



Third Session - Thirty-Fifth Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE

on

INDUSTRIAL RELATIONS

39-40 Elizabeth II

*Chairperson
Mrs. Shirley Render
Constituency of St. Vital*



VOL. XLI No. 4 - 2:30 p.m., TUESDAY, JUNE 23, 1992

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

Members, Constituencies and Political Affiliation

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	Liberal
ASHTON, Steve	Thompson	NDP
BARRETT, Becky	Wellington	NDP
CARSTAIRS, Sharon	River Heights	Liberal
CERILLI, Marianne	Radisson	NDP
CHEEMA, Gulzar	The Maples	Liberal
CHOMIAK, Dave	Kildonan	NDP
CONNERY, Edward	Portage la Prairie	PC
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	NDP
DOER, Gary	Concordia	NDP
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
EDWARDS, Paul	St. James	Liberal
ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Clif	Interlake	NDP
EVANS, Leonard S.	Brandon East	NDP
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen, Hon.	Springfield	PC
FRIESEN, Jean	Wolseley	NDP
GAUDRY, Neil	St. Boniface	Liberal
GILLESHAMMER, Harold, Hon.	Minnedosa	PC
HARPER, Elijah	Rupertsland	NDP
HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	NDP
LAMOUREUX, Kevin	Inkster	Liberal
LATHLIN, Oscar	The Pas	NDP
LAURENDEAU, Marcel	St. Norbert	PC
MALOWAY, Jim	Elmwood	NDP
MANNES, Clayton, Hon.	Morris	PC
MARTINDALE, Doug	Burrows	NDP
McALPINE, Gerry	Sturgeon Creek	PC
McCRAE, James, Hon.	Brandon West	PC
McINTOSH, Linda, Hon.	Assiniboia	PC
MITCHELSON, Bonnie, Hon.	River East	PC
NEUFELD, Harold	Rossmere	PC
ORCHARD, Donald, Hon.	Pembina	PC
PENNER, Jack	Emerson	PC
PLOHMAN, John	Dauphin	NDP
PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	NDP
REIMER, Jack	Niakwa	PC
RENDER, Shirley	St. Vital	PC
ROCAN, Denis, Hon.	Gladstone	PC
ROSE, Bob	Turtle Mountain	PC
SANTOS, Conrad	Broadway	NDP
STEFANSON, Eric, Hon.	Kirkfield Park	PC
STORIE, Jerry	Flin Flon	NDP
SVEINSON, Ben	La Verendrye	PC
VODREY, Rosemary, Hon.	Fort Garry	PC
WASYLYCIA-LEIS, Judy	St. Johns	NDP
WOWCHUK, Rosann	Swan River	NDP

**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS**

Tuesday, June 23, 1992

TIME – 2:30 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mrs. Shirley Render (St. Vital)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Mr. Gilleshammer, Hon. Mrs. McIntosh,
Hon. Mr. Praznik

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

Substitution:

Mr. Lamoureux for Mrs. Carstairs (1602)

MATTERS UNDER DISCUSSION:

Bill 42—The Amusements Amendment Act

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: Will the Standing Committee on Industrial Relations please come to order.

Since all public presentations have been heard and as agreed by this committee last night, today we will proceed with clause-by-clause consideration of the following bills: Bill 42, The Amusements Amendment Act; 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.

I have read the bills in numerical order. However, what is the wish of the committee? Which bill should we be considering first?

Hon. Harold Gilleshammer (Minister of Family Services): We would like to deal with Bill 64.

Mr. Steve Ashton (Thompson): Yes, we are in agreement with that, and if we could deal with Bill 70 following that—

Madam Chairperson: Okay.

Mr. Ashton: —and then either 85 or 42.

Madam Chairperson: So agreed: first, Bill 64; second, Bill 70; third, Bill 42; last, Bill 85. Agreed.

Before we proceed with clause-by-clause consideration of the bills, I would just like to mention that we have received one further written submission to Bill 85, from Grant Mitchell, private citizen. This has been distributed to committee members.

* (1450)

**Bill 64—The Child and Family Services
Amendment Act**

Madam Chairperson: We will now proceed with Bill 64. Does the honourable minister have an opening statement?

Hon. Harold Gilleshammer (Minister of Family Services): I am pleased to have been able to bring this bill forward and hear a few presentations last night on this bill, and would be prepared to proceed to clause-by-clause consideration.

Madam Chairperson: Does the critic of the official opposition have an opening statement?

Ms. Becky Barrett (Wellington): I do have some concerns, a great many concerns, about Bill 64, but I will put them on record in a more detailed fashion when we get to third reading so that we can carry through the clause by clause as expeditiously as possible, since we have a fair number of bills to deal with this afternoon.

I would, however, like to share with the committee and particularly the minister that I will have several amendments to Bill 64 that I will be bringing forward this afternoon. They relate particularly to, and respond particularly to, the main point of concern that was raised by all of the presenters at the public hearings last night, both those who presented in person and those who made written briefs. That

was relating generally to the concern that has been, throughout the discussion that we have had in the House and in the committee hearings, about the reporting mechanism of the Children's Advocate.

I did want to put on record that the concerns that have been raised by individuals and groups about the reporting mechanism for the Children's Advocate is one that I share very deeply and would hope that the minister would be able to agree with and, having listened to the speeches and the briefs and the presentations, would change his mind about the reporting mechanism and the basic impact of Bill 64, particularly in light of the large body of evidence, not only from the presenters on this bill, but the decade-long number of reports that have been engendered by very well-known and acknowledged experts in the field of children, from a range of backgrounds, from Judge Kimelman's report all the way through Ms. Suche's report of just a few months ago.

I would also like to say that I think that one of the major concerns that we have with this bill is its apparent lack of consultation undertaken with the various groups that deal directly with children in this province and the fact that it appears to not deal appropriately or as broadly as it should with the fact that children in need in this province and children who could and should be able to access the advocate will not be able to do so because of the narrowness of the reporting mechanism.

So, Madam Chairperson, with those remarks, I would be prepared to carry on with clause by clause.

Madam Chairperson: Does the critic for the second opposition have an opening statement?

Mrs. Sharon Carstairs (Leader of the Second Opposition): The concept of a Child Advocate and a Child Advocate's office is an excellent one. Unfortunately, this bill is a pale imitation of all that those who work in the field would expect and want from a child advocate.

In order to make this legislation viable, three things would have to be done. You would have to broaden the scope of the legislation to include agencies other than Child and Family Services, to include other aspects of the day-to-day life of a child that would include obviously, but not exclusively, education and health.

You would also have to have a reporting procedure which would make it free and independent from any one ministry because, when

one broadens the scope, it would not make sense to have the reporting procedure to one ministry, and the only logical proceeding for reporting would be the Legislative Assembly.

Thirdly, in order to make this whole function viable, it would have to have an investigation arm which would lead it to have the power and the authority to actually investigate offences against children but also provide the ammunition necessary to seriously advocate on behalf of children.

This is not a new idea. It is not an idea that is new to this province. It was first recommended by Kimelman in '83, by Reid-Sigurdson in '87, by the AJI in '91 and by Colleen Suche in '92.

It is unfortunate that we are now dealing with a bill that mimics what those in the field would really like to see in such a piece of legislation, and I can only hope that the minister will be introducing legislation to give this child advocate position true viability instead of just lip service, which is what this bill is. Thank you.

Ms. Barrett: Before we begin the clause-by-clause, I would like to ask the indulgence of the committee. I have been asked by legislative counsel to give my copy of the amendments that I have. They did not have copies of the amendments, and they are in the process of photocopying those amendments. So I would beg the indulgence of the committee to take a recess until those amendments have been photocopied.

Mr. Jack Reimer (Niakwa): On that point of order with the honourable member, would those amendments be in the first few clauses so that we cannot proceed to the clause and then wait?

Ms. Barrett: Yes, the first amendment deals with the very first or second clause of the bill. I apologize, but I was just asked at the beginning of these proceedings if I would be willing to give my copies up because they did not have a copy of the amendments.

Madam Chairperson: Okay, Bill 64 will now be considered clause by clause. During the consideration of a bill, the title and the preamble are postponed until all other clauses have been considered in their proper order by the committee.

Let us begin with Clause 1. Clause 1—pass; Clause 2—pass; Clause 3—pass. Clause 4, starting at bottom of page 1 going through to page 2, page 3 to page 4.

* (1500)

Ms. Barrett: Madam Chairperson, I move

THAT the proposed section 8.1, as set out in section 4 of the Bill, be struck out and the following substituted:

Appointment of children's advocate

8.1(1) The Lieutenant Governor in Council shall, on the recommendation of the Legislative Assembly, appoint a children's advocate who shall be an officer of the Legislature.

Salary

8.1(2) The children's advocate shall be paid a salary fixed by the Lieutenant Governor in Council which shall be charged to and paid out of the Consolidated Fund.

Reduction of salary

8.1(3) The salary of the children's advocate shall not be reduced except on resolution of the Legislative Assembly carried by a vote of 2/3 of the members voting on the resolution.

Removal or suspension

8.1(4) The Lieutenant Governor in Council, on a resolution of the Legislative Assembly carried by a vote of 2/3 of the members voting on the resolution, may suspend or remove the children's advocate from office.

Application of Civil Service Superannuation Act

8.1(5) The children's advocate and all persons employed by the children's advocate are employees within the meaning of The Civil Service Superannuation Act.

Application of Civil Service Act

8.1(6) The children's advocate is not subject to The Civil Service Act but is entitled to the privileges and perquisites of office, including holidays, vacations, sick leave and severance pay, of a member of the civil service who is not covered by a collective agreement.

Employees under children's advocate

8.1(7) The Civil Service Act applies to persons employed by the children's advocate.

[French version]

Il est proposé que l'article 8.1, énoncé à l'article 4 du projet de loi, soit remplacé par ce qui suit:

Nomination du protecteur des enfants

8.1(1) Sur recommandation de L'Assemblée législative, le lieutenant-gouverneur en conseil nomme un protecteur des enfants, lequel est un haut fonctionnaire de l'Assemblée.

Rémunération

8.1(2) Le lieutenant-gouverneur en conseil fixe la rémunération du protecteur des enfants, laquelle est payée sur le Trésor.

Réduction de rémunération

8.1(3) Seule l'Assemblée législative peut, par résolution votée aux 2/3 des suffrages exprimés, réduire la rémunération du protecteur des enfants.

Destitution ou suspension

8.1(4) Le lieutenant-gouverneur en conseil, à la suite d'une résolution votée par l'Assemblée législative aux 2/3 de suffrages exprimés, peut suspendre ou destituer le protecteur des enfants de ses fonctions.

Loi sur la pension de la fonction publique

8.1(5) Le protecteur des enfants ainsi que les personnes qui travaillent pour lui sont des employés au sens de la Loi sur la pension de la fonction publique.

Loi sur la fonction publique

8.1(6) Le protecteur des enfants n'est pas soumis à la Loi sur la fonction publique. Par contre, il a droit aux privilèges et aux avantages sociaux, y compris les jours fériés, les vacances, les congés de maladie et les indemnités de licenciement, qui sont applicables aux employés de la fonction publique non régis par une convention collective.

Employés du protecteur des enfants

8.1(7) La Loi sur la fonction publique s'applique aux employés du protecteur des enfants.

I move to amend Clause 8.1 with respect to both English and French texts.

Motion presented.

Madam Chairperson: With respect to both English and French, shall the motion pass?

Some Honourable Members: No.

Ms. Barrett: Yes.

Madam Chairperson: Shall all those in favour of the proposed motion, say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

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

Ms. Barrett: On division.

Hon. Darren Praznik (Minister of Labour): I was just going to suggest it is a little inconvenient when we use the term "on division." Let it just have the record show that the Progressive Conservative members of the committee voted one way and the opposition members voted the other way.

Madam Chairperson: Agreed?

Some Honourable Members: Agreed.

Madam Chairperson: Subclause 8.1—pass; 8.2(1)—pass; 8.2(2)—pass.

8.3.

Ms. Barrett: I move

THAT the proposed clause 8.3(e), as set out in section 4 of the Bill, be amended by striking out "other than as legal counsel, to represent" and substituting: "to represent, as legal counsel or otherwise,"

[French version]

Il est proposé que l'alinéa 8.3e), énoncé à l'article 4 du projet de loi, soit amendé par substitution, à "sauf à titre d'avocat, représenté", de "représenter, notamment à titre d'avocat,".

With respect to both English and French texts.

Motion presented.

Madam Chairperson: All those in favour of the proposed amendment, say yea.

An Honourable Member: Yea.

Madam Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

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

Ms. Barrett: On division.

Madam Chairperson: Agreed?

Some Honourable Members: Agreed.

Madam Chairperson: Clause 8.3—pass; Clause 8.4—pass; Clause 8.5—pass; Clause 8.6—pass; Clause 8.7—pass; 8.8(1)—pass; 8.8(2)—pass; 8.8(3)—pass.

Shall Clause 8.8(4) pass?

Ms. Barrett: I move

THAT the proposed section 8.8, as set out in section 4 of the Bill, be amended by striking out "may report" in subsections (3) (4) and substituting "shall report".

[French version]

Il est proposé que l'article 8.8, énoncé à l'article 4 du projet de loi, soit amendé:

a) au paragraphe (3), par substitution, à "peut faire rapport", de "fait rapport";

b) au paragraphe (4), par substitution, à "peut transmettre", de "transmet".

Motion presented.

Madam Chairperson: Shall the proposed amendment pass? All in favour, say yea.

Some Honourable Members: Yea.

Madam Chairperson: All opposed?

Some Honourable Members: Nay.

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

An Honourable Member: On division.

Madam Chairperson: On division.

Some Honourable Members: Agreed.

Madam Chairperson: Agreed.

Clause 8.8(4)—pass; Clause 8.9—pass; 8.10(1)—pass; 8.10(2)—pass; 8.10(3)—pass; Clause 8.10(4)—pass; 8.10(5)—pass; 8.11—pass; 8.12—pass.

Mr. Gilleshammer: Madam Chairperson, I propose to move an amendment to Bill 64, The Child and Family Services Amendment Act.

THAT section 4 of the Bill be amended by adding the following after the proposed section 8.12:

Review by Committee

8.13 Within three years of the coming into force of this section, the committee of the Legislative Assembly, designated or established by the Legislative Assembly for the purpose, shall undertake a comprehensive review of the operation of this Part and shall, within one year after the review is undertaken or within such further time as the Legislative Assembly may allow, submit to the Legislative Assembly a report on the operation of this Part, including any amendments to the Act which the committee recommends.

[French version]

Il est proposé que l'article 4 du projet de loi soit amendé par adjonction, après l'article 8.12, de ce qui suit:

Révision par le comité

8.13 Au plus tard trois ans après l'entrée en vigueur du présent article, un comité désigné ou constitué par l'Assemblée législative entreprend une révision en profondeur de l'application de la présente partie. Le comité présente à l'Assemblée, dans un délai d'un an après le début de la révision ou dans le délai supplémentaire qui lui est accordé, un rapport contenant ses recommandations quant aux modifications à apporter à la Loi.

I move that both in English and French.

Motion agreed to.

Madam Chairperson: Clause 5—pass; Clause 6—pass; Clause 7—pass; Clause 8—pass; Clause 9—pass; Title—pass; Preamble—pass. Bill, as amended, be reported. Agreed.

Is it the will of the committee that I report the bill as amended?

Some Honourable Members: Agreed.

Madam Chairperson: Agreed.

* (1510)

Bill 70—The Social Allowances Amendment and Consequential Amendments Act

Madam Chairperson: As previously agreed, we will move on to Bill 70. Bill 70 will now be considered clause by clause.

Mr. Doug Martindale (Burrows): Madam Chairperson, I would like to make some brief comments and ask the minister some questions on this bill. [interjection] Okay, thank you.

Madam Chairperson: I am sorry, Mr. Martindale. I neglected the minister.

Hon. Harold Gillehammer (Minister of Family Services): Madam Chairperson, I am pleased to bring Bill 70 to the committee. After extensive consultations dating back to 1989, with representatives from the various municipal governments, a SARC committee was formed and they in turn brought their recommendations to government, the majority of which we have accepted and are the base for this bill.

I would like to express the gratitude of government for the good support we have had from organizations such as UMM and MAUM and their support staff in looking at many issues to do with social allowances. I am pleased to bring this bill forward at this time, also recognizing that discussions have been continuing with the SARC committee on some of the details of implementation of Bill 70, and those discussions are continuing.

I look forward to the passage of Bill 70 into law. Thank you.

Madam Chairperson: Does the critic for the official opposition have an opening statement?

Mr. Martindale: Madam Chairperson, yes. First of all, the minister talks about consultation. However, last night one of the presenters, City Councillor Mr. Greg Selinger said that he had requested a meeting, or the official delegation of the City of Winnipeg have requested a meeting with the Premier (Mr. Filmon) and this minister to talk about this bill and suggested that there was a lack of consultation.

However, the presenter indicated it is not too late, and we hope that the minister will arrange such a meeting since we know the city is very concerned about the rates that will be set with this new piece of legislation.

The minister also talked about the support for this bill. It is quite notable that the support was mainly from rural Manitoba and smaller municipalities; whereas the vast majority of recipients who were affected by this bill live in the city of Winnipeg, and all of the presenters at this committee last night opposed the most important parts of this bill.

The purpose of the bill is ostensibly to harmonize social assistance rates throughout the province; that is, to standardize and regulate municipal social assistance rates. The goal, even according to the minister, is to provide greater equity for all recipients. On the surface this appears to be fair. However, we believe there are some major areas which we believe will lead to a situation that is not fair at all.

For example, now there are municipal recipients, especially in the city of Winnipeg, who receive rates that are considerably above provincial rates and are eligible for certain programs, for example, CRISP, the Child Related Income Support Program and also maintenance payments of up to, I believe, \$240 a month.

We are concerned that those people will no longer be eligible for those extra benefits if everyone is at the same rate. The major flaw with this bill and the major criticism of Bill 70 is that although it allows municipalities to pay above the minimum rates, the province will not cost-share above those new standardized rates.

Why is this a problem? Well, we believe that it is unfair and it is a serious problem to reduce social assistance to people who are already incredibly poor. As Mr. Selinger pointed out last night, although there is one food bank in Winnipeg, Winnipeg Harvest, they are distributing food to 173 different places which are handing out food that comes from the food bank. The reason for this is that people are being forced to supplement their meagre resources by being forced to go and accept handouts at 173 different food bank outlets.

While the bill may standardize rates, there is a question of whether or not it will be legal. Right now we are waiting for the Supreme Court to rule on the Findlay case. I am sure the minister and his staff are all aware of that. The Supreme Court may find that it is illegal to reduce rates for people on social assistance which may force the City of Winnipeg to continue paying higher rates which gives the City of Winnipeg, councillors and mayor, a major dilemma.

If it is illegal to reduce rates, they may have to pick up \$5.6 million of additional costs. If it is not, they may have the option of reducing rates. Certainly it is a very difficult decision for them because if they pick up the \$5.6 million additional costs, they have said that may increase property tax for property taxpayers of approximately 5 percent.

I have a few questions for the minister. I would like to ask him if he thinks that our analysis of this bill is correct, does the bill say, as we believe it says, that the province will not cost-share above the new standardized rates?

Mr. Gilleshammer: Well, thank you, Madam Chairperson. I think I have answered that question before, and I am sure the member understands that this is enabling legislation and does not speak to rates within the bill.

The member in his preamble talked about a lack of consultation. I can tell you that the members of UMM and MAUM and the City of Winnipeg represent hundreds of municipal politicians where an issue like this is discussed in council. It is discussed at the regional meetings and it is

discussed in their annual meetings. I have more respect for those members than my honourable friend does that he feels they do not understand this and that they do not consult with their people. They do.

The municipal tier of government is the members who are the closest, I think, to the general public and represent them very, very well. The member also indicates that the City of Winnipeg had poor representation on this committee. I say that I have a higher opinion of Councillor Gilroy than you do. I think that he was a valuable member of that committee and represented the interests of the city very well on that committee and the many, many meetings they had to look at social allowance rates.

The member for Burrows has indicated that this is not an issue in rural Manitoba, and that rural Manitobans are not concerned with it. Well, they are concerned with it, and it is something that every rural council and town council and village council deals with, and they are very much aware of the contents of the bill and the issues that face them.

The member also references the Findlay case. Yes, this is something that has been heard in the Supreme Court and sometime, in the not too distant future, I am sure that ruling will be rendered which may well have an impact on social allowances. But back to the specific question, this bill does not deal with rates. It is enabling legislation which will bring about a standardization of rates and the standardization of the ability to enter the program.

* (1520)

Mr. Martindale: Madam Chairperson, there seems to be some confusion over the rates. The minister says in effect, wait until we announce the rates and the regulations which seems to be at odds with the way we read the bill. Can the minister guarantee that whatever rates are set that families, especially families in Winnipeg with children, will not suffer as the result of Bill 70, that their social assistance rates will not go down?

Mr. Gilleshammer: Well, I have tried to point out to the member that we are in the middle of a process with the members of the SARC committee who are in consultation with their various councils, and what you are asking us to do is to say to heck with the process, go ahead and announce the rates. Well, we are currently in dialogue with SARC over a number of aspects of implementation of this, and I think it would be rather an insult to these members

who have worked on this for a number of years not to let the process continue. I would hope that we would be finished this process in a number of weeks, or maybe a little longer than that, and then we can proceed with the setting of the rates.

Mr. Martindale: Madam Chairperson, I suspect that the minister must already know what he has in mind, what the rates are going to be. Surely he must have already gone to Treasury Board, that there must have been an analysis of the costs of the implementation of this bill, so I would like to put that as a question. What is the financial impact of Bill 70 for the Province of Manitoba, or the budget of your department?

Mr. Gilleshammer: I reject that this has already been decided. I have just indicated to you that these decisions have not been made, and really that the member is seeking information on decisions that will come out of this consultation with the SARC committee and will be made in due course.

Mr. Martindale: Well, I agree that you have been consulting. The problem we have is that in the SARC Report, my recollection is that they recommended that municipalities be allowed to pay above the new minimum rates and that the province continue to cost-share that. Is that correct?

Mr. Gilleshammer: The member is essentially correct that municipalities would like to be able to set the rates. What we are doing in moving to a standardization is to have the same basic rate throughout the province and still allow municipalities at their own cost the ability to extend rates over and above that. I would remind you that municipalities are responsible for somewhere around 20 percent of that cost with the remainder coming from senior government.

Mr. Martindale: Well, there are some things that we agree with in principle and that is the idea of a one-tier system. I believe the implication of this bill is that some rural municipalities and perhaps some towns and villages, will as a result increase their rates to the new provincial rate and that is a good thing.

The problem is that we believe that you are offloading expense from the province, especially to the City of Winnipeg, if you refuse to cost-share above the minimum. You have indicated that I was correct, that you will not cost-share above the minimum rates. I guess that is our major criticism of this bill and our major disappointment, because it

is offloading what is now an expense to the province onto the property taxpayers, especially in the city of Winnipeg.

We would like to introduce numerous amendments to this bill, but we are not going to. We are opposed in principle, and we will be voting against one of the sections that we believe is the critical one in terms of not cost-sharing, Section 11. Thank you.

Mr. Gilleshammer: I say to the member, sincerely, that the information you are looking for on rates is information that has not yet been determined. I think to tell members of the public that those rates are going to be at such-and-such level is erroneous because that level has not been determined yet and is part of the consultation with the SARC committee.

Madam Chairperson: Does the critic for the second opposition have an opening statement?

Mrs. Sharon Carstairs (Leader of the Second Opposition): Yes, the spirit and the fact of this bill are wide apart. The spirit which is, in fact, to standardize rates and provide greater equity is a very valid concept and one I would like to think that everybody in the Legislature supports.

However, the legislation is so open-ended that it allows the province not to create more equity. It allows, indeed, for 90 percent of the social recipients of this province to end up with less in the way of benefit than they are presently obtaining. I would like to think that the criticism of the member for Burrows (Mr. Martindale) was less on the individual who represented the City of Winnipeg on the SARC committee and more on the fact that that representation was limited in terms of its number.

When we look at MAUM and UMM, which I have no question the minister has consulted with, we find a situation in which on one group the City of Winnipeg is not represented at all, and in the other it is represented as a municipality among many. So to say that they have been represented adequately is not true. Because if that was true, then 90 percent of the representation on the SARC committee would be from the City of Winnipeg if one reflected the number of people on social assistance who lived in the city of Winnipeg.

I do not think we want to see either of those organizations totally dominated by the City of Winnipeg because that would not be in the best interests of many issues which affect rural municipalities and even urban municipalities other

than the City of Winnipeg. But the reality is that 90 percent—89.3 I think to be exact—of social assistance recipients live in the city of Winnipeg. That is fact.

Fact two is that the City of Winnipeg—with the exception of single, married adults—pays more benefits than any other municipality in the province. In other words, all families which have children in them get paid more benefits living on social assistance in the city of Winnipeg than they do outside the city of Winnipeg. One startling fact, of course, is that the food budget for an infant under the City of Winnipeg is \$160 a month and that same food budget for an infant at provincial rates is \$85.

That will mean that a mother who may have chosen not to breast-feed her baby because her own nutrition was so poor that the baby could not get adequate nutrition from being breast-fed will now not be able to afford the formula supplement that is required for that baby to get proper nutrition, because if anybody has gone out and checked the price of formula recently, you can not do it on a provincial budget, let alone the child who might have an allergy to certain forms of formula and needs a very specialized form of supplement.

So the reality is that if the province passes this legislation and by regulation allows the rates to be as presently set by the province and will only cost-share 50 percent of the provincial rate, city councillors are going to be faced with a very serious dilemma. They are going to be faced with reducing the benefits paid to their social assistance recipients, and I hope they will not make that choice or they will face an increase of between \$2.6 million and \$5.6 million in their social assistance budget.

That will result in a direct offloading of provincial expenditure on to the City of Winnipeg. It is untenable. So I will be introducing an amendment to Bill 70, and I hope that the members of the committee will read it and understand that its intention is to make it possible for all social recipients in Manitoba at the present time to not be worse off than they are at the present time.

I am not asking for anybody to find themselves in a situation where they will all of a sudden come into a great largess of funds; I am asking simply that nobody presently on social assistance will be asked to accept less per month, will be asked to accept living far lower than the poverty line, because they already live below the poverty line. I am asking that they be not asked to live even lower still.

Mr. Gilleshammer: Maybe just a comment for clarification—the member for River Heights (Mrs. Carstairs) has indicated that 90 percent of social allowance recipients live in the city of Winnipeg. This is true for the municipal tier of which we have about 15,000 cases. We also have 27,000 cases of provincial social allowance recipients, probably about half of them and perhaps more, 60 percent, live in the city of Winnipeg.

* (1530)

Madam Chairperson: Okay. We will now consider Bill 70 clause by clause. Clause 1—pass; Clause 2—(pass); Clause 3—(pass); Clause 4—(pass); Section 5.1—(pass); Section 5.2—(pass); Section 5.3(1).

Mrs. Carstairs: 5.3(1).

THAT the proposed section 5.3, as set out in section 5 of the Bill be amended by adding the following after subsection 5.3(1):

Minimum amount payable

5(1.1) Notwithstanding anything in this Act, the amount fixed under clause (1)(c) to be paid to an applicant or a recipient under clause (1)(d), shall not be less than an amount which is the greatest of

(a) the cost of basic necessities as set out in Schedule A of the Social Allowances Regulation, Manitoba Regulation 404/88R, immediately prior to the coming into force of this subsection;

(b) the amount paid for municipal assistance as set out in By-law 2466/79 of The City of Winnipeg immediately prior to the coming into force of this subsection; or

(c) any amount paid for municipal assistance by any municipality other than The City of Winnipeg, pursuant to a by-law of that municipality made under subsection 451(1) of The Municipal Act immediately prior to the coming into force of this subsection;

calculated as if that person was an applicant or recipient for that social allowance, general assistance or municipal assistance which provides the greatest amount under clause (a), (b) or (c).

[French version]

Il est proposé que l'article 5.3 du projet de loi soit amendé par adjonction, après le paragraphe 5.3(1), de ce qui suit:

Montant minimum payable

5(1.1) Par dérogation aux dispositions de la présente loi, le montant fixé en vertu de l'alinéa (1)c qui doit être payé par le requérant ou le bénéficiaire en vertu de l'alinéa (1)d est d'au moins le plus élevé des montants suivants:

a) le coût des besoins essentiels indiqués à l'annexe A du Règlement sur l'aide sociale, règlement du Manitoba 404/88 R, immédiatement avant l'entrée en vigueur du présent paragraphe;

b) le montant payé pour l'aide municipale comme l'indique l'arrêté 2466/79 de la Ville de Winnipeg immédiatement avant l'entrée en vigueur du présent paragraphe;

c) tout montant payé pour l'aide municipale par toute autre municipalité que la Ville de Winnipeg, conformément à un arrêté de cette municipalité pris en application du paragraphe 451(1) de la Loi sur les municipalités immédiatement avant l'entrée en vigueur du présent paragraphe.

Ce montant est calculé comme si cette personne était requérante ou bénéficiaire de l'aide sociale, de l'aide générale ou de l'aide municipale représentant le plus élevé des montants calculés en vertu des alinéas a), b) ou c).

Motion presented.

Madam Chairperson: All those in favour of the amendment, say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed, say nay.

Some Honourable Members: Nay

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

Mrs. Carstairs: On division.

Madam Chairperson: Agreed? Agreed.

Section 5.3(1)–(pass); Section 5.3(2)–(pass); Clause 6–(pass); Clause 7–pass; Clause 8–(pass); Clause 9.

Ms. Becky Barrett (Wellington): I would like to have that go through section by section on Section 11.

Madam Chairperson: Subsection 11 of 9?

Ms. Barrett: Yes.

Madam Chairperson: We are talking about Clause 9, subsection 11(1). Pass?

Ms. Barrett: No.

Madam Chairperson: All those in favour of the proposed subsection 11(1), say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed.

Some Honourable Members: Nay.

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

Shall Clause 9, subsection 11(1)–(pass); subsection 11(2)–(pass); subsection 11(3)–(pass); subsection 11(4)–(pass); subsection 11(5)–(pass); subsection 11(6)–(pass).

Clause 10–(pass); Clause 11–(pass); Clause 12–(pass); Clause 13–(pass); Clause 14–(pass); Clause 15–(pass); Clause 16–(pass); Clause 17–(pass); Clause 18–(pass); Clause 19–(pass); Clause 20–pass.

Preamble–(pass); Title–(pass). Shall the bill be reported?

Some Honourable Members: No.

Madam Chairperson: All agreed that the bill shall be reported, say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed.

Some Honourable Members: Nay.

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

Mr. Steve Ashton (Thompson): Counted vote.

Madam Chairperson: Okay, a counted vote has been requested.

A COUNTED VOTE was taken, the result being as follows:

Yeas 6, Nays 4.

Madam Chairperson: Okay, the Yeas have it. In my opinion the count on the vote is in favour that the bill be reported. Agreed? Agreed. Is it the will of the committee that I report the bill?

An Honourable Member: Agreed.

Madam Chairperson: Agreed.

Bill 42–The Amusements Amendment Act

Madam Chairperson: Does the minister responsible have an opening statement?

Hon. Darren Praznik (Minister of Labour): Yes, Madam Chairperson, I just wanted to indicate I think we have had a very extensive debate on the

principles of this bill in the House, so I am not going to engage in that debate here at committee. I just would like to indicate to members that I have a number of amendments that I am prepared to propose. I have shared those with both my—

An Honourable Member: Excuse me. Are we not dealing with 42?

Mr. Praznik: Oh, I thought we were on 85. Since it is a one-line bill, yes. Let me get the other opening statement that I wanted to make.

Madam Chairperson, just to say that I know there has been some extensive debate. I would indicate very clearly that The Amusements Act provisions, with respect to projectionists, have been something on which technology has passed and consequently the industry itself does not require this type of regulation. I think that has been proven by the fact that the type of technology for which the provisions, regulations, were designed by and large is no longer needed.

I recognize the concern that some have had from the projectionists union. But the purpose of safety legislation is not to provide a bargaining base for a particular group in society but to protect the public from a risk of danger. That risk has certainly been reduced with improvements in technology in the projectionists' field. As a consequence, the need to regulate that area has ended.

So I reject totally the arguments put forward by the member for Thompson (Mr. Ashton) in the House, that this is antilabour legislation and an attack on projectionists. I think if anything it demonstrates the unwillingness of my colleague to adapt our safety legislation to new technology.

Madam Chairperson: Does the critic for the opposition have an opening statement?

* (1540)

Mr. Steve Ashton (Thompson): Madam Chairperson, I cannot believe that the minister would suggest this is safety legislation, and I cannot believe that the minister would suggest that this is not antilabour legislation.

I can tell him, and I have talked extensively the last number of years, each and every time that the Conservative government has attempted to repeal the licensing for projectionists to the projectionists themselves—and they disagree categorically with the minister—they feel this legislation has more to do

with the demands of the movie theatres than it does with any other issue of public policy.

They do believe it is antilabour because the movie theatres want to de-license projectionists, the bottom line. That is what this bill does. This bill has nothing to do with being safety legislation whatsoever. In fact, if the minister would care to listen to the concerns of projectionists, I think he would have to recognize that.

I want to note for the record, Madam Chairperson, that I had a call this morning, actually, from one of the projectionists unable to attend today. They would like to have made a presentation. I know from talking to them previously that there would have been a number of presenters, and it is difficult, I realize, when we do reach the final days of the session because we often end up with bills passing with limited notice to members of the public.

It is unfortunate that they are not here, were unable to make their concerns known. The bottom line though is we feel this bill—even though it does affect as I said in the House, only a few dozen people—is aimed at implementing the agenda of the movie theatre operators, has nothing to do with the concerns expressed by the projectionists. We feel this is unfair legislation, plain and simple.

That is why we opposed this bill in the House. We will oppose this bill in committee and we will oppose it again on third reading.

Madam Chairperson: Does the critic for the second opposition have an opening statement? No? Okay.

Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass; Clause 5—pass; Preamble—pass; Title—pass. Shall the bill be reported?

An Honourable Member: No.

Some Honourable Members: Agreed.

Madam Chairperson: All those in favour of the bill being reported, say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed?

Some Honourable Members: Nay.

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

Mr. Ashton: A recorded vote, Madam Chairperson.

Madam Chairperson: A counted vote has been requested. Will all those in favour of the bill being reported, please raise their hands?

A COUNTED VOTE was taken, the result being as follows:

Yeas 6, Nays 3.

Madam Chairperson: The Yeas have it. The bill shall be reported. Is it the will of the committee that I report the bill?

An Honourable Member: Agreed.

Madam Chairperson: Okay.

Mrs. Sharon Carstairs (Leader of the Second Opposition): The committee, to give me just a few minutes to find the Labour critic for Bill 85 who is in another committee?

An Honourable Member: A five-minute recess.

Madam Chairperson: Is that agreed that we shall have a five-minute recess? Okay. We will come back at 3:50 p.m.

* * *

The committee took recess at 3:44 p.m.

After Recess

The committee resumed at 3:50 p.m.

Bill 85—The Labour Relations Amendment Act

Madam Chairperson: Okay, we are considering Bill 85. Does the minister responsible have an opening statement?

Hon. Darren Praznik (Minister of Labour): Yes, as I was indicating earlier, I think the principles have been debated in second reading very extensively. It is not my intention at this time to get into another debate on the principles behind this bill, which as I have indicated have been discussed and canvassed thoroughly.

What I would like to indicate to members of the committee at this time is that I have a series of amendments arising out of the presentations that were made in the last two days. I have had the opportunity to share those with my critics and some other members of the committee and we will be moving them in due course. I think what they do will make some improvements in the operation of the legislation and, I think, make for a better bill. I will be certainly pleased to move them.

Mr. Steve Ashton (Thompson): Madam Chairperson, first of all, I would like to indicate quite clearly from the start that we feel this bill is a bad bill in principle. We indicated that at the second reading. We opposed the bill on second reading, and unless there are significant amendments made, we feel we are in the same position. We look forward to seeing the exact nature of the amendments being made by the minister, and there has been discussion.

Recognizing right from the start that we had problems with some of principles in this bill, we have approached this bill in a twofold way. Our ideal preference would be to defeat the bill. We feel there is very little in this bill that needs to be introduced in the way of changes to The Labour Relations Act. But short of that, we feel that some of the clauses in this bill, as they currently stand, would have significant negative impacts on industrial relations in Manitoba. We will be seeking amendments and have already been involved in some discussions with the minister, as the minister indicated, as to amendments that we feel are important.

I just want to indicate to members of the committee, some of the areas that we will be dealing with. We have a number of concerns about the new provisions in this act which open up the ability of employers to make statements, in this case, statements of fact or opinions reasonably held. We note, unlike other provisions in this act, there is no requirement that this be in writing.

Other provisions affecting unions, we note that there is clear evidence from this jurisdiction and from other jurisdictions that the opening up of the ability of employers to participate in the certification decision-making process can and will lead to pressure on employees, unfair pressure, unfair persuasion on employees and will make it very difficult for employees to make what is a very difficult decision. I note that this was one of the areas that was fairly clear in terms of presentations to committee. It is a difficult enough decision as it is. By giving this right to employers, we are opening up the process for a great deal of abuse.

I want to indicate that we are categorically opposed to the amendments in this bill that would raise the requirement currently of 55 percent of members at a workplace, employees at a workplace, signing a union card for automatic certification to 65 percent. We feel the 55 percent clause has worked well. We feel this is only giving

another opportunity for the kind of interference we mentioned earlier from employers in what is a very difficult decision for any group of employees in terms of unionization. The certification question, we will be opposing that particular section.

We have problems with the section in regard to information being provided to employees on union dues, as it is currently written. We note that this is not a provision found in any other legislation. We have noted throughout the discussion and debate we feel this clause seems to have been developed by some on the government side who have the idea that somehow when people sign a union card they do not know what they are doing, they do not have this information.

I think it is very clear from presentations to the committee that is not the case. That is one of the first questions that is asked, that is, what are the union dues, or initiation fees, if they exist. We feel this section is really of very little relevance. It is particularly unbalanced given the earlier concerns I expressed about the fact that employers in statements they make to employees do not have to make such statements in any official way in any written form. I can indicate that we will be seeking amendments in this area to make sure that there is not an abuse of this section.

I would note, going further related to that, there are currently as this act is written is the ability of the Labour Board to dismiss the application of a union for certification based on there even being one person who might have indicated they did not get the complete information. We are hoping that there will be amendments, by the way, to clarify that so we do not end up with these kinds of disputes going to the Labour Board, but short of that there needs to be an amendment to ensure that the board does not dismiss the application for one or two union cards that are in dispute.

I note the parallel of The Elections Act, Madam Chairperson. Under The Elections Act, if there is a dispute over five or 10 or 15 votes, it would require that the disputed number of votes would exceed the victory margin essentially to lead to a controverted election. We feel that principle has not been recognized in the bill as drafted and will look forward to amendments in that regard.

I move on in regard to the concerns that were expressed at committee. The sections relate to electioneering on voting day. What we have

currently in the act as proposed is not what occurs during provincial or federal elections under the elections acts of those two jurisdictions. It goes beyond the polling booth. It includes a reference here to "at the place of work." We feel that is opening up the process to abuse. Also I think there was a fairly clear consensus from presenters at the committee that the reference to "or other activity"—the section it talks about "engages in electioneering or other activity"—really is so general and broad as to be undefinable, unworkable, and would likely lead to severe problems in terms of the elections that would take place in regard to this matter.

We have expressed a concern in second reading that was echoed again in terms of presentations to committee as to the role of conciliators, conciliation officers, under this new section which puts them in a position of having to recommend essentially the matter of go to first contract, under the first contract provisions, and have to make some declaration of the fact that bargaining has taken place. We note that there is no particular time frame set.

We note this puts the conciliators in a unique new position which we do not feel is in the best interests of a role that is dependent on neutrality. We feel that there needs to be time frames that would put some restriction on the time which this would take place. We certainly have no difficulty with conciliators having the opportunity and having some process set in place whereby conciliation will take place and some bargaining will take place. We feel, however, that this amendment as proposed will create major difficulties.

There are some other sections in this bill which we have difficulties with. We note from presentations that even some of the subtitle headings have been changed in a way that people feel is showing of an intent on behalf of the government to shift the balance in The Labour Relations Act in regard to these particular matters, and I want to indicate that we are hoping that we will be able to see some amendments. I have a significant number of amendments to move myself.

* (1600)

The bottom line is, it is a bad bill in principle unless there are some significant changes, particularly in regard to the section regarding the percentage required for an automatic certification. We still see problems with the bills, but we are hoping that at

least this time the minister and the government will recognize that this bill was rather poorly drafted in terms of its intent.

I am not blaming the draftspeople. I am blaming those who must have put this patchwork quilt together in the Conservative caucus to satisfy their own views of the world in terms of labour relations. We state, as we said from the beginning, that it is time the Conservatives recognized that when people say yes to a union, by and large, they mean it; when we ask people, and require under the act the process, whereby people have the choice to say yes or no to a union or yes or no to a number of unions.

We feel it is time the Conservative government and some in the business community, not all, because I feel a significant number of people in the business community do recognize the importance of unions and do work closely with unions, but I think it is time the people recognize that the certification process is difficult enough for the employees involved without people presuming to say that they know better—paternalistic, maternalistic, whatever term you want to use, a view that somehow the Conservative government knows better than the employees themselves.

We feel the employees have the ability to make that decision, Madam Chairperson. We feel that they should be able to do so without coercion or undue influence from their employers. It should be a decision of the employees, and that the Conservative government should not be imposing its own biased view of unions and the certification process through The Labour Relations Act on the workers of Manitoba.

So the bottom line is we look forward to some significant amendments, but we will be watching very carefully. Without some major, major changes to this bill, we will be opposing it at the end of the discussion. Thank you.

Committee Substitution

Mrs. Sharon Carstairs (Leader of the Second Opposition): Before I begin, because I will not be beginning, my critic will be, if I have leave to make a committee change.

I move, with the leave of the committee, that the honourable member for Inkster (Mr. Lamoureux) replace the honourable member for River Heights (Mrs. Carstairs). [Agreed]

Mr. Praznik: Also be changed in the House.

Madam Chairperson: And will be changed in the House. [Agreed]

* * *

Madam Chairperson: Does the critic for the second opposition have an opening statement?

Mr. Kevin Lamoureux (Inkster): Madam Chairperson, I did have a few words that I was wanting to put on the record once again. I think Ms. Hart-Kulbaba, who is the first presenter the committee heard, really said a lot in terms of when she said that it was unfortunate that the government was of the opinion that they had to bring in legislation of this nature, in fact, had implied that the government is doing it solely at the requests of a few, selected individuals, and they felt that the only reason for it being here was one of politics.

In my remarks to her and the two questions I did put forward to her, I expressed that I too shared those concerns. I actually had suggested that in fact this is not just this government, that it is previous governments also that have caused a lot of problems within the labour movement and in business, and had suggested, Madam Chairperson, when I addressed the bill in second reading that really and truly if we want to have amendments to The Labour Relations Act that we have to agree that there needs to be a consensus from business, management and labour to changing The Labour Relations Act. That has not been occurring on a number of the different issues and unfortunately because the government has chosen to do it in a political manner by not going through a consensus, I would suggest to you by not adhering to the very first WHEREAS of The Labour Relations Act that we will be voting against this bill.

We will be voting against this bill because there are a number of concerns that the unions themselves in the presentations have made. We often heard in terms of the 55 to 65 percent and the reasons why it was being done. We heard in terms of the whole question of the employer being allowed to make statements of fact during union certification.

Those, Madam Chairperson, caused a great deal of concern to us that if, in fact, this was in the best interest of the worker, of the business person, we would have seen a consensus going out of the Labour Relations Review Committee; but we did not see that consensus. That is the primary reason why

we will not support this, because we believe that this bill is being introduced for one purpose and one purpose only, and that is to cater to a few individuals that this particular government feels somewhat obligated to impress.

I know that the Leader, because I was unable to be here for all of the presentations, had listened quite attentively to other presenters, in particular to Mr. Christophe, and had responded to some of the concerns that he had made with respect to the union dues as other union members had made reference to. I suggest, Madam Chairperson, that there are some amendments, and I understand that the minister and my Leader have discussed some potential amendments. We will wait to see if some of those amendments are going to be brought forward, which would give a better balance. Unfortunately, as the Minister of Consumer and Corporate Affairs (Mrs. McIntosh) puts out, yes, you are right, it likely will not change the bill substantially. That is why we cannot support a bill of this nature.

Having said those very few words, Madam Chairperson, we are quite content to go through clause by clause, but we will be opposing the bill in general.

Madam Chairperson: Clause 1—pass. Shall Clause 2 pass?

Mr. Ashton: No to Clause 2.

Some Honourable Members: On division. [Agreed]

Madam Chairperson: Clause 2—pass; Clause 3(1)—pass; Clause 3(2).

Mr. Ashton: No.

Mr. Praznik: Pass—on division.

Mr. Ashton: No, Madam Chairperson. I would request a recorded vote on this particular section. I assume it has been declared as passed.

Madam Chairperson: A counted vote has been requested. All those in favour of Clause 3(1) passing, please put their hands up.

A COUNTED VOTE was taken, the result being as follows:

Yeas 5, Nays 4.

Madam Chairperson: Clause shall pass. Okay, 3(1) shall pass.

Shall Clause 3(2) pass?

Mr. Ashton: No, on division.

Madam Chairperson: On division? [Agreed]

Clause 3(2)—pass. Shall Clause 3(3) pass?

Mr. Ashton: No. I have an amendment.

Madam Chairperson: An amendment?

Mr. Ashton: An amendment I—

Madam Chairperson: Oh, Mr. Ashton, would you hold one moment please?

Order, please. Ladies and gentleman.

Mr. Praznik: Madam Chairperson, it has been brought to our attention, by the Clerk, that it is out of order to delete by amendment something from a bill at this stage unless there is unanimous consent of the committee.

* (1610)

One of the amendments that I am proposing which the member is aware is a deletion. I think we are prepared, I would suggest, to see these motions accepted for a vote. This would solve the problem with the member for Thompson's (Mr. Ashton) amendment, and I think if there was agreement at the committee to allow these motions for deletion to come to a vote by unanimous consent, I think we would be prepared to agree to that.

Madam Chairperson: I just want to advise committee and read into Hansard, Beauchesne 698(6): "An amendment to delete a clause is not in order, as the proper course is to vote against the clause standing part of the bill." However, unanimous consent has been given to allow these amendments to come forward.

Mr. Ashton: For information of members of the committee, I have a series of amendments on this section, depending on whether the first or second is adopted. It really only deals with (g); it does not deal with (a) through (f). So it only deals with a subsection.

I will move it, if I may?

Madam Chairperson: Okay, Mr. Ashton.

Mr. Ashton: Yes, if I may then move

THAT clause 3(3)(g) of the Bill be struck out.

[French version]

Il est proposé que l'alinéa 3(3)g du projet de loi soit supprimé.

Motion presented.

Mr. Ashton: Just to explain, what this does is, it would remove the section that opens up the ability of employers to make statements of fact or opinions reasonably held which we feel would unduly open up the process to undue influence by employers.

Madam Chairperson: Okay. All those in favour of the amendment, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

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

Mr. Ashton: If I could have a counted vote.

Madam Chairperson: A counted vote has been requested.

A COUNTED VOTE was taken, the result being as follows:

Yeas 4, Nays 5.

Madam Chairperson: Okay, the amendment has been defeated.

Mr. Ashton: We would love to have votes like this put to a secret ballot to allow some of the Conservative members to vote with their conscience.

Madam Chairperson: Clause 3(3), shall it pass?

Mr. Ashton: I have a further amendment, Madam Chairperson, on the same section. I move

THAT clause 6(3)(f), as set out in clause 3(3)(g) of the Bill, is amended by striking out everything after "fact".

[French version]

Il est proposé que l'alinéa 6(3)f), énoncé à l'alinéa 3(3)g) du projet de loi, soit amendé par suppression de "ou une opinion à l'égard de l'entreprise de l'employeur".

Motion presented.

Madam Chairperson: Mr. Ashton, you wish to explain?

Mr. Ashton: Yes, Madam Chairperson, I attempted to delete the entire section, but if the government is insistent on opening up the process for undue influence from employers, I do feel it is only reasonable that it be restricted to the more objective statements as to statements of fact. I have a further amendment that I am prepared to

move in a few minutes that would define that even further, because we feel the section that this introduces, "an opinion reasonably held," would open up this act to a particular undue influence.

We are concerned. I know many members before the committee made presentations that this would allow employers, for example, to say, well, if you bring in a union, we will have to close the plant down, statements of that nature. We are concerned that this opens this matter up. We feel that if there is going to be any information provided to employees by the employer, it should be restricted to statements of fact. That is why we move this amendment.

Madam Chairperson: All those in favour of the amendment, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

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

Mr. Ashton: Yes, I ask it be on the previous division.

Some Honourable Members: Agreed.

Madam Chairperson: Division. Agreed.

Mr. Ashton: I have a further amendment and that is as follows:

I move

THAT clause 6(3)(f), as set out in clause 3(3)(g) of the Bill, be amended by adding ", in writing," after "employee".

[French version]

Il est proposé que l'alinéa 6(3)f), énoncé à l'alinéa 3(3)g) du projet de loi, soit amendé par adjonction, après "fait parvenir", de "par écrit".

Motion presented.

Mr. Ashton: I will explain that. If the government is insistent on opening up the process, we feel that the same onus should apply to employers as it will in terms of unions as is found later in the act in terms of written disclosure of union dues. We feel that the process will be made far simpler and fairer if there is a requirement that such statements of fact or opinion, which now the government has refused to withdraw from the bill, are made in writing. It will

make the act a lot less subject to dispute and litigation and will provide some balance in giving the same sort of procedure that is put in place in terms of unions.

Mr. Lamoureux: I just have a question, Madam Chairperson. What you are requiring then is the business to write down what it is that they are telling their employees as a fact?

Mr. Ashton: What this would do is it would allow businesses, employers under this section, to communicate what the government has put in here. The requirement would be though, it would be in writing, in a similar way that there is requirement of information in terms of union dues and a signature to that effect.

So what it would do is it would make it much more clearer as to what is said, far less open to dispute, far less open to misinterpretation, far less open to—what we feel will happen is that employers will say something. There will be an objection filed at the Labour Board, and there will be a dispute over the facts. There will be a lot of time, effort and litigation involved in getting to what was actually said.

We feel that if employers are going to have the ability to participate in this process, the fairest way is to have it in writing, and this is fairer to everybody, including the employers and the employees, in the sense that I think it will lead to far less dispute and litigation and to far clearer situations in terms of what was said and what was not said.

Madam Chairperson: All those in favour of the amendment, please say, yea.

Some Honourable Members: Yea.

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

Some Honourable Members: Nay.

Madam Chairperson: In my opinion the Nays have it.

Mr. Ashton: On the previous division.

Madam Chairperson: Division. Agreed.

As previously agreed, Clause 3(3) is passed. Agreed.

Clause 4 pass—pass; Clause 5—pass; Clause 6.

Mr. Ashton: This is one of the most significant sections of this bill. We had considered amending it to strike out the 65 percent, but that really would

make a mockery of what is essentially happening here. As was pointed out at committee, the change from 45 to 40 percent really is absolutely meaningless. The bottom line is that this section is intended very clearly to open up more certifications and we believe upwards of around 20 percent under the current circumstance.

* (1620)

We believe, incidentally, Madam Chairperson, that many more may be impacted because of the other changes in this bill which will make it more difficult for employees wishing to be certified to obtain even the 65 percent who might currently obtain that. So we feel what this does is that this opens up the process even further to tactics that will put undue influence and pressure on the employees. This is a very clear-cut section which is designed to do only one thing, and that is to make it more difficult for employees to select to be represented by a union.

So we, therefore, rather than even attempting to amend this, oppose it. It is bad in principle, and we will be voting against it.

Mr. Praznik: Madam Chairperson, I would just like to put on the record, with respect to the lowering of the window to 40 percent, that is a proposal in the Ontario amendments, so it must have some value. I just thought I would put that on the record.

Mr. Ashton: And they have 55 percent—

Mr. Praznik: That is right. The lower end is 40 percent.

Mr. Ashton: We will accept the 55 if you accept—

Mr. Praznik: Just put 40 on the record.

Mr. Lamoureux: I have a question for the minister. Can he give some sort of indication in terms of how many went to an automatic vote that were in between at 55 percent and 65 percent in the last couple of years?

Mr. Praznik: I do not have an exact number for the member at my finger tips, but I can tell him that on average 85 percent of our applications for certification come in with a greater than 65 percent signing cards. So it is likely in the area of anywhere from 5 percent to 10 percent, approximately. It would be in that range.

I am saying that, on average—it varies from year to year—but it is usually 85 percent or more of

applications for certification; applications are made with more than 65 percent signing cards.

Mr. Lamoureux: Madam Chairperson, I would ask if the minister, maybe not now but sometime in the very near future, would be able to get me the actual numbers, not only just last year but of the previous three or four years.

Madam Chairperson: All those in favour of the amendment, please say yea. There is no amendment. All those in favour of Clause 6—pass.

Mr. Praznik: Madam Chairperson, I understand there was not an amendment that was being moved. We voted on Clause 6 to pass it, and I believe the member for Thompson (Mr. Ashton) has called for that on division and we would concur.

Madam Chairperson: Okay. Agreed?

Mr. Ashton: Actually, technically you should determine, Madam Chairperson, the will of the committee, and then we should ask for the division after that on these matters. It might be a little bit easier.

Madam Chairperson: Okay, Clause 6, all those in favour, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those against.

Some Honourable Members: Nay.

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

Mr. Ashton: On division.

Madam Chairperson: On division. Agreed?

An Honourable Member: Agreed.

Madam Chairperson: Agreed. Clause 6—pass.
Clause 7.

Mr. Praznik: Madam Chairperson, I have an amendment to both Clause 7(1) and 7(2), and I believe these are being distributed now to members of the committee.

Madam Chairperson, this amendment arises from some of the suggestions made by presenters in order to have a vehicle by which the Labour Board can ensure compliance with the proposal to make prospective members aware of dues. We have also taken note of a presentation with respect to certain unions where those dues are determined by a process after certification.

So I would move, seconded by the honourable Minister of Consumer and Corporate Affairs (Mrs. McIntosh),

THAT subsection 7(1) of the Bill be amended by adding the following after the proposed subsection 45(3.1):

Proof of Information provided

45(3.2) Proof of compliance with subsection (3.1) may consist of the signature of the employee on a statement that the employee has been provided with information respecting

(a) any initiation fees and regular membership dues—

Madam Chairperson, if I may, in this amendment that I am proposing there is an error in the drafting. I believe we were to include a line, is it further down? I am sorry. If I may continue, the amendment would read, the new section would read:

—of the union; or

(b) where any such initiation fees and regular membership dues are not determined, the manner in which the initiation fees and membership dues are determined;

and that the employee understands the information.

[French version]

Il est proposé que le paragraphe 7(1) du projet de loi soit amendé par adjonction, après le paragraphe 45(3.1), de ce qui suit:

Preuve du respect du paragraphe (3.1)

45(3.2) Peut constituer la preuve que le paragraphe (3.1) a été respecté la signature de l'employé sur une déclaration indiquant que les renseignements relatifs aux frais d'adhésion et aux cotisations habituelles dus au syndicat ou, si ces frais et ces cotisations ne sont pas déterminés, à la façon dont ils sont établis lui ont été fournis et qu'il comprend la nature de ces renseignements.

Motion presented.

Mr. Ashton: Madam Chairperson, I want to indicate this is one of the concerns that we had identified, and it was fairly clear from the committee hearings that there were significant problems in the drafting of this particular section. The amendment is in keeping with the concern that we had expressed, and many people at the committee had expressed.

I just want to identify one potential problem with the amendment that I have been able to identify in just going through it. The section on 45(3.2) makes reference to "any initiation fees and regular membership dues of the union," or then refers to the manner in which the initiation fees and membership fees are determined. One thing the minister may find is that unions often have different levels of membership dues, for example, new members will pay a lesser amount in an initial period based on the assumption that they do not get the full benefits during a period of time, so there may be some particular problem. I would just flag this as a possible area for consideration at report stage.

Madam Chairperson, I am not suggesting that this necessarily be dealt with at this point in time. The principle is fairly good in terms of the rest of it, and it is an amendment that I know will be appreciated by those who have to go through this process from all sides. I would ask the minister to look at the definition of regular membership. There may be another term that could be used, but the intent of the wording, which might involve either deleting that particular word or putting in regular or initial membership dues of the union. In fact, I would say the initial membership dues are probably more appropriate than the regular dues.

Mr. Praznik: Madam Chairperson, if I may just refer the member to Section 45(3.1), which would be the section governing this particular procedure. We indicate that the employee must be provided with information respecting the amount payable or that is reasonably expected to be payable. The intent of the word "reasonably" was for just those circumstances where there may be a lesser amount or amounts changed during the certification drive, et cetera. So use of the word "reasonably" gives the Labour Board the latitude to, I think, deal with the particular concern the member has expressed.

Mr. Ashton: Yes, just on that particular point, I will be reviewing the various sections and may even raise this further, but given the general intent of the amendment, we will be supporting this amendment.

Madam Chairperson: All those in favour of the amendment, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: Any opposed? The amendment—

Subsection 45(3.1) as amended—passed.

Mr. Praznik: Madam Chairperson, I believe that is Section 7(1) of the bill.

Madam Chairperson: Yes, I had already said Clause 7 to begin with.

Mr. Praznik: Madam Chairperson, I have an amendment to 7(2) of the bill before we pass—[interjection] Yes, I would, as I have indicated earlier, that the intent of this particular provision was to treat this system as a controverted election and I do not think the wording quite clearly did that.

So I would move

THAT the proposed subsection 45(4), as set out in subsection 7(2) of the Bill, be amended by striking out everything after clause (b) and substituting the following:

the board

(c) may, in a case under clause (a), dismiss the application or order a vote to determine the wishes of the employees in the unit; and

(d) shall not, in a case under clause (b), accept the membership of an employee in the union as evidence of the wish of the employee to have the union represent the employee as bargaining agent, where the employee did not receive information in accordance with subsection (3.1).

[French version]

Il est proposé que le paragraphe 45(4) de la Loi, énoncé au paragraphe 7(2) du projet de loi, soit amendé par substitution, au passage qui précède l'alinéa a), de ce qui suit:

Pouvoirs de la Commission

45(4) Saisie de la demande d'accréditation d'un syndicat à titre d'agent négociateur pour les employés compris dans une unité, la Commission peut, dans le cas visé à l'alinéa a), rejeter la demande ou ordonner la tenue d'un scrutin pour que les désirs des employés compris dans l'unité soient déterminés et ne peut, dans le cas visé à l'alinéa b), accepter l'adhésion d'un employé au syndicat à titre de preuve du désir de l'employé d'être représenté par le syndicat à titre d'agent négociateur, dans le cas où l'employé n'a pas reçu les renseignements visés au paragraphe (3.1), si elle est convaincue qu'au cours de la sollicitation d'adhésions, le syndicat ou un de ses représentants a, selon le cas:

So it would treat the particular matter differently than the remainder of the section in which this amendment is being placed in the act.

Motion presented.

Mr. Ashton: Madam Chairperson, I just want to indicate that we are pleased with this particular amendment, I think, with the previous amendment that was moved. To a certain extent this may be a moot point in most cases. Because with the specific allowance, individuals signing the fact that they received the information, that should become far less in dispute, but it is certainly a positive amendment.

I had an amendment drafted that would have done the same sort of thing. It would have eliminated the section in terms of dismissing the application. It was a major concern expressed to committee. I know we have raised it ourselves, and it certainly—well, we think this whole section is moving into areas that really have not been called for by anyone. If the government is insistent on moving in this area, this is a positive amendment and we will support it.

Hon. Linda McIntosh (Minister of Consumer and Corporate Affairs): I have a question, Madam Chairperson. I just wanted some clarification on your rationale for supporting this again. You had indicated some rationale for supporting this amendment. I wonder if you could just expand a little bit on it. You said you supported it in light of what you had heard, et cetera, but you really did not say why.

* (1630)

Mr. Ashton: Well, Madam Chairperson, I am afraid if I outline my reasons for supporting this, knowing the differing views of the member opposite and myself on most labour relations matters, she may vote against it simply because I am supporting it. I am supporting it because the concern was expressed that currently the act, the amendment as drafted, would allow the board to throw out an entire application, even if only one or two cards were in dispute, as is the current worry.

I understand that was not the intent of the act. This clarifies the intent more clearly so that if there is a problem in regard to someone not having been given the union dues, that card will not be taken in dispute and the sanction will still remain in place. The ability to dismiss an application to that is only where there has been in Section A, intimidation, fraud or coercion, which is obviously a far more serious accusation that would be dealt with by the

Labour Board, than simply one or two or three cards that have been dealt with.

So this brings us more in line with The Elections Act, and I hope I have not persuaded the minister to move the other way by my comments but it is a good amendment.

Madam Chairperson: Clause 7(45)(4), as amended—pass.

Shall Clause 8 pass?

Mr. Praznik: Yes, Madam Chairperson, again, I would move

THAT the proposed clause 48.1(b), as set out in section 8 of the Bill, be amended by striking out "or other activity".

[French version]

Il est proposé que l'alinéa 48.1b), énoncé à l'article 8 du projet de loi, soit amendé par suppression de "ou se livre à d'autres activités".

I think there were some concerns expressed with that, that this amendment would alleviate.

Motion presented.

Mr. Ashton: Madam Chairperson, this is a concern we have expressed. It was a concern expressed by a number of presenters. I made the comment in my opening remarks that it was matter of concern. In fact we had a similar amendment and welcome this amendment. I have a further amendment after this on the same section.

Madam Chairperson: All those in favour, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: Opposed?

Shall Clause 8, subsection 48.1, as amended be passed?

Mr. Ashton: I have a further amendment. Madam Chairperson, I move, in both English and French versions,

THAT section 48.1, as set out in section 8 of the Bill, be amended by striking out "place of work or".

[French version]

Il est proposé que l'article 48.1, énoncé à l'article et du projet de loi, soit amendé par suppression de "au lieu de travail ou".

Motion presented.

Mr. Ashton: Just by way of explanation we feel this would bring these provisions of the bill even more in keeping with The Elections Act. Currently, under The Elections Act, individuals are not allowed to campaign at, or close to a polling booth, but there is no real restriction in terms of other election activities in other areas, apart from advertising I believe.

We feel this is going to create a great deal of problems in terms of individuals acting on whichever behalf. This, by the way, affects both management and labour, that they will find that the activities that most of us would consider were normal in an election sense, and this is what this is, it is an election, would be prohibited in the workplace, even recommending that someone get out and vote for or against a union.

So this affects both sides. We feel it would be far better to restrict the provisions of this section to the polling booth in the same way The Elections Act restricts activities in the polling booth, but does not restrict other activities.

Mr. Praznik: Madam Chairperson, it was our intention, in this particular section, to ensure that on the day of the vote, the people voting would be free of the electioneering process during the course of that day so that they could exercise their franchise in this case without being caught in the election process.

We decided both the polling place and the workplace should be free of electioneering on election day to ensure some calmness and the ability to make a rational decision without influence from either side. So it would not be an amendment that I would, as minister, be prepared to accept.

Mr. Lamoureux: I am not comfortable with the explanation. I would ask the member for Thompson (Mr. Ashton) to possibly give an example—if he could maybe cite an example as to what it is that he is trying to say.

Mr. Ashton: Well, currently, with the way this section is drafted, and we have to leave it "or other activity," there is a prohibition on distribution of printed material and engaging in electioneering.

I guess the question has to be asked, first of all, what is electioneering? Under this act as this section currently stands, the concern is that someone who says: By the way, do not forget to vote yes for the union today, or vice versa, do not forget to vote no to the union in the certification vote taking place, or if there is a choice between different

unions recommends voting one way or the other, would be violating this section of the act.

We agree that that should not happen in the polling place, but just in the same way that at a workplace on election days, not only does it happen, it is standard practice, I am sure, at every workplace across the province for people to say, yes, do not forget to get out and vote for whoever.

We feel that it would be better left in place in terms of this act. So we are suggesting it be dealt with in the same place. The minister has a different view, obviously, but we feel that this act should as close as possible parallel The Elections Act.

Mr. Lamoureux: Madam Chairperson, I want to make sure that I am clear on this. If you and I work at a company and we are having a certification vote today, and you and I are friends, I cannot say to you: Let us go make our vote and I hope you are voting yes. Is that the intent?

Mr. Ashton: Yes, in fact, one of the problems arises particularly if you are a representative of the management or on the other side. So if you made a statement in that case, it would be an unfair labour practice, basically, that would reflect on the overall status of the certification whereby the management or the union protects. This could, by the way, affect both sides. This is affecting both sides.

If this was further applied, you may also end up with a situation, even as an individual, of contravening that act as well, even if you were not acting on behalf of the employer or the employee. I understand the minister is considering introducing a section that would apply it even further.

So the bottom line is we are saying, what is good for Manitoba elections is good for elections surrounding a certification dispute and that is that you really cannot stop people from doing what is a very basic level process of electioneering along what you are saying: Do not forget to vote for whatever side.

Mr. Lamoureux: Madam Chairperson, just so that it is clear—it might even prevent you from having a voice vote—I will be abstaining from this particular vote because I am not too sure if I follow exactly what is being said.

Madam Chairperson: All those in favour of the amendment, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

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

Mr. Ashton: On division.

* (1640)

Madam Chairperson: On division? Mr. Lamoureux has abstained? He agreed. Agreed. Okay, let me just go back. Shall Clause 48.1—

Mr. Praznik: Madam Chairperson, I have a further amendment. It was pointed out by presenters yesterday that there was one small, I guess you could say, opening in this particular section, where a person who is neither a representative of the employer or the union could interfere in the election process and not be subject to any penalty.

I would therefore move

THAT the proposed Section 48.1, as set out in section 8 of the Bill, be amended by renumbering it as Section 48.1(1) and adding the following as subsection 48.1(2):

Electioneering by other persons

48.1(2) Any person, other than a person referred to in subsection (1), who does anything that would be an unfair labor practice under subsection (1) if done by an employer or union is guilty of an offence.

[French version]

Il est proposé que l'article 48.1, énoncé à l'article 8 du projet de loi, soit amendé par substitution, à son numéro actuel, du numéro de paragraphe 48.1 (1) et par adjonction de ce qui suit:

Propagande par d'autres personnes

48.1(2) Commet une infraction quiconque, à l'exception d'une personne visée au paragraphe (1), fait une chose qui constituerait une pratique déloyale de travail en vertu du paragraphe (1) si cette chose était faite par un employeur ou un syndicat.

This would allow for an appropriate penalty for interference by a third party.

Motion presented.

Mr. Ashton: Madam Chairperson, I was wondering if the minister could give an explanation for this, whether it has been a problem, and what will happen as a result of this section?

Mr. Praznik: As was pointed out by some of the presenters yesterday, if you are interfering under the current scheme, if you are interfering in the conduct of the election, or you are electioneering on election day in the workplace or the polling place, if you are an employer or you are a union, and you are doing it on behalf of those groups, that you would be subject to an unfair labour practice by breaching the provisions of that act, of this section.

However, if you are an employee who is participating in electioneering, the unfair labour practice penalty does not really apply to you because you are not a union or the employer. So there is really no offence to anyone electioneering in the polling place or the workplace on election day.

What this does, in essence, is allow for an offence under the act which would be the suitable penalty for a third party interfering in that electioneering process, and ensures that the ban on electioneering in the workplace or the polling place on the day of the vote is a complete ban.

Mr. Ashton: Madam Chairperson, I just want to indicate the concern with this particular section, when combined with the other. It also goes far beyond the current intent of this section, it introduces a new provision and, quite frankly, comes as a surprise to us on this committee.

I want to indicate that if the minister is concerned about the activities of other individuals, I think he might well listen to some of the presentations that were made yesterday about funds and other ways in which one side or the other, in this case, what we are talking about essentially are individuals who receive funds from sources from one side or the other, in this case most likely management, to pursue complaints against certification drive. That would be the way to deal with the concerns that were expressed.

The concern was that an individual may be bankrolled by the one side, in this case, the management that contests the certification, and basically there is nothing that prevents that from happening. In fact, there was a presentation for CWC which pointed to a case where individuals were taken off the line on company time, various activities where the company clearly was using an individual who was a supposed independent objector in providing time, support, resources. This section does not do that.

The concern we have is not that there should not be some regulations affecting the ability of individuals to become involved in the funding side. That is clearly the case. Quite frankly, I am surprised that government members would be even looking at that particular case because what it will do, the concern I would express, is it will make it an offense, essentially, under this section for somebody who is on neither side officially to go into their workplace on the day of the certification vote and say, by the way, do not forget to go out and vote and just fill in whatever particular way. I am not saying it will happen one way or the other.

I think this would create a far less concern, Madam Chairperson, if the section on the place of work had been eliminated, so that it was strictly more to do with the polling booth, and I would raise the concern that we have not really had the time to look at this. I think I understand the intent of the minister, but I think it may have unforeseen consequences. In this case, once again, I mentioned, perhaps the Minister of Consumer and Corporate Affairs (Mrs. McIntosh), this is going to apply particularly to the people she was talking about yesterday who are not really on one side or the other.

They could, under this section of the act, end up committing an offense by merely expressing their viewpoint on an election day in the place of work. I would express concern about that, and we will not be supporting this section and we will be reviewing it on report stage.

Madam Chairperson: All of those in favour of the amendment, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed, please say nay.

An Honourable Member: Nay.

Madam Chairperson: There was one no. On division. Agreed? Agreed.

Clause 8, subsection 48.1, as amended—pass.

Shall Clause 9 pass?

Mr. Praznik: Madam Chairperson, I have two amendments dealing with the same issue again, and they are required because of the section. The point was made very strongly at committee, the need to have some time period on the first contract provisions so that conciliation officers are not put in a difficult opinion. I indicated at that time, that was

an issue we had wrestled with in drafting this particular legislation.

So what I would like to propose, and I have, as I have indicated, two amendments. They go hand in hand with respect to this provision as we would propose.

I would so move:

THAT subsection 68(3.1), as set out in section 9 of the Bill, be amended by striking out "shall" and substituting "may, after the expiry of 90 days and before the expiry of 120 days from the day of the appointment,"

[French Version]

Il est proposé que le paragraphe 68(3.1), énoncé à l'article 9 du projet de loi, soit amendé par substitution, à "avise", de "peut, après que 90 jours se sont écoulés à compter de la date de sa nomination, aviser".

Motion presented

Mr. Praznik: Madam Chairperson, there is a further amendment which I will move in due course that is a companion to this. By and large, what this will allow to happen is after a certification, if parties request a conciliator, the conciliator has 90 days in which to do their work before an application for a report would go to the Labour Board. Following the 90-day period between 90 and 120 days, the conciliation officer would have a period in which to report to the Labour Board if an agreement was not reached.

My companion amendment will indicate that after 120 days after the appointment of a conciliation officer, that the parties then would be free to apply for first contract. I think this gives the opportunity for the conciliator to do their work. I should indicate as well that in other provisions of the act, there are references to the conciliation officer—I believe it is Section 10 of the act—that provides for a 90-day period for the conciliation officer to do their work. So that, we would argue, is the appropriate period with a further 30 days if the conciliation officer feels that there is still an effort that can be made to resolving the issue. We are happy to put forward these amendments. I have moved one and once this is dealt with, I will move the second companion amendment.

Mr. Ashton: Yes, I have an amendment to the minister's amendment, Madam Chairperson. I move, both English and French versions, that—

Madam Chairperson: I am sorry Mr. Ashton, would you just wait for one minute please and we will distribute it.

Mr. Ashton: I move, Madam Chairperson, in both English and French versions

THAT the amendment proposed by the Honourable Mr. Praznik to subsection 68(3.1), as set out in section 9 of the Bill, be amended

(a) by striking out "90" and substituting "30"; and

(b) by striking out "120" and substituting "60".

[French version]

Il est proposé que l'amendement au paragraphe 68(3.1), énoncé à l'article 9 du projet de loi, proposé par M. le ministre Praznik, soit amendé:

a) par substitution, à "90", de "30";

b) par substitution, à "120", de "60".

Motion presented.

Madam Chairperson: All those in favour?

* (1650)

Mr. Ashton: I just, first of all, want to indicate that I appreciate the minister is responding to the concerns that have been expressed. This is one of the areas we have identified as a problem. I think his original amendment in terms of intent is well taken. The only dispute is over the number of days involved.

In particular, I feel the 120-day provision will lengthen what may not necessarily be a productive process. We have introduced an amendment that would lower that to 30 with an option of extension up to a total of 60. I could have also moved something in the range of 60 to 90. I would perhaps ask the minister to consider that if they do not support this section.

I think going beyond a 90-day period will leave both parties without a contract for a fairly significant period of time. I think it is in the interest of all parties, once the first contract is really the only option available to reach an agreement, to do it within an expedited period. If the government cannot accept this, I would ask that they do consider perhaps lowering the dates on the other applications, perhaps at report stage.

I want to stress again that this is intended as a friendly amendment, if that is possible, given the differences between the two parties on labour bills.

The intent of the original amendment of the minister is very positive.

Madam Chairperson: All those in favour of the amendment to the amendment, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

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

Mr. Ashton: On division.

Madam Chairperson: On division. Agreed?

Some Honourable Members: Agreed.

Madam Chairperson: Agreed. The amendment to the amendment has been defeated.

All those in favour of the amendment moved by the honourable Mr. Praznik, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: The amendment is passed.

Mr. Praznik: Yes, Madam Chairperson, the companion amendment is to Section 11(1) of the bill, so if we could perhaps move to that and then I would move the companion.

Madam Chairperson: Clause 9, as amended—passed.

Shall Clause 10 be passed?

Some Honourable Members: Pass.

Madam Chairperson: Pass. Agreed?

Mr. Ashton: On division.

Madam Chairperson: On division. Agreed?

Some Honourable Members: Agreed.

Madam Chairperson: Agreed. Clause 10 is passed.

Shall Clause 11 pass?

Mr. Praznik: Yes, Madam Chairperson, the companion amendment, I would move

THAT clause 87(1)(b), as set out in subsection 11(1) of the Bill, be amended by adding ", or 120 days have expired since the appointment" after "subsection 68(3.1)".

[French version]

Il est proposé que l'alinéa 87(1)b), énoncé au paragraphe 11(1) du projet de loi, soit amendé par adjonction, après "au paragraphe 68(3.1)", de "ou dans le cas où 120 jours se sont écoulés depuis sa nomination".

Motion presented.

Mr. Ashton: Madam Chairperson, I just once again express the same concern. I hope perhaps we can have further discussions prior to report stage and that we can perhaps look at a lowering of the major concern we had was the 120 days as opposed to a lower time limit. Thank you.

Motion agreed to:

Madam Chairperson: Clause 11, as amended—pass; Clause 11(1)—pass; Clause 11(2)—pass; Clause 11(3)—pass; Clause 11(4)—pass; Clause 11(5)—pass; Clause 11(6)—pass.

Mr. Praznik: On Section 12 I have an amendment. This is a drafting error that we discovered in the bill. It was our intent not to disallow vice-chairs of the Labour Board to serve as arbitrators. It was simply to ensure that they had to meet the same criteria as other arbitrators, which is mutual acceptability by the representatives of labour and management. I do not quite think, as was pointed out, this clause does it again—a drafting error—and I would so move

THAT the Bill be amended by striking out section 12 and substituting the following:

12 Subsection 130(6) is amended by striking out "The Board may appoint a" and substituting "Where the board has added the name of a part-time vice-chairperson to the list of arbitrators under subsection 117(2), the board may appoint the".

[French version]

Il est proposé que le projet de loi soit amendé par substitution, à l'article 12, de ce qui suit:

12 Le paragraphe 130(6) est amendé par substitution, à "La Commission peut nommer un de ses vice-présidents à temps partiel", de "Si elle a ajouté le nom d'un vice-président à temps partiel à la liste d'arbitres visée au paragraphe 117(2), la Commission peut nommer celui-ci".

Motion presented.

Madam Chairperson: All those in favour of the amendment, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: Clause 12, as amended—pass; Clause 13(1)—pass.

Mr. Ashton: On division.

Madam Chairperson: On division. Clause 13(2)—pass.

Mr. Ashton: On division.

Madam Chairperson: Agreed.

Mr. Praznik: Madam Chairperson, I would move

THAT the Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee.

[French version]

Il est proposé que le conseiller législatif soit autorisé à modifier les numéros d'article et les renvois internes de façon à donner effet aux amendements adoptés par le Comité.

Motion presented.

Madam Chairperson: Agreed?

Some Honourable Members: Agreed.

Madam Chairperson: Agreed. Preamble—(pass); Title—(pass).

Shall the bill, as amended, be reported?

Mr. Ashton: Madam Chairperson, I just want to note that we have gone through the process in detail. A number of our major concerns remain unresolved, most specifically the opening up of the ability of employers to become involved in the certification process, a process that we feel is a decision that is that of the employees in opening up the process for undue influence. I want to note that the bill still contains the provisions raising the percentage for a mandatory vote requirement from 55 to 65.

It also contains some other provisions that we have expressed concern over in regard to electioneering. I want to indicate that, in and as of itself, in particular the sections related to the role of employers and the sections raising the percentage requirements, we could never support a bill that did that. I want to make that very clear, that we oppose the bill at this stage, we are opposing it in the House, based very much on the principles involved with those two sections. We do not feel it is in the best interest of labour relations in this province.

I want to indicate in terms of other sections that we are pleased the minister has moved some substantial amendments, Madam Chairperson. It does not take away from the fact that we feel this is still a negative bill, but what it does I think is ensure that we do not have a complete mess as a result of some of the changes in this bill. These amendments I know have been identified at committee hearings by presenters. We have referenced many of them.

I did want to indicate on the record that while we are opposing this bill on a matter of principle, we do recognize that some of the more bizarre consequences of the bill as it was originally drafted have now been eliminated.

I want to indicate very clearly that the bottom-line concern for us is that there be a fair process, democratic process, in terms of a very important decision for a lot of people, and that is whether they want to be represented by a union or not, would they want to bargain collectively or not.

I would note that some of the amendments that we had suggested would impact on both sides, Madam Chairperson, in terms of ensuring the fairness of the process. Our concern is that this shifts us away from a fair process, so our bottom line is even though there are some significant amendments, we feel the shift is unfair, we feel it is uncalled for, and we will be opposing this bill on this particular vote and in the House.

Madam Chairperson: Is it the will of the committee that I report the bill as amended? All those in favour, please say yea.

An Honourable Member: Yea.

Madam Chairperson: Those opposed, say nay.

An Honourable Member: Nay.

Madam Chairperson: In my opinion the yeas have it.

Mr. Ashton: I request a counted vote.

A COUNTED VOTE was taken, the result being as follows: Yeas 5, Nays 4.

Mr. Praznik: Madam Chairperson, before the committee rises, I would just like to make a little presentation to the member for Thompson (Mr. Ashton). It is a special edition of his community newspaper, dated Sunday, May 30, 1976, and it was brought to me by someone who was involved in this process who asked that I convey it to him. I would just suggest he have a look at the photographs and the particular article entitled "Committee men reject new vote" and I am sure he will enjoy this little bit of memorabilia.

Madam Chairperson: I just want to clarify that it is the will of the committee that I report the bill as amended.

Committee rise.

COMMITTEE ROSE AT: 5 p.m.