moved as I was by that part of the presentation.

Also, I would like to comment that obviously MAPO and Ms. Woolley, a previous presenter, have actually read the Social Assistance Review Committee recommendations, particularly as they relate to municipalities and the ways that they sometimes are as not positive toward people coming to them for social assistance, and also particularly your recommendations 4 and 5 on the

job creation programs, and education and training programs.

It is absolutely essential, if we are ever going to break the cycle of poverty, that these be components–very strong recommendations in the SARC report. Obviously, the government has not paid any attention to them, but you brought them forward with a great deal of emphasis and clarity tonight, so thank you very much for an excellent presentation.

* (2320)

Mrs. Carstairs: I just have one suggestion and that is, would you put a copy of this in the mail or deliver it to Gerald Flood, so perhaps he can understand a little bit better the conditions of living on social assistance, rather than the articles in the paper over the weekend that made it look like sweetness and light.

Ms. Soble: Okay, could I get that name off of you again? Thank you.

Madam Chairperson: Are there any further questions? Thank you very much.

I would like to call upon Erika Wiebe, Winnipeg Child & Family Services. Her presentation has been distributed.

Ms. Erika Wiebe (Winnipeg Child & Family Services - Central Area): I have a relatively brief presentation to make. I just want to lend my support to Diane's presentation and also to the people from the community ministry. Those people ought to be considered experts when it comes to the issues of what people on welfare face. They really deserve to be listened to strongly.

I am a community development worker with Winnipeg Child & Family Services, Central Area. I work specifically in the north of Portage-Sherbrook-Ellice neighbourhood, and I just want to talk briefly about some of our responses. I have spoken to our administrator and some of the caseworkers who work on a day-to-day basis with families who are in a great deal of difficulty. I want to talk a little bit about this bill in relationship to child welfare.

In May 1990, there were 567 children in care in the Central Area of Winnipeg Child & Family Services. A year later, there were 574 children in care for a 1 percent increase, but from May 1991 to May 1992, there was a 15 percent increase for a total of 662 children in care. To what can this drastic increase in the past year be attributed? The strong belief among workers and administration is that it is directly related to increased financial strain on families.

The vast majority of the families in the child welfare system are on welfare, so the relationship between social assistance and family breakdown is clear. Families are barely surviving and in many cases, are not surviving on present welfare rates. There are those who have extraordinary budgeting skills and community connections who get by, but we must pay attention to the alarmingly high numbers who cannot withstand the severe strain of living in poverty, and this is reflected by increased family and parenting breakdown. Young children are then given a disadvantaged beginning which can only lead to more of the same in the future with an ever-increasing strain on an already overburdened child welfare system and more important, the human cost of damaged families and children.

This is not to say that if there was no poverty, there would be no family breakdown, but the relationship between the two is obvious. When a family is struggling to get by on a day-to-day basis and not always succeeding, there is time and energy for little else. It is not only the financial strain which welfare recipients struggle with, but also the accompanying lack of choice, lack of flexibility, powerlessness and the assault on their self-esteem.

Then there are those items such as phones, bus passes and recreation, which for most of us are essentials, but for welfare recipients are considered to be extras. There is no money in the welfare budget for these items, and this has a direct impact on family functioning. I personally know of a single parent of two preschoolers who recently had a medical emergency and because she had no phone, her six-year-old son had to go out and find a neighbour to phone an ambulance. She then had to take both children with her to the hospital because she was unable to phone for child care.

We expect welfare recipients to budget properly, but without bus passes, they are often forced to shop at the corner store where prices are higher. Businesses such as corner stores, pawn shops and cheque-cashing outlets thrive on the backs of poor people.

So what are the implications of all this for Bill 70? Any changes to the welfare system should be made with the clear understanding of the present system, so that changes go in the direction of improving what is problematic. On the contrary, there are real fears

that Bill 70 will have the effect of worsening an already problematic system.

Developing a one-tier welfare system across the province is something that welfare rights groups have been advocating for years because of its potential for cutting down on excess bureaucracy, inequities and the shuffling of families back and forth from one system to another. If there is to be a standard rate, it must be one that reflects the real needs of people, rather than what is most cost efficient or based on opportunities for offloading from one level of government to another.

Present welfare rates are putting our families and communities under severe strain and any decrease would be devastating. The welfare system should be structured on the basis of what people need to provide for their families with dignity and opportunity for the future. This includes making sure that recipients have access to phones, bus passes and recreation, and welfare rates which at the very least reflect the reality of the cost of living.

As one Child and Family Services caseworker said, quote: Do not try and save pennies on the backs of the poor because you will pay in the long term with more and more kids in care.

Thank you very much.

Mr. Martindale: I would like to thank the presenter for another excellent presentation.

Before I make three brief comments, I would like to make a general comment about the excellent job that you do in community development work, and also your colleagues with whom you work and from whom we have heard tonight, MAPO, and the other inner city outreach ministries, because you have been working with and on behalf of the poor day in and day out and year in and year out, hammering frequently on the same issues over and over again, trying to get a measure of justice for the people with whom you work in your community. I notice that even an organization that for the past eight years has been known for charity, namely, Winnipeg Harvest, have now publicly said that they are going to lobby governments to make changes. In the past, they have quietly lobbied behind the scenes with various organizations that you have been involved with, but now they are going public which I think is an indication of how serious the situation is in the community.

You have noted that what people really need is levels of assistance that reflect the reality of the cost of living, and this is the third brief that we have had that mentioned that. You said that any decrease would be devastating, and that is another common thread of these briefs is that people like yourself are concerned that the lower of rates in the city might be chosen, namely, provincial rates rather than municipal rates.

Finally, your comments about the increase in children in care are really quite astounding and disappointing, especially since the staff believe that the 15 percent increase in children in care on a year-over-year basis, to quote: The strong belief among workers in administration is that it is directly related to increased financial strain on families.

So this is a very telling comment and a very sad commentary if children going into care are directly related to poverty in families which is what the staff are saying. So, once again, thank you.

Ms. Wiebe: Can I clarify that comment, just to make sure.

Mr. Martindale: Yes, please do.

Ms. Wiebe: I think by that they were not saying necessarily that children are being taken out of their families deliberately on the basis of the fact that they are poor. I think what they were saying is that families, because of the strain that they are under due to poverty, are becoming unable to do the kind of parenting that they would otherwise be able to do.

Mr. Martindale: Thank you for that clarification.

Mrs. Carstairs: Thank you, Ms. Wiebe, and thank you for your presentation. Has there been any statistical analysis done that would indicate in percentages how many children in care are the result of that family having to live on social assistance?

Ms. Wiebe: How many children come into care directly as a result of the family being on—as I said, no, there is no empirical data at this point, but it is the general held belief that there is a relationship.

Mrs. Carstairs: From your experience in working, it has been your experience that many of the children are a direct result of families breaking down because of the stress caused by poverty?

Ms. Wiebe: Yes.

Mrs. Carstairs: Thank you.

Madam Chairperson: Are there any further questions? Thank you very much. I would like to call upon Jean Altmeyer of Choices. [interjection]

I have just been advised that we have to do a tape change, so that will take a couple of moments and you can do your transformation into Jean Altmeyer while we are waiting.

Ms. Shirley Lord.

* (2330)

Ms. Shirley Lord (Choices): On behalf of Choices: A Coalition for Social Justice, I wish to speak against Bill 70. This bill does not address the needs of the poor in Manitoba. It threatens to further impoverish the poorest sections of our society, and if it does not do this, then it will impoverish the City of Winnipeg and shift a portion of the cost of social assistance from the province to the city. Let me elaborate.

This bill purports to introduce a single-tier welfare system into the province, a concept strongly supported by Choices, but it does not, in fact, do this. Instead, what it does is harmonize social assistance rates throughout the province and allows municipalities to pay more than the standard rate, but entirely at their own expense. It does not standardize regulations or administrative procedures, exposing residents of smaller communities to demeaning public application processes and pressures to migrate to Winnipeg. Most importantly, the bill threatens to standardize rates of social assistance at the provincial level rather than the city level. [interjection]

Excuse me, I am wondering if committee members were concerned about hearing the presentation. [interjection]

Since city rates are significantly higher for several categories of recipients, this would mean either that they will have to be reduced to meet the provincial rates, or that the city will no longer be reimbursed the 50 percent it now receives from the province for the difference.

In the first case, city rates exceed rates for all categories of recipients except single adults. Standardizing at the provincial rate would have the effect of reducing allowances for a single parent with two children by $500 to $820 per year, depending on the age of the children and would lead to recipients losing family allowance and child-related income support allowances totalling some $1,500 per annum.

In effect, this would reduce their annual income from all sources by some 14 to 16 percent, an income which is already only 60 percent of the poverty line as calculated by Stats Canada. Penalizing the poor in this way, and especially children and their single-parent mothers, is totally unacceptable. It is immoral and obscene. If the city were to continue paying social assistance at the current rates with the standardization of provincial levels, then it would have to find an estimated $5 to $6 million to offset the loss of provincial funds.

Such offloading of fiscal responsibility is not new to the current provincial government, but it is irresponsible and would indirectly threaten city jobs or services or create pressure for further increases in property taxes. Resistance to these fiscal pressures would reduce the ability of the city to maintain social assistance payments at their current level and hence Bill 70 constitutes playing a form of Russian roulette with the poor of the province.

Choices, therefore, opposes Bill 70 because it does not introduce a single-tier welfare system and at the same time, it threatens the poor of the city of Winnipeg with a a cut in their already grossly inadequate incomes. Instead of waging war on the poor or the City of Winnipeg, the provincial government ought to be addressing the root causes of poverty in the province. It ought to be launching a full-scale assault on unemployment through capital works programs, early retirement and retraining schemes, employment incentive programs, neighbourhood improvement programs and housing retrofitting.

Choices outlined such a program in its recent alternative provincial budget. Employment creation of this kind would be socially useful, bringing forward in time many items of expenditure that are needed anyway; example, infrastructure renewal, and can be financed in a socially responsible manner. By creating more jobs, expenditures on welfare would be reduced. Manitobans would be more independent and fewer would live in poverty.

The provincial government has taken the opposite approach. A hands-off policy means in effect economic mismanagement. Unemployment and the number of welfare recipients have soared. The government boasted the budget of the Department of Family Services, expanded by $50 million this year relative to last. But this is mere deception, as the increase is almost entirely in payments to a swelling welfare role. The Choices budget actually reduced welfare spending at current rates by creating jobs in the province, and this must be the government's first priority. At the same time,

social assistance allowances, even at the city rates, are hopelessly inadequate, do not provide for basic needs and do not keep pace with inflation. Choices argues that the poverty line oughtto be the minimum level of assistance and that rates should be raised gradually over five years to reach that level.

The Conservative government, through Mr. Manness, has acknowledged that it is responsible for pushing more people into poverty in this province, as quoted in The Sun the 14th of May of this year. This is an incredible admission, for it acknowledges that Conservative economic policies are therefore at least partially responsible for our having the highest rate of child poverty in the land, one in every 4.4 children living below the poverty line. Such policies are responsible for the phenomenal growth in the demands on food banks.

Meanwhile, all levels of government continue to dispense massive amounts of money to individuals and companies who do not need it, underwriting the fortunes of the already rich through subsidies, tax breaks and extravaganza. Now is the time to use the abundant resources of this province to put people back to work and to redistribute the social product more equitably, so that the less fortunate of the province can have a better future for them and their children. A massive job creation program, a renewal of the Core Area Initiative and a generous increase in social allowances are the way to proceed. Bill 70 addresses none of these.

Thank you.

* (2340)

Madam Chairperson: Thank you. Are there any questions? If not, thank you very much.

I would like to call upon Kathryn Hlady, Private Citizen, Paul Moist, CUPE-Manitoba, Renate Bublick, Social Planning Council of Winnipeg. Renate's presentation I think has already been distributed.

Ms. Renate Bublick (Social Planning Council of Winnipeg): I know the hour is late, so to be a little bit expedient, I am going to skip over some parts of the brief that is in front of you, because you can read it as well as I can.

First of all, I want to extend our appreciation for the opportunity to present to you the views of the Planning Council on the proposed amendments to the legislation in front of you. I want to start off really with some of our recommendations and repeat them later on, but we urge you to amend Bill 70 in three ways: One, to remove the cap that you are placing on municipal social allowance; two, that income be standardized, not just talking about rates and that the municipalities have a strong voice in future negotiations on rates, special needs definition and eligibility criteria.

Our submission is based on four principles, and these are that reform must improve not harm the situation for those individuals and families to meet their basic needs, that reform must build upon the recommendations of the SARC report published in July of 1989, that reform must treat people in similar circumstances the same and that reform must respect the values of equity, adequacy and accessibility.

Our submission speaks from the perspective of Winnipeggers whose social allowance cases represent over 90 percent of all municipal social allowance cases. I do not want to go into the history that is in the brief. You can read that, but it does point out five of the series of things that have led up to today and the introduction and the discussion on Bill 70.

The Oxford dictionary defines reform as a change for the better. Does this piece of legislation leave individuals and families on social assistance better off once it is adopted? We say no. Let me tell you the reasons why; first, standardization.

When we speak about standardization, some of us speak about standardizing rates, and others speak about standardizing income which represents rates plus exemptions. The results are vastly different, but both can be assumed under the rhetoric of standardization. We all agree that social allowance programs should treat people in similar circumstances the same. Conversely, this principle also means treating people in different circumstances differently. Therefore, looking only at rates can indeed cause inequality.

Let me give you some examples. The City of Winnipeg exempts CRISP, the Child Related Income Support Program. The city also exempts the first $240 a month of maintenance payments. The province does not. These exemptions make a difference to families receiving social allowance. Standardization should establish basic minimum rates for the items of existence covered by welfare, the items that we consider as basic necessities. Everyone in need across this province should be eligible for the same list of benefits payable at the

same minimum rates. These are basic and important aspects of standardization.

To what level should we standardize? I am sure that is a question that all of you have asked yourselves. The SARC report contends that municipalities must have the flexibility to exceed the minimum when it is deemed necessary by the municipalities. The SARC committee concluded that, generally, it may be reasonable to establish rates for the municipal client group at a level which approximates those currently in place in the City of Winnipeg, rather than those in place at the provincial level.

The second point is cost sharing of municipal social allowance. The proposed amendments, Bill 70, are to legislation which provides the authority for the province to cost-share municipal assistance expenditures, but it also sets out conditions for the delivery of municipal assistance and places limits on expenditures which may be cost-shared.

We believe Section 11(1) of Bill 70 defines shareable cost of municipal assistance and relates this to Section 5.3(1), and 5.3(1) speaks to what is considered eligible. In plain English, and that is not easy with this piece of legislation, these two sections say that the province–in our opinion, it says–will not cost-share above a certain set amount and that the province will ultimately define what they see to be special needs.

So let me talk about special needs. We contend that the definition of special needs is important. The other thing that is important is what we consider to be health care needs and which of those care needs are covered.

For example, the City of Winnipeg and the province vary in their definition of prescription drugs, and I know that is under discussion, the list of what prescription drugs are to be covered ultimately and what health care needs are responded to. They currently differ.

The City of Winnipeg negotiates individual rates with community-based agencies for clients staying in residential facilities and hostels. The city often pays a higher board and lodging rate than does the province. Community-based agencies like Main Street Project, Union Gospel Mission and St. Norbert Foundation could well receive less money by the proposed legislation if the province definitions are adopted.

Standardization to provincial rates would have an immediate and direct impact on these agencies and could well influence their survival in this community. Unfortunately, in today's economy we all know that municipal social assistance is more than short-term assistance. It has become, for many, long-term assistance, so let me speak about rates.

How the rates are set is very important. The proposed legislation assumes that the provincial method should be the norm, and we ask the question, is this in the best interest of social allowance recipients? Again, the answer that we have is no.

The City of Winnipeg uses what is called the market-basket approach in setting their food rates. This approach uses the Agriculture Canada nutritional food basket, which has 64 food items in it and is priced by Statistics Canada. The approach is based upon the spending behaviour of moderate-income Canadians. It may not be the absolute best approach, but at least, it gives us some basis, some rationale upon which to judge the appropriateness of the rates that are set for food items.

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The province uses what is called the thrifty-food-basket approach. This global approach only includes 43 food items. This might seem trivial to some of you, but when we consider the impact of nutrition on healthy children, it is important.

The other item under this is, oftentimes, because it is a global approach, the province can say, well, it should be 5 percent because the cost of living is 5 percent, and very arbitrarily, we can say, no, it should be 4 percent. We really cannot make the decision of what items we are cutting out. At least, with the city approach you can make a choice of whether or not, as politicians, you are going to cut out eggs or milk.

The next question is partnerships. It is our understanding that Bill 70 suggests on the one hand that the municipalities should continue to deliver social allowance programs and on the other hand, does not give the municipality sufficient input, we believe, into setting policies and procedures in the future.

This approach to problem-solving certainly does not encourage improved co-operation, co-ordination, collaboration and communication between the two levels of government. Yes, the province's proposed legislation does not prevent municipalities from exceeding the standardized

rates. Yes, it says that. We, however, believe that Section 11(1) of the proposed legislation means that the province will not cost-share any social assistance amounts that are paid by the municipality that are greater than the provincial rates that will be set.

This, in our opinion, is a clear rejection of the SARC report and its recommendation on this matter. The SARC report recommended cost-sharing above the minimum levels of aid and that standardization of rates should approximate those rates in place in the City of Winnipeg, rather than those in place in the provincial program.

In effect, this leads me to my next point, and that is, we believe that Bill 70 puts a cap on municipal social allowance, a cap on welfare, a cap on more than 90 percent of all municipal social allowance recipients. We believe that through Bill 70, the province is saying they are prepared to pay so much and no more. If a municipality wants to pay more, that is fine, but they will have to pay the price, the whole price, with no cost-sharing from the Province of Manitoba.

Now, I am giving you in the brief a couple of examples. All of these three examples that are presented in the brief make the assumption that there will be minimum provincial rates, that the new costs, of course, to the City of Winnipeg are dependent on certain scenarios.

In scenario No. 1, we really talk about allowances above the provincial rate and that this will not be cost-shared. If that scenario holds true, that element has a $2.7 million price tag attached to it. When we are talking about exemptions, and if exemptions are not cost-shared by the province, that carries a $0.3 million price tag. If we are talking about special items, and if those are not going to be cost-shared, that carries a $2.2 million cost item.

Now, there are different scenarios that can talk about whether or not the federal government will cost-share any of these points. In effect, depending on what kind of scenarios will ultimately come to be true or to hold true, the price to the City of Winnipeg can vary between $2.6 million and $5.2 million.

Now, my last point deals with the issue of child poverty. You know that one in five Manitoba children lives below the poverty line. In terms of international comparisons amongst the industrialized countries of this world, Canada ranked third highest in overall child poverty.

Three in five single mothers in Manitoba live below the poverty line. You also know that Manitoba has the highest child poverty rate in this country. All of these facts are not pleasant, and they certainly do not give Manitoba a good place in this country. Our child poverty report which was released just very recently does talk about the kind of family characteristics which help predict poverty.

These include characteristics related to family status, age, education, work status and the presence of small children in a family. Almost one out of every two poor children lives in a family where the head of the household has dropped out of school. Most poor children live in two-parent households, but if a child lives in a one-parent family, the likelihood of living in poverty is an almost 50-50 chance.

The majority of poor children, three out of four, grow up in a family where the head of the household is between the ages of 25 and 44. However, a significant number, 12 percent of poor children, grow up in very young families where the head of the household is between the ages of 15 and 24.

We go through a number of other statistics, and I really do not want to deal with all of those tonight, but I do want to talk a little about the food allowance, particularly the food allowance in the City of Winnipeg food basket.

The City of Winnipeg is addressing the issue of child poverty, partly by exempting CRISP, by paying a personal allowance for kids and by paying an adequate food allowance to those clients who have children under the age of one. This allowance is based upon advice from the Manitoba Medical Association, the pediatrics branch and recognizes the special and unique nutritional needs of infants.

The food items are priced semiannually. Again this varies from what the province does. The city's food allowance as of April of this year was $160 per month and the province was $85 per month for a child under one. The City of Winnipeg food allowance for children in the majority of age categories is above the provincial rates.

The City of Winnipeg has covered additional nutritional requirements of pregnant social allowance recipients for the past two decades. This allowance is one measure to try to eliminate or at least reduce the number of low birth weight babies born to low-income women in this city.

We all know that poverty compromises people's health and it definitely compromises the nutritional

health. Research also tells us that children living in socially and economically disadvantaged homes are particularly vulnerable to poor nutrition. Poor nutrition does have far-reaching results.

People who live in poverty–people who are on social assistance–often do not have the family and peer supports that the rest of us so often depend upon. Add to this the problem of inadequate financial support to provide for basic needs and we end up with children living in a no-win situation.

Young children develop their food habits early in life and research shows that chronic diseases such as cardiovascular diseases and cancer, diseases which kill people in the prime of their lives, actually get started in early childhood.

We know that poor nutrition has a great impact on a child's school life. It can affect the amount of days the child spends in school, how much attention the child pays in class. A lot of cognitive tests have been done on those very issues and a lot of studies are going on at this very moment to try to find out just how much this impacts a child's development.

We all know that children who are born into poverty are more likely to drop out of school early in life, which means they really do not have a chance of contributing to a productive life for themselves or this city, this province or this country.

Now I do want to come to some conclusions. We believe that if Bill 70 is passed in its present form, the city basically has only two options. Option one, the city can follow the guidelines set out by the legislation which effectively would mean letting about ultimately 3,000-plus families in Winnipeg know that their next welfare cheque will be less; or option two, the city could make no changes to its current social allowance rate structure and exemptions and shift the extra tax burden to the property tax.

Both options we believe are unacceptable and in the final analysis would not reform the social allowance system in this province. To shift the burden to those who can least afford it should be unacceptable to all of us and must not come about.

We urge you to amend Bill 70 in three ways. If Bill 70 is only intended to be a framework piece of legislation, delete those sections that in any way limit cost-sharing of municipal social assistance. Two, if Bill 70 is only intended to be a framework piece of legislation to move towards standardization of rates, amend the bill to delete all municipalities, particularly the City of Winnipeg, whose rates already exceed the provincial rates. Three, if Bill 70 is intended to initiate the process towards a one-tier welfare system in the Province of Manitoba, amend the bill by giving the municipalities a clear voice at all future negotiations on rates, special needs, definitions and eligibility criteria.

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Finally, we conclude by stating that no government action should cause further harm to our children, especially our poor children. We must cherish all of our children. We cannot live in yesterdays. We cannot cling to old patterns of behaviour and thinking, when family changes and economic necessity presents us with a new set of circumstances.

To us, the question of child poverty is an economic issue. Do we value our children? Unless government policy responds positively to the urgency of reducing child poverty in the city and in this province, we put families, our children and the economy of the future at risk. Considering that one in four children in Winnipeg now grows up in poverty, public policy should not be permitted to remain behind the times and, certainly, should not be allowed to cause further hardship.

We thank you for listening to us. The hour is late, and we hope that you will make the necessary improvements to the legislation in front of you.

Mr. Martindale: Madam Chairperson, I would like to thank Ms. Bublick for another excellent brief. We appreciate the fact that the Social Planning Council has the resources and the staff time to do an in-depth analysis of the legislation and the SARC report, especially the SARC report, because the minister has repeatedly talked about it by way of press release and in answer to questions. But you point out that although the SARC report is the basis of Bill 70, they rejected two of its key recommendations. You also said on page 9 that this bill is really a cap on municipal assistance, and we have been calling this the capped bill in debate for several months now. So we certainly agree in our caucus with that part of your analysis. In fact, I personally did not see anything in your brief that I did not agree with. I agreed with everything that I read.

I would like to commend you, finally, for recommending amendments. I think the amendments are good ones, and I hope that the Minister of Family Services (Mr. Gilleshammer) will listen to your amendments and to all of the

presenters tonight who I think would like to see this amended. All the presenters are in agreement tonight in condemning, especially the capping provisions of this bill, and that the minister will bring in some amendments tonight to make major improvements to this seriously flawed bill.

Thank you.

Madam Chairperson: Are there any further questions?

Mrs. McIntosh: Not a question, really–the presentation was very thorough and quite clear–just a comment and that was to say how much I appreciate all the information that is in the packet. You have been very good corresponders, and I especially appreciate the little history. I knew some of it, but not all of it. I look forward to reading that and wish you well for the future as well as the past.

Ms. Bublick: Thank you.

Madam Chairperson: Thank you, Ms. Bublick.

I would like to call upon Aileen Urquhart, West Broadway Community Ministry.

Mary Davis, Private Citizen.

An Honourable Member: Mary Davis sends her regrets. She is unable to attend tonight.

Madam Chairperson: Greg Selinger, City of Winnipeg Councillor.

Mr. Greg Selinger (Councillor for Tache Ward, City of Winnipeg): Thank you for the opportunity to present tonight.

Councillor Douglas was unable to be here. Councillor Gilroy, who is the member of the Social Action Review Committee, is out of town, so I am pinch-hitting for both of those councillors tonight.

First of all, I would like to congratulate the minister for moving on dealing with the federal government's decision to offload on off-reserve Status Indians and pick up the cost for that with respect to the municipalities. I think that was a very positive gesture.

This bill, as I understand it, and it is somewhat like a city by-law. It has a lot of murky words in it that are very hard to understand until very much later, after you have made the decision. But it seems to me that when I read Section 5.3(1) that rates will be established by regulation. Is that correct? I just want to make sure that I understand the bill correctly. [interjection] Okay, if that is the case, the scenarios that have been presented to you by other delegations tonight, I would have to share those as well.

We, in the City of Winnipeg, have 90 percent of all the people on municipal welfare, and for those rates to potentially be capped by regulation I think would precipitate an even greater crisis than is already existing in the inner city right now and across the city.

As other presenters have indicated, we have a more generous definition of what basic needs are in the city of Winnipeg through a wider nutritional food basket, the ability to earn more money while you are on welfare, so there is a greater incentive to get out and find your own source of income by not deducting CRISP benefits and 55 Plus benefits, and also through wider provisions on eligibility for special needs, particularly in the medical sector with respect to drugs.

These benefits reflect the fact that the cost of living in the city of Winnipeg is higher. That is the very reason why they are done. They are not done frivolously. They are done after careful research by our social assistance department, and they are brought forward to meet the basic necessities of people in the city of Winnipeg.

So the very concept of capping it, to set up a standard provincial rate, I think, is specious. It is just not a reasonable approach. I mean, you have to have rates that adjust themselves to the living circumstances of the people in the particular communities they live in.

For example, housing costs in the city of Winnipeg are very high, and in the inner city they tend to be higher than even outside of the inner city, for the simple reason that rent controls are not very effective. The rent control system is a complaint-driven system, and many people who are moving into rental housing in the inner city do not know what the rates were before they moved there, so they cannot make a complaint after they have arrived.

The cost of housing is one of the contributing factors to why people are going to food banks, but the more basic factor is that welfare rates are less than 60 percent of the poverty line. Another report that was done by the Social Planning Council, by a senior researcher there named Harvey Stevens, who now works I believe in your department. You could have access to his research directly by talking to him.

His research showed that when the welfare rates drop below 60 percent of the poverty line, you see the phenomenon of food banks starting to pop up. In Winnipeg we have 173 food banks, far in excess of any of the hamburger outlets that we have, including McDonald's and Burger King. I think that speaks to a very serious problem that is developing in this province and in particular in this city.

So this concept of capping the rates, I think we have to move away from that. It is going to have very, very serious consequences.

With respect to the city, we made an official request at the last official delegation meeting, and I know that Mrs. McIntosh was there to have a special meeting on this topic with the provincial government, the Premier (Mr. Filmon) and the minister. We have not heard about that special meeting yet, so I would hope that this government would not move on any kind of rate capping until we have had that special meeting and had a chance to air all our concerns in a face-to-face way with respect to this topic.

I also understand, in talking to Councillor Douglas this evening, that the SARC committee has not concluded its deliberations at this stage, so I would not want anything precipitous done until that committee has had a chance to come to a conclusion.

As you know, welfare is a provincial responsibility that has been delegated by legislation to the City of Winnipeg. We already paid $15 million off the property tax for welfare last year. The welfare rolls have grown another 30 percent, and you could make a case that constitutionally no property tax dollars should be paying for welfare; they should be income tax dollars. So we are already doing more than we should in terms of what the constitutional responsibilities are. Because we are a creature of the Province of Manitoba, if you tell us we have to do it, we just simply have to do it, and that is the way it is. We have no choice over that because we have no protection under the constitutional framework of this country.

Any attempt to cap it and increase the property tax burden further, as you know, would be very, very reactive. There is a lot of pressure about property taxes in the city already. The $15 million that we paid out for welfare last year would represent about a 5 percent reduction in the mill rate if that was eliminated.

We take that financial expenditure very seriously, and it is a significant portion of our budget. The welfare rolls in the City of Winnipeg are up 500 percent since the 1983 recession. There were about 3,000 cases at that time. There are about 15,000 cases now. That is the highest rate since the Great Depression. I do not think we should take that lightly. When you have that many cases–that is not the total number of people; that is the cases. Those cases may have more than one member within the family. But a 500 percent increase over the 1983 recession speaks volumes to the problems we are having with poverty in the city and the problems of kickstarting our economy.

Previous speakers have spoken about child poverty being the highest in the country. The effect of capping in the City of Winnipeg would be to most directly impact on families with children. The evidence shows our rates for single individuals are lower than provincial rates, but our rates for families are higher. Any kind of capping attempt would directly impact on families, and we have the greatest number of families in our history on the city welfare rolls. We need meaningful job creation programs. We need the Core Area Initiative to get going again. We addressed that in the official delegation, and we saw a responsive chord with the government.

An attempt to reduce costs, I think, is only going to exacerbate the problems in the city and create other costs and other systems that are under your control, such as the child welfare system. In our case, it will create increased costs in the protection area, and we will have costs that we pay for through solving problems after they have been created rather than preventing problems. We would hope, before you proceed any further with this legislation, that you sit down and talk to the city about this and we find a way to make sure that we are protecting the families in the city, particularly at a time when they are growing, and that there really be no capping at all, that you withdraw those provisions from the legislation and we have a formula for cost-sharing welfare if you are going to delegate it to the city or any municipality that is based on the need relevant to that context.

It has to be a needs-driven approach, not some artificial standardization approach. Other speakers have said it as well, but it is my very firm conviction that we cannot solve our financial problems on the backs of those with the least amount of resources in our society. It does not make sense

economically; it does not make sense socially, and it will certainly come back to haunt us in many, many ways.

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I had the opportunity to go out on the Street LINKS program Friday night with the public health nurse and the community worker in the van and drive through the inner city. They are, as you know, a prevention program for AIDS, which is a very serious problem. They hand out supplies to people on the street to have them be able to engage in a healthier or safer lifestyle, and they also do a needle exchange. Most of those people are between the ages of 16 and 24. Most of those people are aboriginal people, and the majority of people on the street are also parents.

If we reduce welfare any further, we are going to be driving more and more people onto the street into the kinds of lifestyles that are very high risk and are going to cost us a lot more money in all kinds of costs, health care costs, protection costs, so I think that we have to look at the consequences of any attempt to reduce the basic resources which people need to survive, particularly when you have had the chance.

I know that there have been ministers who have been invited to go out on that tour. I hope you do it. As a person who worked on Main Street in the early part of my career, I found that the level of violence had increased, and I found the people experiencing that violence were younger than in the days when I worked out there. It was a bit of a jolt to me to see that. The people who were in the van who had worked there after I did had also found that it had increased since the time they had worked there.

The conditions are deteriorating and we cannot be withdrawing resources from these people at this time. It is getting to be a very desperate situation. With those comments, I conclude my presentation.

Madam Chairperson: Thank you very much.

Ms. Barrett: Thank you, Mr. Selinger. It was good to hear from the city some of the negative impacts that will occur if, as we fear, the regulations to Bill 70 come in at less than the current city rates. I say fear because we do not know. This is a very interesting piece of legislation in that the most important element of it is missing, and the minister chooses not to let us know beforehand what the most important piece of this legislation will be.

I also was interested in your concerns about the consultation process. I hope very seriously the minister takes your remarks to heart because he has said time and time again that there is a representative of City Council on the SARC committee. It would appear from your remarks that the consultation has not been as thorough or as complete as you might have hoped it would be. Perhaps the consultations that take place between the time of–if the bill passes–passage and the implementation of the regulations would be a little more thorough.

Mr. Selinger: I have just a comment on the SARC committee. Councillor Gilroy has indicated that he is one member, with a member of the administration on that committee, but we have 90 percent of municipal welfare cases in the city.

Even if he is outvoted on that committee, I do not think that can be the final decision. There has to be a direct consultation between the City of Winnipeg and the provincial government on something that is going to so seriously impact on our budget and on the people of the city of Winnipeg.

Hopefully, there will be a positive recommendation out of there to not cap the rates, but I would think that this should not be the final word on it, because of the proportionality argument, that we have the vast majority of people residing within the city of Winnipeg where the poverty conditions are probably the most severe and the most exacerbated.

Mrs. Carstairs: Thank you, Mr. Selinger. I just have a question which is rather hypothetical, but I think it is important for this committee to hear and that is, if, in fact, this bill passed as is without amendment, if there was capping and if the rates were set at rates other than the City of Winnipeg's, what is your best guess as to what the City of Winnipeg would do?

Mr. Selinger: You know, any decision made by City Council, at the best of times, is very hard to predict. I can tell you that I would not support a reduction of rates.

I notice that in the bill, there is a transitional clause which I think is intended to do some buffering if there are any changes to reduced rates. That is a positive gesture, but, I, for one, would not support that. It, just for me, would not be conscionable, but there is a very reactive taxpayer out there right now, and other councillors might react differently to other kinds of pressures.

As you know, we have had a lot of concern about reassessment, and we have had a lot of concern this year about any mill rate that was higher than the rate of inflation, even though the needs of the city are outstripping the rate of inflation. For example, the growth in the welfare caseload is 30 percent. That is not 1 percent. That is 29 percent higher than the rate of inflation.

We need to have further supports if we are going to be doing this job. We really act as an administrative vehicle for the province. It is not really our responsibility. It is really under the Constitution, the BNA Act, the responsibility of the province to provide health and welfare services. We are doing it because we have been legislated to do it. We do it as best we can, but we need the proper supports to do that.

Madam Chairperson: Are there any further questions?

Mrs. McIntosh: It is a question really actually for this presenter and the Choices presenter earlier. I do not know if you were reading from a piece of paper there or not, if it is possible to get a copy of your presentation.

Mr. Selinger: These are my own notes. I do not think anybody else could read them.

Mrs. McIntosh: Sort of doodle-doodley types? Okay. Well, that is all right. Is there one from the lady in the white who did the Choices presentation? Did she have a presentation that we can get? [interjection] I will look at the Hansard then. Okay. Thank you.

Hon. Harold Gilleshammer (Minister of Family Services): Madam Chairperson, I have just a couple of comments. The councillor asked if we would be making any decision before the process with the SARC committee is completed, and the answer is no, that we have more meetings scheduled with members of SARC to hear from not only the City of Winnipeg, but the MAUM and the UMM representatives. I am given to understand that may take a few months yet.

Certainly, we are aware of the request to meet with city officials, and while that request did not come to me, I am sure it will be honoured. The concerns that you have indicated about costs for municipal corporations, we are aware that all municipal corporations that are involved in social allowances pick up about 20 percent of the cost per individual case.

I have just another piece of information that the staff passed on to me. We talk a lot about families. I am told that 80 percent of the people on the municipal caseload in the city of Winnipeg are single people, so that is a factor that we should keep in mind, too, when we talk about this issue.

Mr. Selinger: If that is the case, there is no reason to cap it for families. They are not a proportionately large part of the budget, and they should not be suffering by any changes that are made in the rates.

Mr. Gilleshammer: I would just say that any decision on rates will be made after the SARC process has been completed and the consultations have been completed.

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Madam Chairperson: Thank you very much. Is it the will of the committee not to hear further presentations on Bill 70? Agreed. That completes consideration of public presentations to Bill 70.

I have been advised that this committee has been called again for tomorrow, Tuesday, June 23, 1992, at 2:30 p.m. in Room 254, Legislative Building, to consider clause-by-clause consideration of Bills 42, 64, 70 and 85. Is that agreed?.

Committee rise.

COMMITTEE ROSE AT: 12:19 a.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Re: Bill 85–The Labour Relations Amendment Act

The Winnipeg Chamber of Commerce, with a membership of 3,800 individual representatives from 1,500 member firms and organizations, is the voice of business on issues of common interest to the business community.

Regrettably, we are unable to personally appear to present our views but we do wish to put our general position on the record.

The Chamber supports the direction being taken in the amendments to The Labour Relations Act. The 1990 report of the Winnipeg Task Force on Economic Development identified several economic challenges facing Winnipeg, one of which was our business climate. The task force concluded that our labour laws are perceived as uncompetitive, a factor which may be working against Winnipeg in attracting new investment. The proposed amendments should serve to alleviate the

negative perception and to establish a better balance between labour-management interests.

Specific Observations

1. First Contract Provisions

The Chamber supports the requirement that, as a prerequisite to applying to the Manitoba Labour Board (MLB) for settlement of a first contract, a conciliation officer must report to the board on the efforts made by the parties to conclude a first agreement. This will help ensure that the two parties have bargained in good faith and exhausted all options for resolution before intervention by the MLB.

2. Certification Procedures

The amendments would result in a secret ballot vote on applications for certification when between 40 to 65 percent of the proposed bargaining unit have signed membership cards (extended from the existing 45-55 percent). Automatic certification would occur above the 65 percent threshold. We view this amendment as an improvement in that the wider margin for a vote should minimize situations where certification may have, or is perceived to have, been affected by intimidation or peer pressure. The Chamber would have preferred that the Nova Scotia model be adopted where there is an automatic certification vote for every application that has support of at least 35 percent of the employees. We believe a secret ballot vote is the most democratic approach to determining the true wishes of employees and would further reduce the likelihood of covert or overt coercion.

3. Employer Interference with Union During Certification Program

The Chamber is in favour of the repeal of Section 6(2) which deems certain statements by an employer during the certification process to be an unfair labour practice. We support in its place the amendments which would balance the interests of labour and management but preserve the individual employer's constitutionally guaranteed right to freedom of expression, while still preventing against the use of intimidation, coercion, threats, undue influence and interference with the formation or selection of a trade union.

The Winnipeg Chamber of Commerce

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Brief to the Legislative Review Committee concerning Bill 85 1992 Amendments to The Labour Relations Act

Introduction:

There is a temptation to let changes in the political stripe of government lead to significant alterations in labour relations legislation. A business-supported Conservative government gets pressure to make amendments that favour employers; a labour-supported New Democratic government is lobbied to make amendments that give unions the advantage.

The experience in British Columbia since the Barrett government of the early '70s is a classic example. Barrett hired Paul Weiler, a leader in labour relations thinking in North America, to draft and administer a Labour Relations Code. Many of the reforms introduced by Weiler have been adopted almost universally throughout Canada. However, in 1987, the Social Credit government hired Don Jordan, a management-side labour lawyer, to rewrite the legislation. When The Industrial Relations Act was passed, the B.C. Federation of Labour announced a boycott of the new Industrial Relations Council. Now that the Harcourt government has taken power, Vince Ready has been assigned to make further amendments, which will undoubtedly swing the pendulum back again.

Ontario's Rae government is in the process of making a significant number of amendments that have angered business leaders in that province, to the point where they have launched advertising campaigns against the changes. Many would argue that Ontario's current Labour Relations Act is very labour-friendly, and that to appease labour further, when the economy is so weak, is foolishness. However, the will of the Rae government to enact these amendments should not be doubted, regardless of the business lobby.

This is regrettable. What the working environment would benefit from most is a stable environment where changes in government do not lead to major changes in labour legislation, designed to swing the pendulum in favour of one side or the other. An equilibrium where unions have a reasonable opportunity to gain status, and then to serve as effective representatives of employees,

and where employers have a reasonable opportunity to assert their legitimate self-interest, is the ideal.

Since 1972, during the first Schreyer administration, which was the first NDP (as opposed to CCF) government in the country, Manitoba has in general had the most prolabour legislation among Canada's jurisdictions. This has not been true of all provisions, but of many. Those addressed in Bill 85 are among the more unique provisions that distinguish Manitoba from the other labour legislation across Canada.

It is noteworthy that when the Lyon administration was government from 1977 to 1981, no major changes were made to The Labour Relations Act. The Pawley government that followed introduced Manitoba's first legislation concerning imposed first contracts, then hired Marva Smith in 1983 to prepare a white paper on labour legislation reform, which led to 91 pages of amendments that took effect in 1985. Finally, final offer selection was introduced on June 4, 1987, after 18 years of internal struggle within the NDP concerning the viability of anti-scab legislation. This legislation was met with opposition from not only business, but half of the labour movement. Once implemented, it earned the support of many of the unions that had initially opposed it, but it was repealed by the Filmon government on March 31, 1991.

In this brief, I will review the proposed changes contained in Bill 85, one by one, in the context of where they would leave Manitoba in the Canadian context, and where, in my opinion, they would "improve" labour relations legislation, where they would have little impact and where they would have an adverse effect.

I express my personal opinion only. I am a labour relations and employment lawyer practising almost exclusively on the management side in labour relations matters and, for the past nine years, the sessional lecturer in Labour Management Relations at the Faculty of Law, University of Manitoba. The comments I express do not in any way reflect an opinion representative of the university or faculty, or the clients I represent.

(1) Section 2(2)

Manitoba has had, for many years, the most onerous statutory provisions in the country relating to establishing an exclusion from the bargaining unit concerning "managers". Where Ontario excludes any employee who "performs management functions", Manitoba only excludes an employee who:

1) performs "management" functions
2) "primarily"
3) such that it would be "unfair" to include them (s.1).

Section 2(2) adds that emrely supervising other employees does not exclude an employee. It is arguable that this section really adds nothing to the definition in S1, because it would not be "unfair" to include someone who merely supervises or directs the the work of other employees.

What situation is really contemplated here? A "lead hand" is responsible to supervise other employees, but is not necessarily in a conflict of interest with the employees he supervises, because he does not exercise significant discretion in administering the collective agreement, in the sense of:

a) hiring;
b) discipline and firing;
c) scheduling or assigning hours of work and overtime;
d) authorizing time off; or
e) evaluating the performance of the employees he supervises.

What is truly significant here is the jursiprudence of the Manitoba Labour Board interpreting these provisions. It is significant to note that our Board has consistently looked at cases from Ontario, British Columbia and Canada, at the rationale for the exclusion in those jurisdictions, to decide who should be included and excluded in Manitoba. The leading Manitoba cases in this area are consistent with the cases from other provinces and the federal sphere. The overriding principle is universal: giving access to collective bargaining to the maximum number of employees, balanced with the need to avoid conflict of interest within any particular bargaining unit.

I would say that decisions in Ontario and other jurisdictions outside Manitoba reflect an analysis stated in general in their legislation and spelled out in detail in Manitoba. I cannot think of examples where the differences in language in the legislation have led to different outcomes in exclusion issues. If there are such examples, it is unlikely that S2(2) would have produced such a difference, because

the more fundamental differences are in the use of the word "unfair" and "primarily" in S1.

I would be surprised if this amendment, standing alone, would lead to a different result in any case than if no amendment occurred. Where its effect would be neutral, I would recommend that no amendment or repeal occur.

(2) Section 6

This section concerns the employer unfair labour practice of interfering with union organization or administration. The focus of the amendment is on "formation or selection", the union's organizing drive.

S6(1) in its current form is very similar to the "interference" provision in other Canadian jurisdictions. The amendment to this first subsection, making it subject to employer free speech, does not amount to a substantial change in effect. Section 32(1) remains unchanged from its present form.

The potentially significant change is in subsection (2). This provision, unique in Canada, spelled out what statements made by or on behalf of an employer during the sensitive period of union organization would constitute interference and therefore an unfair labour practice by an employer. The significance of the unfair labour practice is mostly the discretionary certification provision, Section 41, that allows the board to certify without a vote a union that has not gained majority membership support, because the true wishes of the employees can no longer be ascertained by reason of the unfair labour practice. Section 41 will survive these amendments.

Section 6(2) deems the following employer statements to be unfair labour practices:

a) he objects to unions or the union;

b) he prefers one union over another; or

c) some attitude or policy of the employer will change if the union is certified.

On its face, S6(2) is unduly restrictive on free speech. Most practitioners felt that this section would never survive the Charter, S2 (freedom of expression). However, in 10 years of life under the Charter, the section has not been truly tested. Any employer wanting to challenge the section would have to realize that final victory could only be achieved in the Supreme Court of Canada, as the government would appeal any adverse ruling of a lower court. Any individual employer would have to balance the cost of mounting such a challenge against what might be gained. No one pursued it.

It is not all that clear to me that S6(2) would have failed a challenge. Nearly all Charter cases in the labour relations area have produced judgments that pay singular homage to the political essence of the law in this field. Provisions that contain clear prima facie breaches of freedom of expression, association and assembly have been saved under S1 of the Charter, on the basis that the political considerations that have prompted these limits justify them. The examples are too numerous to mention.

To say that S6(2) may survive a Charter attack is not to say that S6(2) is desirable legislation. The premise of the section is that an employer is restricted to a position of strict neutrality, and is not to participate in the debate among employees and the organizing union as to whether establishing a union as exclusive bargaining agent is in the best interests of the employees. Any statement of the employer concerning the unionization would offend that neutrality, and therefore the employer is, in effect, directed to remain silent on the topic.

Is this so different from the situation in other jurisdictions? The Ontario decision in The Globe & Mail case suggests that total neutrality is not required in that province, so long as the employer's statements about the union are purely factual and accurate. The Canada Labour Relations Board in the American Airlines case insisted on complete neutrality and non-participation from the employer. A good case can be made that the federal approach is to be preferred, because it eliminates any confusion as to what speech is permissible and what is not. An Ontario employer could easily be seduced by The Globe & Mail into crossing the boundary into unlawful interference. Once the employer enters the debate, it is difficult to avoid going too far in attempting to influence employees. Many employers in Ontario have been held to have interfered with the formation or selection of a union, and therefore committed an unfair labour practice, by making statements that let the employees know that the employer was opposed to the union. It could be the lack of specific language in the interference section that led to the breach. In Manitoba, an employer clearly understands from S6(2) that no communication is permitted.

On balance then, I feel there is merit in spelling out in S6(2) what communications are prohibited

during the organization drive. It is consistent with the Wagner Act (and in Canada, P.C. 1003) promise to trade unions that in exchange for giving up the right to strike for recognition, they would be secure from employer campaigns to discourage union support. The practical effect of the section does not go much farther, if at all, than the jurisprudence of the other jurisprudence has gone in limiting employer free speech during the organizing drive. The section clarifies for the unsophisticated employer what is permitted and, more importantly, what is not.

I do have a concern with S6(2) however. The vicarious liability aspect is unfair. The provision fails to make clear whose speech is limited and whose is not. The employee who has some supervisory responsibilities, but is not an alter ego of the employer, may by expressing his opinion about the union, deem the employer to have committed an unfair labour practice. I would prefer to see the restriction apply only to those authorized to speak on behalf of the employer, and to permit open debate among all employees below that level.

The proposed amendment to S6(3) concerns me as well. Section 6(3) exempts certain acts from being viewed as interfering with a union. The proposed amendment would add to the list:

"(f) communicates to an employee a statement of fact or opinion reasonably held with respect to the employer's business".

Would an employer who sincerely believed that her business would fail if the union were certified be entitled to inform her employees that they might lose their jobs if they support the union? Such a belief may be viewed as reasonable, particularly by business, but such communication to employees would undoubtedly have a chilling effect, and borders on a breach of S17 (threats, intimidation, coercion). I feel the inclusion of such a provision will create more problems than it will solve. It is also unarguably inconsistent with the preamble to the Act, that enourages collective bargaining.

(3) Section 45

This amendment is in effect a companion to S6. It obliges the union to inform prospective union members about how much it will cost to join, in terms of initiation fees and periodic dues deducted from pay. It ensures that employees hear both advantages and disadvantages of joining a union. I do not view the change as being of great significance. Any intelligent shopper would insist on knowing how much the merchandise costs before agreeing to buy it, and no honourable salesperson would fail to give it a proper answer.

This proposal ignores what is really needed in this province. I suspect it is ignored because it would cost government money.

What is truly needed is a worker's advocate, independent of business, labour, the board and all other existing institutions. Such an advocate would be able to advise employees who want independent information about:

1) their right to choose a union, or a different union;
2) their right to choose no union;
3) exclusion from the bargaining unit (managerial or confidential);
4) protection from unlawful treatment by their employers;
5) their right to information;
6) the procedural requirements of the Act, e.g., as to certification and opposing certification and as to decertification;
7) the union's duty of fair representation;
8) safety and health complaints;
9) advantages, disadvantages and tactics of filing human rights complaints; and
10) probably much more that I have not considered.

Employees who require this assistance now face a number of unattractive alternatives. Employers and unions cannot be trusted because of their vested interested. The Labour Board is too directly involved with adjudication to be truly independent, and lacks the resources to accomplish what is needed. Other government bureaucracies either involve individuals with insufficient breadth of knowledge to give this information, or have their own self-interest in steering employees in a particular direction. The legal profession is intimidating because legal advice is so expensive, and legal aid does not cover this kind of service.

The lack of such an advocate is the single greatest weakness in our labour legislation, in my view.

This proposal is a baby step in the right direction.

(4) Section 40 and 48.1

The S40 proposal expands the range for a representation vote from 45-55 percent to 40-65

percent. On its surface, it means more representation votes will be conducted. In practice, it will likely mean longer organizing campaigns.

It might be fairer to require employers to post in each non-union workplace a list of non-management employee names, addresses and classifications, to enable an organizing union to determine the target it has to meet, and give it reasonable access to the affected employees. This would be consistent with the principles espoused in the preamble to the Act.

Another alternative would be to require the union only to achieve 40 percent and to have a quick vote in every application where this level was demonstrated. This is the system that has been adopted in Nova Scotia. Longer campaigns lead employers into temptation. They are not allowed to attempt to influence employee wishes. The proposed amendment to S48 would prohibit campaigning on the day of the vote, which is fine. By then, however, the damage may have been done.

Paul Weiler has written an excellent article on certification principles, comparing the Canadian and U.S. systems. It points out how the U.S. system that offers a vote in every application has failed to provide access to collective bargaining to many American workplaces. The article was published in the Harvard Law Review and is entitled, fittingly, ". . . Promises to Keep".

(5) Section 87

The proposed amendments to S68(3.1) and section 87 requiring that conciliation be exhausted before first contract applications are accepted is very positive. This is a procedure which has been abused on occasion in the past. The current legislation can lead to unnecessary hearings and contract impositions, which should be used only as a last resort.

Providing the alternative of private interest arbitration instead of a board hearing, but only when the parties mutually agree to a private arbitrator, is an excellent alternative. I only wish to add that in my view, the Manitoba Labour Board has done a commendable job in implementing S87, and has in general imposed fair contracts. The board will benefit considerably from the requirement that conciliation be exhausted before applications are accepted. The same requirement must apply to strikes and lockouts for first contracts, and arguably should apply to all contracts, as in Ontario.

Manitoba's first contract legislation has been, in my view, a successful experiment in its "no fault" aspect. I have just published a paper in the Canadian Journal of Administrative Law and Practice on the subject of first contracts and FOS. I commend the minister for leaving this legislation otherwise intact.

(6) Section 80(3) and 130(6)

The repeal of S80(3) will not have a profound effect on labour relations in Manitoba. It refers to matters outside a collective agreement, which was somewhat inexplicable from the beginning. Repealing the section is in that sense positive. As a substitute, the minister might have considered allowing provisions that oblige both parties to behave reasonably, fairly, in good faith and in a manner consistent with the agreement as a whole. I believe these are allowed in any event, and in fact are found in some collective agreements.

The repeal of S130(6) is also less than earth shattering. Is it intended to have the effect that no Vice-Chair of the Board can be appointed an expedited arbitrator, even if the Labour Management Review Committee has approved the individual as a grievance arbitrator? This would seem nonsensical. On the other hand, limiting the list to persons who had been so approved would make perfect sense. Just because an individual has a five-year appointment to the board from the Legislature does not make her a qualified grievance arbitrator.

If all Vice-chairs are perforce excluded from expedited arbitration, the government may find it more difficult to convince qualified neutrals to accept part-time appointments to the Labour Board.

Conclusion:

The restraint demonstrated in putting forward the proposed amendments is commendable. These provisions indicate that there is not a desire to over-politicize the labour relations climate, leaving it stable enough to encourage new business, new trade union organization and to reassure those involved in existing, working collective bargaining relationships that they can function together on a level playing field.

I do hope that at some point, a government will establish a worker's advocate that could provide independent advice to individual employees.

Respectfully submitted,
Grant Mitchell

* * *

Re: Bill 64, an amendment to The Child and Family Services Act

With this correspondence, please accept our written submission at the committee stage. This submission is presented on behalf of Child and Family Services of Central Manitoba and Child and Family Services of Western Manitoba.

We have read the bill thoroughly and want to compliment this government on being only the third provincial Legislature in Canada to propose an amendment to create the office of the Child Advocate. Recent history in Manitoba is truly indicative of the need for legislation of this sort. All of us who toil in child welfare in this province recognize that the role of Child Advocacy is a necessary function in order that vulnerable and defenseless members of our society can be served and protected by law and those who enforce it.

On Friday, 10 April, 1992, the Honourable Harold Gilleshammer, Minister of Family Services and the sponsor of this bill, made a panel presentation at a conference at the Sheraton Hotel in Winnipeg. This conference was organized by the Manitoba Coalition on the Rights of Children.

Mr. Gilleshammer spoke at length about this bill and answered some of the public questions that came to him. In his remarks, the minister stated that the role of the Child Advocate would be to recommend action in three areas under The Child and Family Services Act:

1. Action in specific areas involving children who have a right to services under this act.
2. Action involving a whole category of children being served or underserved by the act.
3. Action that would involve systemic action to ensure the care and protection of children.

Those remarks were helpful and we would like to thank the minster for offering that perspective on this bill.

CRITIQUE

Many of us were disappointed on the face of it to see that the bill was an amendment to existing legislation. The expectation had been that this would be a stand-alone piece of legislation parallelling The Ombudsmans Act. This method of presentation drove home the message that the Child Advocate would only be mandated under The Child and Family Services Act and only be entrusted with a role with those children who are being or have a right to be served under this act. Clearly, this is a response to some of the recent difficulties with some element of the child welfare service system especially as it relates to issues such as timely reporting of abuse allegations. However, we believe that responsive legislation of this sort may be ultimately shortsighted.

In Mr. Gilleshammer's remarks of 10 April, 1992, we heard a very progressive statement about advocating for systemic change. Unfortunately, that role for the Child Advocate cannot be actualized in this bill. The focus on child welfare alone is not a realistic view of the child in the context of family and community. Every child in this province attends school and many are involved with children's special services or mental health services. Some children run afoul of the law and find themselves involved with the youth court system, and all children must, from time to time, take advantage of our health system for their own health concerns. Given these realities for children and their families, a focus for advocacy on child welfare alone is too narrow. This is especially true if we believe in an interdisciplinary and integrated service approach to children and families.

Integration of services to children and families is a value which has achieved a great deal of acceptance among policy makers involved in the development of these services. Community and Youth Corrections and Manitoba Education and Training are two functions of government who are on the verge of proposing the beginning stages of integration. Legislation creating the Child Advocate's office could serve to enhance these initiatives by ensuring that this office has a broad enough mandate. Integration recognizes the whole child and accepts that every child in this province has a right to all manner of services provided or funded by the provincial government. In fact, and in reality, more children take advantage or are entitled to service under The Public Schools Act than they are under The Child and Family Services Act. There is no recognizable advocate in law within that legislation even though more Manitobans under the age of 16 are served by it. This is but one example of the need for the expansion of these duties and the need for independent legislation.

If Bill 64 is read with the current act, the reader is struck with the problem of the role of the Child Advocate vs. the role of the director. It read as if legislation is being used to create Civil Service positions but the reporting is directly to the minister. Clearly, prior to the introduction of this bill, the director had the duties currently contained in this bill. So in that sense, this role is not a new role but merely a creation of a new position with a different reporting line to fulfill it.

Although we recognize that regulations have not yet been prepared, this bill appears to duplicate the role of the current Ombudsman in some respects. Accountability for publicly funded services is not a bad thing. However, the growing number of external entities to whom Child and Family Services is accountable appears overdone and therefore may be viewed as a waste of public funds. With bill 64, we see one more level of accountability but only within a limited framework; that of Child and Family Services. This means potentially the Ombudsman and the Children's Advocate may both be involved in reviewing a case situation involving one child. Again, this addresses the concern previously stated, about viewing the whole child and the need for integration of policy.

We recognize with this critique that the minister has committed to an evolving role for the Child Advocate and that this amendment is a beginning. However, we can safely predict that the responsibilities as outlined in the amendment will not fulfill the government's expectations nor the expectations of the people of Manitoba. We also know that future changes to legislation are difficult to conceive. Therefore, we believe that the legislation should be written correctly the first time without a dependency on future amendments.

PROPOSAL

Given the need for a Child Advocate's office and given the value of Integration of children's services, we would like to see the following changes made to this whole initiative.

1. The current bill be redrafted to be a separate, stand-alone piece of legislation.
2. The duties of the Child Advocate be expanded to include all services under government purview involving services to children. This would essentially involve the Departments of Family Services, Justice, Health, and Education and Training.
3. Given No. 2, that the Child Advocate's Office report to the social service committee of cabinet with an annual report to the whole Legislature.

We trust that these comments are helpful in considering the future of this very vital function in this province.

Yours truly,
Dennis H. Schellenberg
Child and Family Services of Central Manitoba

* * *

Re: Bill 64–The Child and Family Services Amendment Act

We are writing to the committee to lend our support to the passage of Bill 64, The Child and Family Services Amendment Act.

Children in Manitoba who are receiving services from The Child and Family Services system have long needed a children's advocate, over and above the social worker, to speak with a loud and effective voice on their behalf and to give them input into decisions which affect their lives in the immediate and in the future, in addition to effecting necessary changes in the system for the benefit of these children. Many studies and reports have long advocated such an office and the pressing need for same which, when implemented, could only be of benefit to these children.

Manitobans have long discussed the need for a children's advocate and the benefits thereto. It is with the above in mind and the growing need for the said office that we strongly lend our support for this bill.

Yours truly,
Jerry G. Ross, B.A., B.S.W., M.S.W., LL.B.

* * *

To the Honourable Harold Gilleshammer:

It has recently come to my attention that the child advocacy bill is in jeopardy.

I have felt for some time that this bill is extremely necessary given the unfortunate plight of many children in Manitoba, as is frequently demonstrated in the newspaper and on television.

I had also felt that all political parties would be behind this much-needed legislation, but I was

distressed to hear that there appear to be problems standing in the way.

It seems to me that the ideal scenario would be a child advocate who would be totally free of all political stripes, i.e., a person to whom children in need would turn to without fear of any political interference. A true ombudsman, devoted to children's problems regardless of whether the child is a ward of court or just any child with special needs.

However, I understand that this person will have to be accountable to either the minister, a committee of the Legislature, or the Legislature as a whole.

I believe that reporting to the minister would make more sense, as any crisis situation would be dealt with more expeditiously than having to report to a group.

It would be a great pity if this important piece of legislation should fail to be complemented now due to some petty political infighting.

Yours sincerely,
Gillian P. Colton

* * *

S.K.Y. - STREET KIDS and YOUTH
Proposed Amendments to Bill 64

1. The Children's Advocate should be responsible to the entire Legislature (as is the Provincial Ombudsman) and not to one minister.

Such a structure would allow the advantage of independent status and free inquiry into matters regardless of the government department which may be involved.

An independent status would also add to the public credibility of the Children's Advocate, as the position would be perceived as separate from party interests or influences.

(Amend 8.2(1)(a); 8.2(d); 8.2(2); etc.)

2. Bill 64, entitled The Child and Family Services Amendment Act, must also encompass the rights of children not currently within the Child and Family Services system.

The phrase "relating to children who receive or may be entitled to receive services under this act" should be amended to be inclusive of all children residing in the province of Manitoba.

It is clear that many children who do not fall within the current structure or service delivery of the Child and Family Services system are also entitled to the advocacy, assistance, intervention and protection of the Children's Advocate. That they are not formally identified as "children in care" does not imply that they are children not in need of care either within or outside the Child and Family Services system.

According to the United Nations Convention of the Rights of the Child, all children have the right to freedom of expression; freedom of thought, conscience and religion; freedom of association; protection of privacy; protection from abuse and neglect; health and health services; social security; a standard of living "adequate for his or her physical, mental, spiritual, moral and social development"; education; and leisure, recreation and cultural activities.

The Children's Advocate should be granted the breadth of scope and freedom to fulfill the function of addressing the needs and rights of all children, regardless of their status within or outside the child welfare system.

3. The Children's Advocate should recognize communication and visiting with a child as a primary source of information which may be complemented by communication and visiting with the child's guardian or representative.

The present wording of 8.3(d) implies that a visit with a guardian or representative of the child is an acceptable alternative, and not an addition to, time spent with a child. This is neither appropriate nor acceptable as it fails to assure the child of a voice while acknowledging the voice of the guardian or parent as a sufficient alternative.

(Amend 8.3(d) to read "under this act, and a guardian or other person who represents the child").

4. The powers of delegation bestowed upon the Children's Advocate in Section 8.4 is at best vague. As it presently stands, the advocate may delegate any task to any person at any time. Those tasks, the positions/persons permitted to carry out those tasks and the timeframe(s) during which they may be delegated should be clearly specified by Bill 64.

(Amend 8.4)

5. The procedure outlined in 8.8(3) for reporting to the placement centre could very probably place the child's safety in jeopardy.

If a child has a complaint against the person in charge of the placement facility in which they are currently residing and the Child Advocate proceeds to report the results of the investigation to that same staff person while the child is still in his/her care, the child may not be safe.

As children involved with the child welfare system will be aware of this procedure and the risk it may pose to their personal safety, any number of children may decide not to proceed to launch a complaint or concern with the Children's Advocate, thereby nullifying the original intent of Bill 64.

This procedure must be amended in recognition of this possibility and a more safe and appropriate procedure outlined.

(Amend 8.8(3)).

6. It is important the reporting procedure to the complainant be standardized. As it currently reads, the Children's Advocate may decide upon "appropriate" reporting procedures in the absence of any standard format. These procedures must be clarified and specified to encourage public understanding and trust of the role of the Children's Advocate.

(Amend 8.8(4)).

7. The communication by a child to the Children's Advocate through the intermediary of a staff person at the home or treatment centre where they are currently residing is not a realistic procedure; in fact, it is almost laughable.

Even if a child can overcome the intimidation of the power structure and the individual staff charged with enforcing that structure sufficiently enough to file such a request for communication with the Children's Advocate, how can the child be assured that the staff person will forward that request (when it may concern themself or a co-worker)?

If the office and role of the Children's Advocate is to be accessible to the people it purports to serve, namely children, it must be accessible in practice, recognizing the barriers children face as the subordinates of an adult power structure.

(Amend 8.9(a)).

8. Sections 8.10(2) concerning disclosure re duties and power and 8.10(5) concerning disclosure re adoption records must also be clarified, as their current wording is vague.

Respectfully submitted by
Gayle Pearase
SKY Project Director