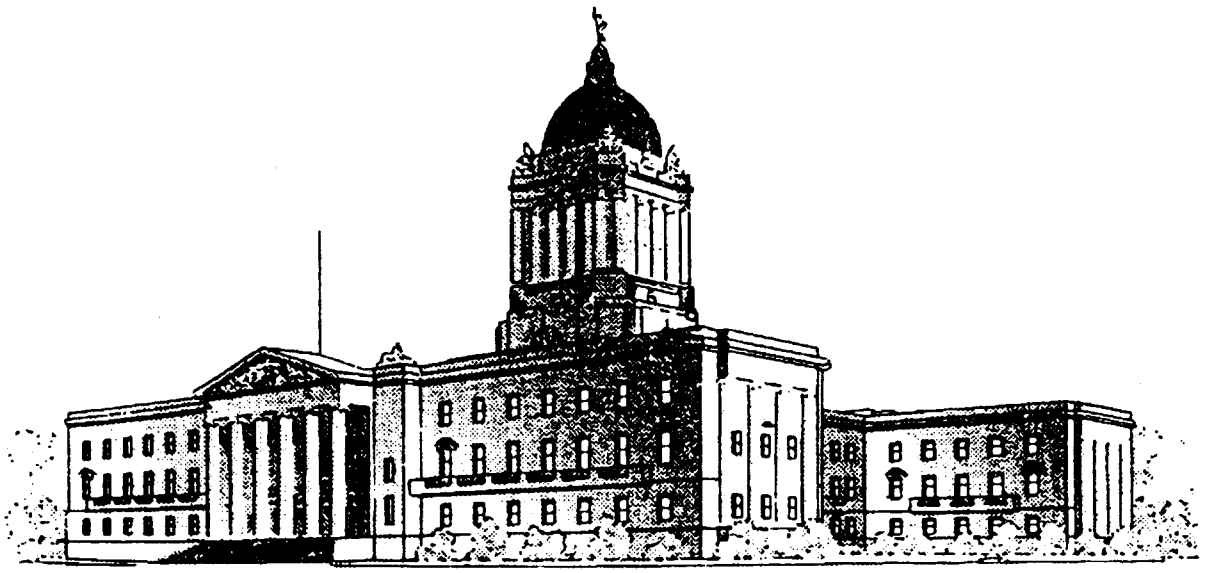
Second Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee on Industrial Relations

Chairperson
Mr. Mike Radcliffe
Constituency of River Heights



Vol. XLVI No. 1 - 7 p.m., Thursday, October 24, 1996

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

Members, Constituencies and Political Affiliation

Name	Constituency	Party
ASHTON, Steve	Thompson	N.D.P.
BARRETT, Becky	Wellington	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave	Kildonan	N.D.P.
CUMMINGS, Glen, Hon.	Ste. Rose	P.C.
DACQUAY, Louise, Hon.	Seine River	P.C.
DERKACH, Leonard, Hon.	Roblin-Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary	Concordia	N.D.P.
DOWNEY, James, Hon.	Arthur-Virden	P.C.
DRIEDGER, Albert, Hon.	Steinbach	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry, Hon.	Lakeside	P.C.
ERNST, Jim, Hon.	Charleswood	P.C.
EVANS, Clif	Interlake	N.D.P.
EVANS, Leonard S.	Brandon East	N.D.P.
FILMON, Gary, Hon.	Tuxedo	P.C.
FINDLAY, Glen, Hon.	Springfield	P.C.
FRIESEN, Jean	Wolseley	N.D.P.
GAUDRY, Neil	St. Boniface	Lib.
GILLESHAMMER, Harold, Hon.	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KOWALSKI, Gary	The Maples	Lib.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
MACKINTOSH, Gord	St. Johns	N.D.P.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McALPINE, Gerry	Sturgeon Creek	P.C.
McCRAE, James, Hon.	Brandon West	P.C.
McGIFFORD, Diane	Osborne	N.D.P.
McINTOSH, Linda, Hon.	Assiniboia	P.C.
MIHYCHUK, MaryAnn	St. James	N.D.P.
MITCHELSON, Bonnie, Hon.	River East	P.C.
NEWMAN, David	Riel	P.C.
PALLISTER, Brian, Hon.	Portage la Prairie	P.C.
PENNER, Jack	Emerson	P.C.
PITURA, Frank	Morris	P.C.
PRAZNIK, Darren, Hon.	Lac du Bonnet	P.C.
RADCLIFFE, Mike	River Heights	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack, Hon.	Niakwa	P.C.
RENDER, Shirley	St. Vital	P.C.
ROBINSON, Eric	Rupertsland	N.D.P.
ROCAN, Denis	Gladstone	P.C.
SALE, Tim	Crescentwood	N.D.P.
SANTOS, Conrad	Broadway	N.D.P.
STEFANSON, Eric, Hon.	Kirkfield Park	P.C.
STRUTHERS, Stan	Dauphin	N.D.P.
SVEINSON, Ben	La Verendrye	P.C.
TOEWS, Vic, Hon.	Rossmere	P.C.
TWEED, Mervin	Turtle Mountain	P.C.
VODREY, Rosemary, Hon.	Fort Garry	P.C.
WOWCHUK, Rosann	Swan River	N.D.P.

LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS

Thursday, October 24, 1996

TIME – 7 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Mike Radcliffe (River Heights)

VICE-CHAIRPERSON – Mr. Peter Dyck (Pembina)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. Reimer, Toews, Hon. Mrs. Vodrey

Mr. Ashton, Ms. Barrett, Messrs. Dyck, Laurendeau, Martindale, Radcliffe, Reid, Sveinson

WITNESSES:

Mr. Al Mackling, Private Citizen
Mr. Dave Tesarski, Manitoba Council of the Canadian Federation of Labour
Mr. Chris Hicks, Souris Valley Teachers' Association
Mr. Randy Bjornson, Lakeshore Teachers' Association
Mr. Ross Martin, Brandon & District Labour Council
Mr. Keith Hillis, Private Citizen
Mr. Bernard Christophe, United Food and Commercial Workers Union, Local 832
Mr. Dave Martin, Manitoba Building and Construction Trades Council
Mr. Frank Thomas, Manitoba Building and Construction Trades Council
Mr. Brian Timlick, Private Citizen
Mr. Paul Moist, Canadian Union of Public Employees, Manitoba
Mr. Sidney Green, Private Citizen
Mr. Bob Stevens, Manitoba Restaurant and Foodservices Association
Ms. Maureen Hancharyk, Manitoba Nurses' Union
Mr. Rob Hilliard, President, Manitoba Federation of Labour
Mr. Greg Patterson, Private Citizen
Mr. William F. Gardner, Jr., Winnipeg Chamber of Commerce
Mr. Dan Kelly, Canadian Federation of Independent Business
Mr. Lance Norman, Manitoba Chamber of Commerce
Ms. Diane Beresford, Manitoba Teachers' Society
Mr. Alan Borger, Jr., Private Citizen
Mr. Gerald Joyce, Private Citizen

WRITTEN SUBMISSIONS:

Mr. Chris Lorenc, Manitoba Heavy Construction Association
Mr. Grant Nordman, Assiniboia Chamber of Commerce
Mr. Allan Finkel, Manitoba Fashion Institute

MATTERS UNDER DISCUSSION:

Bill 26–The Labour Relations Amendment Act

* * *

Clerk Assistant (Ms. Patricia Chaychuk): Order, please. Will the Standing Committee on Industrial Relations please come to order.

Before the committee can proceed this evening, it must elect a Chairperson. Are there any nominations?

Mr. Marcel Laurendeau (St. Norbert): I would like to nominate Mr. Radcliffe, please.

Clerk Assistant: Mr. Radcliffe has been nominated. Are there any other nominations? Seeing none, Mr. Radcliffe, you are elected Chair.

Mr. Chairperson: Good evening, ladies and gentlemen. Before the committee can proceed with the business before it, it must elect a new Vice-Chairperson. Are there any nominations?

Mr. Laurendeau: I would like to nominate Mr. Dyck.

Mr. Chairperson: Are there any further nominations? Seeing none, Mr. Dyck is elected as Vice-Chairperson.

Ladies and gentlemen, this evening the committee will be considering Bill 26, The Labour Relations Amendment Act.

I will now read aloud the names of the persons who have preregistered to speak to Bill 26. They are as follows: 1) Betty Green, 2) Frank Thomas and Dave Martin, 3) Brian Timlick, 4) Paul Moist, 5) Sidney Green, 6) Bob Stevens, 7) Maureen Hancharyk, 8) Rob Hilliard, 9) Al Mackling, 10) Greg Patterson, 11) Dave Tesarski, 12) Candace Bishoff and William F. Gardner Jr., 13) Dan Kelly, 14) Lance Norman, 15) Patrick Martin, 16) Ken Pearce, 17) Chris Hicks, 18) Robert Lindey, 19) Alan Borger, Jr., 20) Thomas Henderson, 21) Jim Silver, 22) Bernard Christophe, 23) Brian Hunt, 24) Peter Olfert, 25) Allan Finkel, 26) Albert Cerilli, 27) Randy Bjornson, 28) Deb Stewart, 29) Dan Lemieux, 30) Mario Javier, 31) A Spokesperson to be Named on behalf of the Canadian Council of Grocery Distributors, Canada Safeway, 32) Grant Nordman, 33) Cy Gonick, 34) Yvonne Campbell, 35) Kenneth Emberley, 36) Gerald Joyce, 37) Darrell Rankin, 38) Kelly Logan, 39) Barny Haines, 40) Reg Cumming, 41) Peter Magda, 42) Heinrich Huber, 43) Edward Hiebert, 44) Ross Martin, 45) Caroline Stecher, 46) Allan Beach, 47) Iris Taylor, 48) Robert Ziegler, 49) Carolyn Ryan, 50) Mark Sahan, 51) Victor Vrsnik, 52) Claudette Chudy, 53) Alex Puerto, 54) Ken Nickel, 55) Cindy Garofalo, 56) Jack Samyn.

If there are any other persons in attendance who wish to speak to the bill and whose name does not appear on the list, please register with the Chamber Branch personnel at the far end of the room.

Just as a reminder to those presenters wishing to hand out a written copy of their briefs to committee members, 15 copies are required. If assistance in making photocopies is required, please see the Chamber Branch personnel at the rear of the room or the Clerk Assistant. In terms of committee procedure for the consideration of this bill, do the committee wish to use time limits?

Mr. Ben Sveinson (La Verendrye): Mr. Chairman, I move that the committee call all the names listed twice and after the second time the names be dropped from the list, and that there be 10 minutes allocated per presenter and five minutes for questions and answers, and that the committee continue to sit until all presenters have been heard.

Mr. Daryl Reid (Transcona): Mr. Chairperson, this is an open–

* (1910)

Mr. Chairperson: Mr. Reid, I am sorry, I have to interrupt. I am obliged by the advice I have received from the Clerk tonight that I read the motion to the committee and then open it for discussion.

The motion before the committee at the present time is that the committee call all the names listed twice and after the second time the name will be dropped from the list, and that there be a 10 minute allocated per presenter and five minutes for questions and answers, and that the committee continue to sit until all presenters have been heard.

All right, now I will open debate on the motion.

Mr. Reid: Mr. Chairperson, the number of presenters that we have shown here on the list today is not as extensive as we have seen on other pieces of legislation that have come before committee of the Legislature. I know there are a number of presenters here today that are in some way, perhaps have some time difficulties and would like to present early, and that we have in that case some out-of-town presenters for which this committee would make allowances. But what I would suggest, Mr. Chairperson, is that we have some flexibility in allowing presenters here, who I am sure can show good judgment in the presentations that they are willing to make, but we should not be restrictive for the individuals, to allow them in a free and open democratic process to express their viewpoints. After all, that is what this committee is about, and I would hope that the committee members would recognize that.

With respect to the calling of the names twice, if I could suggest an amendment to the motion that has been put forward, perhaps members of this committee would accept the calling of the names three times instead of the two as the motion has indicated. But I would definitely prefer to see the calling of the names three times to ensure

members of the public have ample opportunity to come forward to this committee and present their viewpoints, but also to show some flexibility in allowing members of the public presenting to the committee the opportunity to state quite clearly their viewpoints and to allow members of this committee, quite frankly, the opportunity to ask questions of the presenters.

In 10 minutes of presentation and five minutes of question and answer, it seems to me to be inadequate, considering the magnitude of the changes that the government is proposing in Bill 26.

Mr. Laurendeau: Question?

Mr. Chairperson: The question has been called. The motion–[interjection] Excuse me. Order, please.

The motion before the committee tonight is that the committee call all the names listed twice, and after the second time the name will be dropped off the list, and there will be 10 minutes allocated per presenter and five minutes for questions and answers, and that the committee continue to sit until all presenters have been heard.

Voice Vote

Mr. Chairperson: All those in favour of the motion?

An Honourable Member: Yea.

Mr. Chairperson: All those in favour of the question?

An Honourable Member: Yea.

Some Honourable Members: Nay.

Mr. Chairperson: All those in favour?

An Honourable Member: Yea.

Mr. Chairperson: All those against?

Some Honourable Members: Nay.

Mr. Steve Ashton (Thompson): What kind of a farce are we turning this committee into when we cannot even debate the time we are working?

Mr. Chairperson: Order. I declare the motion passed.

* * *

Mr. Ashton: Now we are talking–now I have the ability to debate, I want to indicate that this is an absolute farce. We have had these motions brought forward every committee–

Point of Order

Mr. Cnairperson: I am sorry. Point of order, Mr. Laurendeau.

Mr. Laurendeau: I think that we have made the decision that the question would be put, Mr. Chair. I think that the question passed, so I do not think the opportunity is here for this member to debate at this time.

An Honourable Member: No, let us not let anybody speak anything.

Mr. Chairperson: Excuse me. There will be no comments from the audience. If there are any comments from the audience, I will have the room cleared. Order.

* * *

Mr. Ashton: Mr. Chairperson, you are going to have to throw the opposition members out of this room as well, because I have never seen a situation in which we have had such an abuse of the process here. I mean, this government has brought in motions, and we have at least been allowed to debate these time closure motions, but for the member on the government side to prevent the debate on the time motions to one speaker by moving that motion is absolutely incredible. When we are dealing with a bill which deals with very much in a way the democratic process which is trying to deal in ways in which the government is attempting to instruct–

Point of Order

Mr. Chairperson: Excuse me. Point of order, Mr. Laurendeau. Do you have a point of order to Mr. Ashton's presentation?

Mr. Laurendeau: Yes, I do have a point of order, Mr. Chairperson. The question has been put. We could

continue to debate this issue for three and four and five hours, but that would not accomplish what we are here for, and that is to hear the public presentations.

I do believe that the motion has been put. The question has been won, so I would recommend that we move on.

Mr. Chairperson: The committee finds that you do have a point of order, and the committee will call the first presenter.

* * *

Mr. Ashton: Mr. Chairperson, on what basis is that a point of order? On what basis? We have not even dealt with other procedural matters such as how late we sit. If the government is so desperate that it has to try and ram through this bill in this undemocratic process, you, Sir, and the rest of this committee are making a complete mockery. I have never seen a committee so-

Mr. Chairperson: Thank you, Mr. Ashton, for your comments.

Mr. Ashton: Mr. Chairperson, I had the floor. I was interrupted by the member opposite.

Mr. Chairperson: I do not believe so. I think there was a point of order, and I ruled on the point of order, Mr. Ashton.

Mr. Ashton: I am seeking to be recognized again, or are you going to prevent me from speaking one more time?

Mr. Chairperson: The Chair will recognize you, Mr. Ashton.

Mr. Ashton: Thank you, Mr. Chairperson. I want to raise a very serious question here about the way this committee is proceeding. I find it ironic that much of this legislation purports to deal with the democratic process involving the trade union movement. I am wondering what kind of example this government with its majority in the committee and you, Sir, as Chair of this committee, are setting when we have such a bizarre twist in the process here where you, Sir, are ruling that I cannot even debate the process in which this committee proceeds and which government members are bringing in motions and preventing debate on this after one speaker. Mr. Chairperson, I think this government and this committee, the government majority on this committee, should be ashamed of itself. What kind of democratic process is this?

Mr. Chairperson: The next matter to put before the committee is, do we wish to hear from out-of-province and out-of-town presenters first?

Mr. Ashton: Mr. Chairperson, there are other questions that need to be decided as well, in particular, how late this committee is going. Now you applied, through this undemocratic process, a limit by which names are called twice. By the way, we have other committees in this sitting where you have to be called three times. We have sat, by the way, until two, three in the morning in a number of committees at various different times. I am really concerned that we do not end up with the kind of farce we ended up with the last time the government tried to bring in labour legislation when it rammed through the passage of the bill, people's names were called for the second time at four in the morning. I would like to see that we would have a reasonable time limit set so that that trick is not tried again. I would suggest that we sit no later than eleven o'clock, so that we do not have that kind of undemocratic tactic used by the government again.

Mr. Chairperson: I am sorry, Mr. Ashton, but the motion that I have in front of me reads that the committee call all the names listed twice. After the second time the name will be dropped off the list and that there be 10 minutes allocated per presenter and five minutes for questions and answers and that the committee continue to sit until all presenters have been heard. That was the motion that was put to the committee.

Mr. Ashton: And reference to time of which we adjourn is a separate matter, and I would suggest that we not go any later than eleven o'clock so that people do not have their names called at one or two or three or four in the morning as did happen, Mr. Chairperson, and that is most definitely a matter that should be dealt with. I mean, if you are going to limit the time and if you are going to end up with a situation where you are not going to allow us to debate it, the least you should do is make sure that you do not have the farce of having those names called at a very late hour in the morning.

* (1920)

Mr. Sveinson: Mr. Chairman, in the past meetings that we have held here in committee, the time as was mentioned earlier, Mr. Ashton, I believe said that government set this time. It was agreed by everybody. The other thing is–

Mr. Chairperson: Excuse me, Mr. Sveinson. Mr. Laurendeau on a point of order.

Point of Order

Mr. Laurendeau: On a point of order, Mr. Chairperson. If we are going to allow this debate to happen, could I please ask for leave for the debate to happen so that we are not breaking the procedural rules of the House?

Mr. Chairperson: All right, the leave is granted for the debate.

Mr. Laurendeau: No, you have to ask if there is leave.

Mr. Chairperson: Oh, I see. Is there leave for this debate to occur, excuse me?

Some Honourable Members: Leave.

Mr. Chairperson: Leave. All right, leave has been granted. Leave is requested and granted. [interjection] Excuse me.

* * *

Mr. Chairperson: I believe Mr. Sveinson has the floor. [interjection]

An Honourable Member: Mr. Chairperson, that was a point of order.

Mr. Chairperson: Do you have a point of order?

Mr. Ashton: You are asking if leave was given. I am wondering why the government member of the committee is now asking leave to allow his member to speak where he was not willing to give any kind of accommodation, any process that would have allowed me to speak to the main motion which is putting the closure in terms of the number of times people can present and the length of time. I am wondering why, Mr. Chairperson, that is the case because I wish to speak as a member of this committee on the original motion, and I was denied the opportunity to do that because of this member's action.

Mr. Chairperson: Mr. Laurendeau, on a point of order?

Mr. Laurendeau: Mr. Chairman, if you will allow me to tell the member the reason why I have asked for this leave is I can see that we are going nowhere. I do believe that there should be concise decorum within the Chamber and within the committee here as a whole, and I do see that you would have a very hard time of maintaining that decorum. So to see that we maintained decorum and maintained the stability of this committee, that is why I have asked for the leave and if leave would be granted I consider that the debate can carry on and the motion.

Mr. Chairperson: Is there leave for this debate to continue?

Some Honourable Members: Leave.

Mr. Chairperson: Leave. Leave has been agreed.

All right now I believe Mr. Sveinson had the floor and the Chair recognizes Mr. Sveinson.

Mr. Sveinson: Mr. Chairman, in all the committees that I have sat on here this session, it was indeed agreed by all members of the committee, both government and otherwise, that a time limit be set at 10 and five. The reasoning behind that was simply that we wanted to hear everybody. That has been stated over and over again at these different committees. This is nothing unusual, although we do see some grandstanding going on. There is nothing unusual about this, and plain and simply, I ask that we proceed.

Ms. Becky Barrett (Wellington): I would like to ask a question, I suppose of the mover of the original motion, the part of the original motion that stated that all of the members of the public would be heard in this one sitting, when in the cases of the bills that are currently before us, before other committees dealing with the education system, they have gone till, well, fairly late, fairly early in the morning, but they have gone for two sessions, and in some cases it will go to three.

I am wondering what the rationale for the change in this particular committee is, why we cannot do it the way the other committees are doing it in this House this session. Is there something particular about this piece of legislation that is leading towards this one set?

Mr. Chairperson: Mr. Ashton, I believe you have the floor next.

Mr. Ashton: The member opposite should point to the fact that there had been motions moved and that we have opposed the motions. There was a motion moved in one of the Education bills for the same thing. Originally, by the way, they wanted to restrict time in that committee to 10 minutes, period; we opposed that. In fact, I have sat here through pretty well every time that the government has brought in changes to labour legislation; unfortunately, it has been rather a large number of bills that seem to focus in on this area, and we have not had, on many occasions, any time limit whatsoever.

I just looked at the bill. There are 13 pages in this bill. If you consider the number of clauses, it is about 45 seconds we are allowing to comment on each particular page of this particular bill. I mean, I think it is absolutely bizarre that the government wants to jam this through in 10, 15 minutes. For the member to suggest it was agreed to, there was a vote, and we opposed those time limits, and we opposed the time limits that were applied in this case.

I wonder why, Mr. Chairperson, I wonder if there is any coincidence that the one time the government has even allowed any real debate on this kind of tactic is on the labour bill. Why is it that on other times we have debated it properly, formally, through our procedures, why is it that always when it comes to labour bills that this government tries this kind of antidemocratic, draconian tactic?

I say, Mr. Chairperson, that the minimum that should be done, now that the motion has been rammed through, is there should be a reasonable time limit, because we are not prepared to have this bill rammed through at four in the morning as this government has done on past occasions with labour bills.

Mr. Sveinson: Well, I would just like to answer the question that the lady on the other side asked, and indeed, there is nothing unusual about the time.

Floor Comment: Another woman.

Floor Comment: Oh, my; oh, my.

Mr. Sveinson: Mr. Chairman, I apologize all over the place.

Mr. Chairperson: The Chair will accept your apologies, Mr. Sveinson.

Mr. Sveinson: At any rate, there is nothing unusual about either one of them. Thank you, Mr. Chairman.

Mr. Laurendeau: Mr. Chairman, I do understand the concerns that Mr. Ashton has about jamming the bill through. I do not believe that we will. As a matter of fact, I recommend that the committee not go clause by clause after we are finished the presentations until such time as we have had time to digest the information that we are going to receive tonight. Too often, we have not had that opportunity, and I think after we have heard the presentations we should have the proper opportunity to digest the information that has come forward.

Mr. Chairman, on the other point, when we say that we are going to hear all the presentations, the reason for that would be that at a number of the meetings now, the members have stated on and on and on that there has been no rhyme or reason to where we are heading. We would just like the public to be aware that we will continue to sit. It gives them the ability to sit for a while or go out and rest for a while and then come back. At least then we are not going to just push through and miss a bunch of names. It gives us that opportunity. I think it was a fair motion, and I agree with it wholeheartedly.

Mr. Sveinson: When you say that you are going to hear all the presenters, the people in fact then do know that they are going to be called in order and approximately when they should in fact be here. When you start in fact splitting it up and running till, I have seen a number of them run till one, two, three in the morning, or indeed you look at setting a time, the fact of the matter is that people know when they are going to be called, and they can be here to make that presentation. Thank you, Mr. Chairman.

Mr. Reid: It is unfortunate the members on the government side fail to recognize that members of the

public that are here to present on Bill 26 this evening have obligations to which they have to be at tomorrow. They have jobs, hopefully, that they go to and that they want to be fresh to go to these jobs to do the services that are necessary for which they were hired. By your forcing them as government members to go and sit in a committee until the early morning hours will distract from the ability of them to perform their jobs the next day.

What service are we doing that is going to help them perform those jobs? I think we are doing a disservice to the public by sitting in this committee till the early morning hours, inconveniencing members of the public that are sitting here wanting to present. I do not see any reason why in all good conscience the members of the government side would not want to adjourn this committee at 11 p.m. and to come back at a reasonable hour on the next sitting day to allow the public the opportunity to come forward and make their presentations. We do not want, I believe, hopefully, that the government members would want this as well, to inconvenience the public but to recognize that they too in their lives have commitments.

With that, Mr. Chairperson, I would move that this committee not sit past 11 p.m. this evening.

Mr. Chairperson: It has been moved by Mr. Reid that this committee not sit past eleven o'clock in the evening tonight. Is there a call for the–were there questions?

* (1930)

Ms. Barrett: I would like to discuss the motion. We have been discussing this evening about people having to stay here until early morning hours. I just did an analysis, and if people take 15 minutes there will be 14 hours of presenters, and 7:30–somebody help me here–is well into the middle of tomorrow morning. Now, that is not under anybody's, the most broadly defined concept of public consultations or public hearings. That is unheard of, and it is something that has not been done in any of the sessions of this Legislature this session on any of the other bills. Where they have had 60, 70, 80 presenters listed, they have gone till early in the morning, sometimes two o'clock with leave, but they have not continued straight through until–what?–it would be 9:30 tomorrow morning. This is unconscionable, and it is being done solely because this is a piece of labour legislation. That is the only reason for this abrogation of natural justice happening.

Hon. Jack Reimer (Minister of Urban Affairs): I was just going to say that one of the things that we have as an advantage as parliamentarians is debate in the House. These people have come here to make presentations. We are taking away from their time for presentations, and I think we owe a right to the people who have come here to make presentations and we should start with the presenters. They are here to make presentations, and we are arguing amongst ourselves. They have come to make presentations. Let us hear the presenters. [interjection]

Mr. Chairperson: Mr. Ashton. Mr. Ashton has the floor.

Mr. Ashton: Thank you, Mr. Chairperson. Yes, I have the floor, and I find it absolutely amazing that a government member, after just putting in time limits and refusing to support our motion for reasonable adjournment time, would say that what they are doing is for the benefit of the public. Give me a break. You are not showing any courtesy to members of the public.

I want to suggest that the committee members rethink at least these reasonable time limits. We often assess a reasonable hour, eleven o'clock. I just do not understand where this push is coming to get this bill rammed through in one night. We are prepared to come back. We have done it on other bills, and I would suggest the government back off. We will agree to some reasonable times to get adjourned tonight and we will come back. In fact, as opposition House leader, I can indicate right now we are prepared to come back whenever it takes. How about next Tuesday? We have available committee time. Let us at least get a reasonable time slot here. I regret doing this, because I do not know why this bill should be any different from the others. Every other bill where we have had a significant number of presenters, where we need the extra time, we find the extra time. Why is it when it comes to a labour bill that we have to be ramming this particular bill through?

I would plead with the government, perhaps to the Minister of Labour here, because unfortunately the government House leader is not here. Can we at least not get some agreement on the reasonable adjournment time? I do not think anybody in their right mind thinks there is

anything democratic about a process that would ram this through in one night, and we would finish at nine o'clock in the morning. I do not think that is democratic. Can we at least get agreement on the eleven o'clock adjournment time? I can give a commitment right now that we can come back at a reasonable hour, Mr. Chairperson, and then we can get to hear the members of the public. But, you know, I am not prepared to allow this committee to be turned into a farce and unless we get some reasonable time adjournments, this committee will be a farce.

Hon. Vic Toews (Minister of Labour): Mr. Chair, I am prepared to set a time limit at which time we will reconsider as to whether or not we should proceed. I am very concerned. I am here to listen to the public. I propose that perhaps we could sit until one or two o'clock as has been the practice on almost every other case, every other committee. There is nothing exceptional about that. We will sit and then we can reconsider at that time whether or not we want to proceed further. I think there is some merit to reconsidering this question without determining definitively when we should end. I am very concerned that we are not hearing from the members of the public. That is why I am here and that is why I am prepared to sit until two and then reconsider the issue of how far we should go.

Mr. Laurendeau: Thank you, Mr. Minister, for that aid. I think that has come a long way to help us out in making a decision. We have always been able to listen.

Mr. Chairperson, I would also like to recommend, along with the minister, that we agree that we not go clause by clause, if we do finish the bill. Hopefully, we can get agreement on that at the same time, because I would not want it to be seen, as the member for Thompson (Mr. Ashton) has said, that we were ramming the bill through. So I would ask for agreement on not going clause by clause just in case we did get through all the representation by then.

Mr. Ashton: Mr. Chairperson, I am surprised that once again the member for St. Norbert would be trying to say how generous he is. When we have 56 presentations, you normally do not deal with clause by clause on the same day. That is standard practice. It is not exactly being very generous when what we are concerned about here is that the whole thing might be rammed through in one day.

To the minister, I would suggest that the reasonable time would be eleven o'clock to assess. That is often the situation. This is not a normal practice to finish this number of presentations in one night. I would suggest we assess at 11. The usual exception of going past eleven o'clock is to accommodate the public when people cannot come back, and I would suggest that practice be followed. We do that with out-of-town presenters and people who cannot come back at other hearings.

I get really concerned when I hear one, two o'clock. We have seen other committees in this session where, the member for Transcona (Mr. Reid) was saying, the goal lines keep being moved forward. What we want to make sure, I would suggest to the minister, is we assess at 11 and that we ensure that no names are called past eleven o'clock. I do not know if members of this committee are aware, but a lot of the people here who are making presentations are working people who have to work tomorrow. I do not think it is reasonable to expect people to stay here until one, two, three, four or five in the morning.

I suggest, Mr. Chairperson, the reasonable thing to do is to pass this motion. If the minister wants to amend it to allow for accommodation of those who cannot come back at another time, we are prepared to sit later to accommodate members of the public, but we are not prepared to sit and be part of a committee that is aimed at trying to ram this through in one night. I would suggest to the minister the way to ensure that happens is for everyone to support this particular motion.

Mr. Sveinson: Mr. Chairman, I would like to know if the motion is on the floor, if in fact that is to reassess at two o'clock. There is no motion yet?

Mr. Chairperson: The Chair will read the motion. The motion by Mr. Reid is that the committee not sit past eleven o'clock. That is the motion before the floor. There has been a suggestion from the minister of an alternative.

Mr. Ashton: I will try once again, and I would suggest perhaps if we could amend the motion to state we assess at 11 and that no names be called after that point in time.

There are a lot of people here. If they cannot come back, we will be here next week. We are prepared to sit here next week. We are prepared to sit here as long as it takes. I think it is reasonable to say that we go no later than eleven o'clock unless it accommodates–[interjection] Yes, no names, I am talking about names being dropped off the list past that point in time. So we get to eleven o'clock and then we ask if there are members of the public who have not been heard who cannot come back at another time who would like to present, and deal with that. Then we will sit as late as it takes to deal with that.

I think that is a reasonable compromise, Mr. Chairperson, and I would suggest that would allow us as a committee to ensure we do come back next time if there are still people wishing to present. I would suggest to you, Sir, that we will be here for probably at least three committee hearings just given the number of presenters. I do not know why the government is trying to ram this through in one night. It just does not make sense.

Mr. Chairperson: Members of the committee, there is a motion on the floor from Mr. Reid that the committee not sit–

An Honourable Member: Are we not debating that yet?

* (1940)

Mr. Chairperson: Excuse me. There is a motion originally from Mr. Reid that the committee not sit past eleven o'clock. There has been an amendment or a suggestion from Mr. Ashton that the committee assess its position at eleven o'clock and agree not to call names after the eleven o'clock hour. Is there agreement to amend Mr. Reid's motion? The new motion would be that the committee assess at eleven o'clock its position for termination and that there will not be any names called after eleven o'clock. Have I interpreted your motion correctly, your suggestion correctly, Mr. Ashton?

Mr. Ashton: Assess at eleven o'clock and not call names after that time, and we will see if there are people who cannot come back at the next committee hearing, and we will try and accommodate them at that time. So we are prepared to sit past eleven o'clock only if requested to do so. Our point here is, I do not think it is reasonable to sit here one, two, three, this open-ended thing. People in the public need to know how long they need to stay here. They have other obligations; they need to have some sort of accommodation. I think it is a reasonable compromise. We do not like the time limits but I think this is a reasonable compromise, and I think if we can get some agreement on this we can move into the presentations.

Mr. Chairperson: All right. What is the will of the committee?

Mr. Sveinson: I think there could be agreement to reassessing at eleven o'clock, but that is it. We will reassess it at eleven o'clock.

Mr. Chairperson: All right. The response, Mr. Ashton, I believe is to reassess our position at eleven o'clock. Is the committee in accord with that?

Mr. Ashton: I feel like I am in a collective bargaining session, and I am wondering if we can get a mediator in, Mr. Chairperson.

Mr. Chairperson: We will consult the Minister of Labour (Mr. Toews).

Mr. Ashton: Expedited arbitration.

Mr. Chairperson, we have a motion, and I think we can treat what I have suggested as an amendment to the motion. I suggest we have a vote on it.

I also say to the members of the committee, and I do not say this very lightly, but if they do attempt to ram this through tonight, we will not be part of it. If they attempt to run this through one, two, three, four in the morning, I can say right now that we will not be part of that if we have to leave this committee. And I have never done that in the time I have been an MLA. We will.

But I want to put the government on record. They may have a majority in this committee but there is a democratic process. We do have at least some fairness left in this province, and I really think they should understand that. Here I am trying to move what I consider to be a compromise resolution. I would suggest if they were to support that we would then be able to have a more reasonable debate in this committee.

I really say to the government members here, they may have the majority on this committee, but they should be

very careful with that power. They should not be trying to ram through this legislation in one night. We will not be a part of that, Mr. Chairperson.

Mr. Sveinson: First of all, it is absolutely ludicrous for anybody at this table to think that this is being rammed through tonight, because it is not. Absolutely ludicrous. The other thing is quite simply, what, and with all the talking that was happening there, I would like to know what now is being presented?

Mr. Chairperson: The amendment presented by Mr. Ashton to Mr. Reid's motion is that the committee assess its position at eleven o'clock this evening as to how much later it will sit and that no new names will be called after eleven o'clock this evening. That is the essence of the motion brought by Mr. Ashton.

Mr. Sveinson: Mr. Chairman, I call the question.

Mr. Chairperson: The question has been called firstly on Mr. Ashton's amendment.

Voice Vote

Mr. Chairperson: All those in favour of the amendment, say yea. It will be a voice vote.

Some Honourable Members: Yea.

Mr. Chairperson: All those against.

Some Honourable Members: Nay.

Mr. Chairperson: The Nays have it.

Formal vote

Mr. Ashton: I would request a recorded vote.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 3, Nays 6.

Mr. Chairperson: The amendment is defeated. We are now back on discussing Mr. Reid's motion.

* * *

Mr. Sveinson: I call the question.

Mr. Chairperson: The question has been called. The question before the committee now is shall the committee sit–Mr. Reid moves that the committee shall not sit past eleven o'clock this evening. The question has been called.

Voice Vote

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

Some Honourable Members: Yea.

Mr. Chairperson: Please indicate against, by saying nay.

Some Honourable Members: Nay.

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

Formal Vote

Mr. Ashton: I request a count-out vote again.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 3, Nays 6.

Mr. Chairperson: The motion is therefore defeated.

Mr. Sveinson: I would like to suggest and look for agreement that we reassess the time that we are going to sit till at eleven o'clock.

Mr. Laurendeau: Can we recess for five minutes please, Mr. Chairman, so we can have a discussion?

Mr. Chairperson: Is it the will of the committee to recess for five minutes? The committee shall so recess.

The committee recessed at 7:46 p.m.

After Recess

The committee resumed at 8:00 p.m.

Mr. Chairperson: The committee will come to order.

Mr. Reid: Thank you, Mr. Chairperson. It seems that we have some understanding with respect to the way that this committee will operate. At least I hope we have some understanding of how this will proceed.

Therefore, I would move that this committee sit until midnight with no further names called after 12 midnight except those wishing to voluntarily present.

Mr. Chairperson: The motion that has been put by Mr. Reid is that the committee sit until 12 midnight with no further names called after 12 midnight except those wishing to voluntarily present–I presume you are saying, sir?

Mr. Reid: That is right.

Mr. Chairperson: Voluntarily present. [interjection]

Mr. Sveinson: Mr. Chairman, the member's motion is close to what mine reads. Mine would have read: we reassess the time this committee will sit to at 12, and then nobody drops off the list after midnight.

Mr. Chairperson: The motion I have read that is before the committee, is there any further discussion to the committee? There has been a suggestion to change the motion. What is the will of the committee? Does the committee wish to accept the alternative wording?

Mr. Ashton: Mr. Chairperson, I am getting more and more confused here. I did not notice the intent being any different. We have a motion on the floor. Let us deal with the motion. You know, I think that the key thing we are saying here from our side, we are willing to sit here to accommodate members of the public but not to accommodate the government. I think by having some reasonable limit, at twelve o'clock–I would have preferred 11–but twelve o'clock being a compromise and then only sitting where people cannot return. I think that is a reasonable compromise, and I do not see why we should not do anything other than adopt this and move on.

Mr. Chairperson: What is the will of the committee? The motion that is before the committee is twelve o'clock midnight, except those wishing to voluntarily present after. Does the committee wish to vote on this motion? Does the committee wish any further discussion? The question has been put.

Committee members, we have a motion before the committee. The motion before the committee is that the committee sit till 12 midnight with no further names called after 12 midnight except those wishing voluntarily to present.

The question has been called. All those in favour of calling the question?

Some Honourable Members: Yea.

Voice Vote

Mr. Chairperson: All those in favour of the motion.

Some Honourable Members: Yea.

Mr. Chairperson: All those against the motion.

Some Honourable Members: Nay.

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

Formal Vote

Mr. Ashton: I would request a counted vote.

***A COUNT-OUT VOTE** was taken, the result being as follows: Yeas 3, Nays 6.*

Mr. Chairperson: The motion is defeated.

Mr. Ashton: Well, we are sort of back to square one. I think it is time for that mediator I talked about before. I want to say, Mr. Chairperson, I am just wondering why the government has to differ. We said eleven o'clock, firm time. We moved to twelve o'clock. We said we will sit later if members of the public want to come back. I hear the government saying they want to sit till one, two in the morning.

I do not think that is reasonable. I think in the other committees, quite frankly, Mr. Chairperson, the general process has been very clear. If it is to accommodate somebody who is here from Brandon or Thompson or

someone who cannot come back at another meeting, I am prepared to sit here, but I am not prepared to sit here and see our committee be a tool of the government. I mean, we are prepared to come back. In fact, I will say on the record we will come back Tuesday evening; Tuesday evening we will sit. We can start at seven o'clock. We can start at six o'clock. Six o'clock might be even better. We do not have other committees scheduled at this time. I would suggest, and perhaps government members may wish to reconsider, I think midnight with the ability for people to go later than that. By the way, there were quite a few out-of-town presenters on the list, and I know there is at least one individual who has indicated to me that he cannot come back next time, early next week.

I just do not see what the problem is here. Can we not perhaps reconsider that motion, or perhaps if they want to reword it. Perhaps they will feel more comfortable if they move it, Mr. Chairperson, and it is a government motion, but whatever it takes, let us get a reasonable time limit and let us get on with the presentations.

Mr. Sveinson: It seems there are many that would like to speak on forever. Mr. Chairman, I move we reassess the time this committee will sit to at 12 a.m., and nobody drops off the list after midnight. Is that clear? Nobody drops off the list after midnight.

Mr. Ashton: I am beginning to feel a little bit paranoid. I think our motion was trying to say the same thing. If the government wants to have their own motion and move it and they feel more comfortable with that, we will support it so long as names do not drop off after midnight.

Mr. Chairperson: All right. The motion before the committee is that we reassess the time this committee will sit to at twelve o'clock and that nobody drops off the list after midnight. Agreed? Is it the will of the committee that this is agreeable? [agreed]

Members of the committee, does the committee wish to hear firstly from out-of-province and out-of-town presenters?

Mr. Ashton: Yes, I indicated I know there is one person who has identified, and there may be others who may not be able to come back because of other obligations. I suggest we would consider out-of-town and those who cannot come back at another time.

Mr. Chairperson: What is the will of the committee?

Some Honourable Members: Agreed.

Mr. Chairperson: Agreed and so ordered.

Perhaps you could identify these individuals, Mr. Ashton.

Mr. Ashton: I would suggest they just identify with the table staff at the back.

Mr. Chairperson: Ladies and gentlemen in the audience, if there are a number of individuals who cannot return after this evening, will you please identify yourselves with the table staff, and we will make accommodation. It will be the table staff at the rear of the room, if you can identify yourselves, and we will accommodate you after the out-of-towners.

Just one further point, ladies and gentlemen, just to let the committee members know, we have received a written submission from Chris Lorenc on behalf of Manitoba Heavy Construction Association. This brief has been placed on the committee table for presenters. Is there agreement for the submission to appear in Hansard? I do not know what the cause is. All I am advised is that he has presented a written submission.

An Honourable Member: Because he has to work tomorrow.

Mr. Chairperson: Mr. Reid is speculating, but it remains speculation. What is the will of committee?

Mr. Peter Dyck (Pembina): Mr. Chairman, I would so move that we enter it in Hansard.

Mr. Chairperson: Is that agreed?

Mr. Ashton: I would suggest that we, as a rule, if people have written presentations, enter those in Hansard as well.

* (2010)

Mr. Chairperson: Is it agreed that all written submissions will be entered in Hansard? [agreed]

We will now proceed with the presentations. The first person that the Chair will call is a spokesperson to be named representing the Canadian Council of Grocery Distributors - Canada Safeway. This is an out-of-province person identified on our list. Is there such a person in the audience tonight? There is no response from the audience. All right. This person then will go to the foot of the list, whoever he may be, or she. [interjection] Yes, I caught it.

The first person appearing on the list who is from out of town is an individual by the name of Al Mackling. Is Mr. Mackling in the audience? Mr. Mackling, would you please proceed.

Mr. Al Mackling (Private Citizen): Mr. Chairman, it is a delight to appear at this side of the legislative table and to participate in what is truly one of the best features of our parliamentary system, where committees of the Legislature hear submissions of the people of the province.

It is disheartening to have sat for an hour and listened to what is clearly an attempt by the current government to push through legislation which is totally unwarranted, unjustified and very undemocratic. The process this committee has exhibited, including members of the government, has demonstrated their concept of democracy. It is very one-sided.

This legislation, for example, gives the government the authority, the minister, to submit a final submission of an employer to the workers if he thinks that that is desirable.

Well, Mr. Chairman, I think that if you are going to have legislation like that then the people of Manitoba who are the employers of the health care workers in this province should have the right to make a decision in respect to privatizing health care in this province.

How would the Minister of Labour (Mr. Toews) like that kind of situation? Because, Mr. Chairman, neither the Minister of Labour nor his cabinet colleagues are the employers of the public workers in this province; they are merely our agents, our bargaining agents, if you will, from time to time, in respect to the terms of employment of health workers in this province, including all those who work in care homes that were going to be privatized. We as a people have a right to make that decision. If you are going to say, to ensure democracy you are going to have the final submission, the final offer, decided by the employer, by the owners of the business, then we want to have that say, you will have to live with that kind of system.

Well, Mr. Toews–I should say the honourable minister, but hearing some of the discussion around this table about the lady across there, sort of thing, the members do not have the decency and the integrity of the Legislature in addressing members. I would address the Minister of Labour by his personal name, but I have nothing but disappointment in the manner of his treatment of this legislation, because he is responsible, he is here, he guides the committee, and the authoritarian, undemocratic attitude that is displayed here is despicable. No administration in which I was ever involved, and there are two of them, ever conducted itself in this manner, and no Conservative that I know, Sterling Lyon, Sidney Spivak, none of them would have conducted themselves in this manner.

From time to time when I had repartee with Sterling across the House, he would remind me and my colleagues that we were merely trustees for the people of this province, and that is what you are. You are not the owners of the work, you do not control, have the final say in respect to all things in this province. The people have, and the people are to be consulted. The people here should be consulted reasonably and adequately, and you want to put a 10-minute restriction on the time we can address to you. You want some of these people to have to sit until twelve o'clock, and then you will decide in your wisdom whether you want to carry on, completely undemocratic.

Mr. Chairman, the attitude of this government towards organized labour was demonstrated some time ago before you had your majority, and now you can exercise much more toughness in putting labour down in this province, and that is exactly what this legislation is all about, showing labour how tough you are. Well, how did you demonstrate that even when you were in a minority position? The first thing you do, you got rid of final offer selection, which was a reasonable compromise that we developed in this province.

We, I say, the New Democratic Party government developed in this province. I was privileged to be Minister of Labour. Final offer selection was not something that I conceived as Minister of Labour. I give most of the credit to one of my colleagues, Jay Cowan, who had researched various labour legislation all throughout North America and come up with this as something we should have a look at. We did look at it, and we weighed it and we checked it and we built it, and with some very real reluctance, organized labour in this province said, yes, we will give it a try.

Some portions of organized labour were very much opposed to this legislation, because they thought it would end their rights to effectively collective bargain and ultimately withdraw services. We assured them that was not the case, and we crafted legislation that we believed would be fair. Now I know that the Minister of Labour would say, but it was not fair, because a provision in the legislation which allowed workers, even after a strike had gone on for some time–and it was a required period, I believe it was 60 days or 90 days–the workers would have to tough it out that long on strike, but after that waiting period, they could say, yes, we will accept final offer selection, but the Conservative ideologues in this province said, no, we will not allow that legislation to run its course, we put a time limit in, a clause, a five-year limitation clause in that legislation so it would automatically die on the order books, unless it was reimplemented.

But one of the first pieces of legislation this Conservative ideologically bound administration did was get rid of final offer selection. They did not look at it. They did not study the results. Labour did not always win. The union did not always win in these final offer selections. It did not curtail collective bargaining. Arbitration, on the other hand, when you have arbitration, the parties sit back, and they do not bargain anymore, but you force them to look at final offer selection, then they have to think seriously about how attractive their offer is because, if their final offer is not reasonable, the other side's offer will be accepted. So this had the effect of constraining the parties to be reasonable, constraining them to be practical and to bargain.

The result of it was that, and I have not got all of the statistics because I am sure the honourable Minister of Labour (Mr. Toews) does not want to have all the statistics out there so people understand how effective final offer selection had been, but I have some of the statistics. The final offer selection for, I believe, the year 1990, it was repealed in '91, it did not go the full term, but the notes I have, there were 72 applications received. Five of those, the selector decisions were filed. Three were for the unions; two were for the employers. How do you like that, almost an even split? There were seven selectors appointed with decisions pending; four outright dismissals; 49 out of 72, the parties had reached agreement prior to the selector being appointed. That did not chill arbitration. That did not chill negotiation to collective bargaining; obviously, it worked. What this administration has demonstrated is an intolerance for labour. Now–[interjection] Pardon me?

* (2020)

Mr. Chairperson: One minute, Mr. Mackling.

Mr. Mackling: Well, I am going to suggest to you that no New Democratic Party government in this province has demonstrated an intolerance for business. We had business summits. We brought labour and business together. We worked to bring people to work in Manitoba. We tried to harmonize, rather than antagonize, labour and industry in this province. The attitude and the demonstrated actions of this government are the complete reverse. It is a shameful exposition of raw political might, and you will win in the short run. You will ram through this legislation, I assume, but make no mistake about it, you will lose in the long run because what you are doing is unfair and unjust.

Mr. Chairperson: Mr. Mackling, I believe there may be a few questions to be put to you, sir, if you could, unless you are reluctant to accept the questions.

Mr. Mackling: Oh, not at all, not at all.

Mr. Chairperson: I did not think so.

Mr. Reid: Thank you, Mr. Mackling, for your presentation. It has been a very educational experience for me to see a former Minister of Labour and a current Minister of Labour and the differences between the two. One can see quite clearly that there was some reasonableness in previous governments that we have had in this province trying to do consensus building with

respect to the relationship that has been hopefully, and hopefully will continue in the future, between business and labour.

One of the things that we have seen through Bill 26 is that this particular Minister of Labour (Mr. Toews) through his office has referred Bill 26 proposals to the Labour Management Review Committee in this province. Are you aware, Mr. Mackling, that the current Minister of Labour has received the recommendations back from the Labour Management Review Committee, and that this particular committee, which was comprised of both business and labour in a consensus-building way, has rejected in large part the minister's recommendations on Bill 26, and do you have any comment with respect to that particular committee?

Mr. Mackling: Yes, the honourable member is quite right in drawing attention to me, and through me the public and all present here, that the Labour Management Committee established some many years ago, before I was Minister of Labour, has done excellent work in the field of developing an atmosphere of co-operation and understanding in labour relations in this province. They meet on a regular basis. They have vigorous discussions. I am sure that on many times they agree to disagree on various things, because there are some strong-willed representatives of both management and labour that function on that committee, but by and large what they finally agree to has been reasonable and followed by government, certainly followed by this minister when I was Minister of Labour.

I want to commend the efforts of that committee over the years and its current chairperson, Wally Fox-Decent, who I found to be a fair-minded, reasonable person, always considered as–I knew Wally back in the days of university as a large-C Conservative, but he has functioned as a reasonable, pragmatic person, not an ideologue, not a dogmatist, not someone who would antagonize and infuriate labour in this province, and I would commend the minister to rethink this legislation and go back and talk with the Labour Management Review Committee and accept their advice.

Mr. Ashton: Mr. Chairperson, I would like to welcome my former colleague back to this Chamber, and I appreciated his comments on final offer selection. It was in this committee room that we fought against repeal. In fact, we delayed it at one point in time. We lost that battle. We may lose the battle on this, but I want to assure him that we will win the political war that will follow, because I do believe that most Manitobans do not accept this kind of–the confrontation we are seeing in this province with labour.

I want to ask you a question because you I think pioneered–you mentioned about final offer selection which was I think very successful here in Manitoba–was pioneer in terms of providing options. When I see, for example, the people who have been on strike with Wes_fair for six months who have to come to this Legislature and almost beg the Minister of Labour to try and get a mediator appointed who might have been able to access that kind of legislation, when I see the kind of lengthy labour disputes we have had in this province in a large part because of the confrontation this government has brought forward, and I note the casino workers being the most recent, the direct confrontation with the Minister of Labour (Mr. Toews) on that issue and also with the home care workers, I am just wondering if it does not strike you as being, I think, perhaps clearest evidence of that their approach is not working, of the fact that we have this year a historic level of days lost to strike and lockout, when in fact mechanisms such as final offer selection and other mechanisms were available, would have allowed ways out, would have allowed people to get a decent contract settlement. In, fact in those cases you mentioned did. I am wondering if you could perhaps comment now.

I am really glad to see you back. Perhaps now we have a bit more of a historical perspective, because I believe it is close to 10 years ago now, it would have been in 1987, that we passed final offer selection. I am wondering if you would care to comment on what you see has happened with that perspective.

Mr. Mackling: Well, Mr. Chairperson, members of the committee, there is no doubt in my mind that if we had had final offer selection available in this province throughout its full trial period, it would have demonstrated that this was a reasonable alternative to having vicious labour-management confrontations.

Nobody wins. Nobody wins in long, protracted labour strife because, as Minister of Labour, I looked upon the labour-industry scene as one in which there had to be co-

operation. There had to be understanding. There had to be some working together, because men and women were working, yes, they were working for remuneration, but most men and women who have jobs are dedicated to their work. Yes, there is the odd slugger, the odd slacker. There is in everything, whether it be in law or any other human activity, but most people take pride in their work.

To me, it was vital and necessary that there be a harmonious relationship, as harmonious as possible, and everything that I as Minister of Labour sought was to develop a milieu, a framework for the greatest measure of co-operation and understanding. I am sad to say that it has been a black era that we have moved through in the last several months in particular.

Mr. Chairperson: Thank you, Mr. Mackling. That now concludes the time limit for questions, and I thank you very much for your presentation before us this evening.

Ladies and gentlemen, there has been one presenter who has identified himself to us this evening, an individual by the name of George Anderson. Mr. Anderson did not communicate his telephone number to the Clerk at the time. If he is in the audience at this time, I would ask that he submit his telephone number or raise his hand if he is here, and we can–oh, there he is, good. We will get your telephone number so that we can contact you if additional meetings are scheduled.

The next presenter will be Dave Tesarski on behalf of the Canadian Federation of Labour. Mr. Tesarski, are you in the audience? Thank you, Mr. Tesarski, sir. Do you have written copies of any brief for the committee members?

Mr. Dave Tesarski (Manitoba Council of the Canadian Federation of Labour): Yes, I do, but I am prepared to let another presenter that is from further out of town to go before me. It is not a big deal for me to come back or let somebody else go in front of me.

Mr. Chairperson: All right. We can put you down to the end of the out-of-towners, if that is your will.

Mr. Tesarski: That is fine.

Mr. Chairperson: All right. Thank you, sir.

The next presenter from out of town is Chris Hicks from the Souris Valley Teachers' Association. Mr. Chris Hicks, would you come forward, sir. Do you have written copies of a brief for distribution to committee members?

* (2030)

Mr. Chris Hicks (Souris Valley Teachers' Association): Could I make some cautionary notes, though? I am an English teacher, so I constantly revise things, so you will forgive me if I stray from the text that you have. I just found out about these hearings at 11 this morning, and I had to teach all day, so I wrote the brief on my lunch hour, which is 45 minutes long.

Mr. Chairperson: Thank you, sir. Would you please proceed with your presentation.

Mr. Hicks: Good evening. Officially, I am here as a teacher representing the Souris Valley Teachers' Association. Unofficially, I am here as a human being who feels an obligation, silly though it may seem, to defend a couple of seemingly basic universal rights. So tonight I represent both capacities. It seems very odd that a citizen of the western world, much less Canada or even Manitoba, should be forced to be here defending his human rights, and it seems even more odd given the perpetual reinforcement in western societies of the virtues of democracy and the virtues of freedom. Today, in the Manitoba Legislature, that perpetual reinforcement amounts to little more than rhetoric lip-service maybe. Tonight, I am questioning those values, not because I think them unimportant; rather, I am questioning them because they are being redefined or, many would argue, threatened by the proposed legislation of Bill 26, to name one, sadly, of many. I will use the words "democracy" and "freedom" regularly in the course of this brief because my feelings are so strong and I want to ensure that I have your attention, as I urge you to drop Bill 26.

Perhaps a little history is in order. During the course of the Filmon government's rule, the people of Manitoba have been treated to some of the most flawed welfare and social reforms of its time, and "reform" is a curious word to use since one can hardly label tens of millions of dollars in funding cuts to education, for example, reform. Examples of grotesque underfunding of some of our most basic and, therefore, crucial public institutions mount in

numbers of fantastic proportions. Bill 2 is a case in point in which the method of deficit reduction must make Wall Street cringe–and laugh. The infamous Filmon days added more useful expression to his government's commitment to exploitation, quite ironically, of the same people who vote for his government term after agonizing term.

Bill 22 forced school boards to reduce work days, school days, rather, in a successful attempt at salary deprivation of educators, and in a further effort to continue its commitment to abolishing the effectiveness of public schools. The media yawned, and somehow the Filmon government won a majority of seats. Of course, the truly unsettling reality is that the consequences of the Filmon government's actions somehow get ignored or forgotten at election time, or so it would seem, but not today, as the government is available to address these deep and true public concerns over their policies. For that, I guess, I thank you.

In the past year a new phase of reforms to public institutions and fundamental social programs has emerged, and here we are defending ourselves. This time we have gone beyond just hoping to save a few more years of job security, a few more hospital beds, a few more classrooms, a few more qualified, enthusiastic teachers, even a few more lives. Now what we have reached is a stage where citizens are being forced to defend their fundamental human rights–rights to live freely, rights to privacy, rights to freedom of speech and rights to the freedom to oppose. These freedoms are more than sentimental treasures to admire; quite plainly they are necessary for the survival of our quality of life. Having even to debate the possibility of having to defend these rights–in Manitoba yet–suggests how utterly offensive Bill 26 and other proposed legislations are to the principles of democracy, but here we are.

So upon whose shoulders does this burden fall? In the case of Bill 26, it falls upon the shoulders of active unions that have the welfare of their members to consider. Does the union's having to provide regular audited financial statements to various boards available to the public, yet, reflect its commitment to looking after its members? Does being forced to make available detailed lists of all employees' compensation over $50,000 a year reflect this commitment? What do we make of the penalties for the failure to provide this? The Labour Board is granted authority to authorize school boards, for example, to deduct all union fees when a union fails to comply with the above demand. Even upon compliance, the fees already deducted cannot be recovered.

What of Bill 26 and the attack regarding political action? Unions are forced to have processes of consulting each member whether the member wants the union dues to go toward political purposes. Well, this is the democratic way. That is since western democracies cannot rule its unruly citizens by force, legislation is adopted that hopes to make them, unions, destroy themselves. If the union fails to comply, it can be charged with unfair labour practice. Unfair, of course, is to be decided by body outside the actual operation. As well, normal privacy laws and protections, that is, privacy of one's salaries and benefits, are not applicable. Democracy? It is subtle and may appear harmless, but a careful analysis shows the intent of such preposterous legislation.

Even after we analyze the implications of Bill 26, really only one question remains, and that question is, why? What benefit could this possibly have to society? I could make good guesses, but they are just guesses. Please take that as a note of sarcasm. The shortcomings, however, are more easily derived.

As a teacher I value the services provided by the Manitoba Teachers' Society, as do my 14,000 colleagues. I am more comfortable knowing they are occupied with maintaining my professional welfare and not aggravatingly preoccupied supplying meaningless information demanded by some detached and unnecessarily involved government department or board. As a teacher I value the services of my union in that it provides in the relationship for the services it provides to my students.

I am, because of my union, constantly being supplied with professional resources that I happily adapt and apply to my programs. Yes, even my students are cared for by my union. They need not be burdened with labour unrest. I fear that will happen if Bill 26 passes.

So again, why Bill 26? Well, certainly we have to look at the political action clause. Recall, for example, the stand MTS took on the Filmon government's view of public education in the last election. We exercised our

right to speak out and to oppose any organization which poses a threat to public education.

Again, the purpose of Bill 26 is subtle for a while, then it is painfully obvious. In a democracy the people ought to judge the value of such opposition, not the government, but are not democratic governments elected to make responsible decisions, if not decisions then to at least assume responsible accountability for their actions? The Filmon government has to understand this by now, for they celebrate their actions that appease the private sector, for example, funding private schools with public money, but abdicate accountability of their lunatic actions toward public programs to their victims, such as massive cuts to health and education.

Responsible government? Legitimate government? Responsible and legitimate government creates and maintains service to its people, not the other way around. This is the standard view of democracy and any view to the contrary conjures up horrible images and examples from human history of ruthless dictatorships, violent rebellions. We are not there yet, of course, but there are some connections, again, with some analysis.

Something that is very unsettling about this whole affair is not why we unions are resisting. It is unsettling, yes, but it is not surprising. More unsettling is why we are virtually alone in resisting. A dishonest response would be that we stand to lose the most. As I stated above, however, losing typical freedoms everyone loses, and history provides example after example of where people have known what it means to suffer this loss. A passing glance at even the most nominally turbulent societies today would show that it began with the exploitation and eventual termination of basic freedoms.

* (2040)

Will Manitoba be the subject of another page in that history? Well, Bill 26 testifies that the page is already being drafted.

Since I am discussing basic freedoms I will conclude by adding a final word on Bill 26. In its most basic form it is an obscenity, contrived by questionable leadership and highlighted by political paranoia. There is little if any legitimate justification for even proposing this bill. Justification for passing it is in a class not of this earth and, being thus, it is vulnerable to the kind of criticism I have cited here tonight and that will probably follow.

Ultimately, this criticism is aimed toward a government who claims to have legitimacy but whose legislative proposals make that legitimacy suspect, sometimes laughable and probably dangerous. This is not the kind of government who can claim to be for its people. If such is the case then it is not our government and I cannot claim with any semblance of confidence that it is my government.

I thank you for hearing me tonight. As I urge you to repeal Bill 26, please consider the following when you go to decide. I belong to a union of professional educators whose ultimate purpose is to provide the necessary elements that maintain a healthy and worthy quality of life for our society; that is, the public education of our society's most valuable resource, our children. If I am not able to look after my professional interests or have them looked after by a body of my own choosing, namely my union, then I can hardly claim to be able to look after myself, and if I cannot look after myself, who is going to look after my students? Thank you.

Ms. Barrett: I just have a comment actually, and it follows along on the nonverbal comment that you just received on your presentation. We in the Legislature, in this session and in earlier sessions, have been talking a lot about the problems that various pieces of legislation have had for people in Manitoba, and I think this paper very eloquently connects all of those freedoms and things that we have taken for granted and that are being threatened by legislation such as Bill 26.

You take it outside the narrow parameters that the government is trying to frame it into and put it in its global context which is that it is part of a potentially larger, and I will use the word "conspiracy," to reform some of our basic democratic rights, and you have done it, as I said, very eloquently, and thank you very much for your presentation.

Mr. Hicks: Thank you.

Mr. Reid: I would like to thank the presenter very much for his stimulating presentation here this evening. I found that I am in agreement with all that you have raised through your presentation, but I want to ask you about

and maybe draw to your attention, as you so eloquently spoke about in your presentation, the government's actions in taking away our basic human rights.

Are you aware that this government, through at least six or seven pieces of its legislation that they have currently before us in the Legislature, has taken steps to withdraw the ability of working people of this province to have the right of determination on who would represent them? Through Bills 54, 49, 17, this bill, Bill 72 and 73, all of them will remove in some way the democratic rights of working people of the province of Manitoba. Are you aware that this government has taken those steps through so many pieces of legislation?

Mr. Hicks: I did not know there were so many.

Mr. Reid: In the Legislature, because we saw Bill 26, as we saw so many other pieces of legislation, as being so dictatorial in nature, we proposed to send, and introduced a motion in the Legislative Chamber to send, this Bill 26 to the United Nations International Labour Organization to have this legislation viewed on whether or not it conformed with the code that Canada is a signatory to.

Do you think that the government should have supported that motion to have this legislation viewed to giving us a chance to determine whether or not it met our obligations towards working people of this province and this country?

Mr. Hicks: I think they should support it. It would not surprise me if they did not, though.

Mr. Reid: Can you comment on the fact that for the first time teachers will now be a part of The Labour Relations Act only insofar as they will be required to have detailed financial reporting and be afforded no other provisions under The Labour Relations Act. What are your thoughts on that?

Mr. Hicks: I think it is preposterous for any union to have to do that. They have got better things to do. Actually, is not the political action–union dues toward political action, I think, that is a travesty; to have to–I mean, we elect the people who represent us the same way. If I have a problem with my union, I do not run to Gary Filmon; I run to my union reps.

Mr. Reid: Thank you for those comments.

Mr. Hicks: Actually, I do not run; we diplomatically discuss it like adults.

Mr. Ashton: I want to focus in on that because what I really appreciate is the way you have brought together a lot of the themes and particularly focusing in on the whole situation with democracy, and I am just wondering if you have any concerns. You mentioned about the government, the way they conducted themselves, and I mean if they really set any example to now try and be interfering in the internal affairs of your union, MTS.

By the way, they do not like the term "union." Somebody, one of the members, this afternoon gave a great long speech in the Legislature from the Conservative side criticizing MTS for being a union. I was really surprised he felt that was some pejorative term, because I know a lot of people at MTS are quite proud to be represented by that union, but I am just wondering what kind of democratic process you see in place when you now have a government–and this is the same government that talked about elections that did not–you know, they said, they were going to save the Winnipeg Jets, they were not going to sell MTS.

I am wondering if you can comment on what kind of example they have set for democracy that they now feel they should be implementing and ramming through in terms of your particular organization, which is a democratic organization and it is an organization run by the people that should be running it, which is the teachers of Manitoba? What kind of example are they setting to now interfere in the internal affairs of your Manitoba Teachers' Society?

Mr. Hicks: In the context of Bill 26, which probably leads into the other one–57 or something–where anyone can just come and check out how much money I make, I mean, the real problem is I do not understand what the point of Bill 26 is, what possible benefit it does. Maybe I did not read the same one, I do not know, but it does not seem to me to be a favourable situation when you are not allowed or you are put in a situation where you can create disharmony within your membership over whether or not you want your union dues toward political action. Well, if we did not put out commercials and we did not advertise and keep, you know, government legislation in

the public, because we know that the government does not do a good enough job of it themselves, how is anyone supposed to know?

Mr. Chairperson: That will conclude the questions for this presenter. Mr. Hicks, thank you very much for your presentation this evening.

Mr. Hicks: Thank you.

Mr. Chairperson: The next presenter is a Robert Lindey, Manitoba Association for Rights and Liberties. Is Robert Lindey in the audience? Robert Lindey's name will go to the foot of the list.

The next person to be considered tonight would be Randy Bjornson. Is Randy Bjornson–ah, good, Mr. Bjornson.

Mr. Randy Bjornson (Lakeshore Teachers' Association): I am also a teacher.

Mr. Chairperson: Good evening, Mr. Bjornson, and you have some written presentations for us to be circulated. Thank you.

* (2050)

Mr. Bjornson: I am not as eloquent as Chris is, but I represent around 100 teachers in the Lakeshore School Division. If I can continue, Mr. Chairperson? Thank you.

Good evening. My name is Randy Bjornson. I teach Grade 5 up north at Ashern Central School, in Ashern, Manitoba. I am also President of the Lakeshore Teachers' Association. This evening, I represent around 98 teachers in the northern Interlake region, which includes the communities of Ashern, Eriksdale, Fisher Branch, Inwood, Lundar and Moosehorn. On behalf of the executive of the Lakeshore Teachers' Association, I feel we must respond to the three bills that are before the Legislature this fall, and there are more bills, as I hear now. These bills include 26, 57 and 72.

I will speak to Bill 26 this evening. I also heard late last night that this presentation was about to take place, so I had to do this on my lunch hour as well and drive in for three hours to get here on time, so I appreciate the amount of time that you gave us.

I would like to tell you how Bill 26 affects us as teachers. Our total budget for the LTA, the Lakeshore Teachers' Association, is $4,900. We are a small division. We spend money on a number of things such as executive meetings once a month, mileage and meals for executive members on LTA business, and the major portion of the budget is spent on professional development. We have three or four days out of the year where we spend this money. That is where the rest of the budget goes.

Now, why would the government force us to divulge such mundane information to them? That is what I am asking.

This bill, as presented, makes no sense to us. This bill intrudes and infringes on our rights as a group of people who want to improve and enhance our profession. We have enough to do in the teaching profession as it is other than responding to bills such as this, but we will respond, and you will face the consequences. The government has forced us to respond.

This bill, I feel, has done us a favour. It has solidified teachers' feelings, and this is one of the ways that we are trying to get together and work together, is wear these little pins. It has awakened teachers to what is going on around us, awakened them to a government intent on pushing our profession down, jumping on people who are working hard at trying to improve their children's lives in our society.

I have never seen such interest and concern shown before by our teaching professionals. I have taught now for 24 years, and there are gray hairs up here to prove it, and I feel the concern, and I see it on the faces of the individuals that I talk to about Bill 26 and also definitely Bill 72. This bill invades our privacy. This bill costs us needless money. This bill harasses certain members such as the nine or 10 members of our executive who live 150 miles north of here.

Other members of other bargaining units can look at our association's business. Is this right? I do not think it is. What business is it of the government's how we spend our money? This is our money we put in here. It

is not your money. You do what you feel with your money. The way the government keeps hammering on teachers forces us to spend money on informing the public on how important a job we have to do for your children and our children. It is bad enough now in the public, and the government should be helping us out, not wasting our time playing this political football tonight.

The government has forced us to respond. I am not and we are not political activists. We are teachers. We are teachers of your children and, from some of your looks, grandchildren. That was a joke, and I am sorry. Please think about that when you vote on Bill 26.

I would like to summarize by quoting my Grade 5's favourite saying in the playground: That is not fair. You, the government, have not been fair with us. Thank you for allowing me to present to you.

Mr. Chairperson: Mr. Bjornson, there may be a few questions from the committee. I do not know.

Mr. Reid: I would like to thank Mr. Bjornson for his presentation here this evening. I am sorry you had to wait so long, sir, for us to work our way through the committee process, and I thank you for travelling in to this committee. It is unfortunate this committee does not take the opportunity–at any time in my years here–to travel through the province to have public hearings at various parts of the province on the pieces of legislation that come before us, but it is obvious that this government is trying to limit the amount of public discussion that takes place and, in no small way, disadvantages a lot of the members of the public that would like to present.

With respect to–you say your total budget for your particular Lakeshore Association is $4,900 a year. This government is saying that, through this legislation, now the various labour organizations of the province, when they have some difficulties with employers on issues, are going to have to go to mediation or arbitration, that the associations or unions are going to have to pick up some the costs that are associated, a portion of the cost associated with that. How do you see that impacting upon your particular people that you represent, teachers that you represent?

Mr. Bjornson: Well, of course, when we have to go to arbitration, it costs us a lot of money. Of course, our fees would have to be increased, and that is coming out of our pockets. The whole thing about this whole bill makes no sense to us at all. If it did something, I am sure we would be looking, you know, forward, but it does not do anything. All it does is it gives you a big stack of papers this high or higher, and it does nothing for you. The government should be doing other things than doing this kind of stuff.

Mr. Reid: So if I can paraphrase, and I do not want to put words into your mouth, sir, but if I can paraphrase what you are saying, it is that you see that portion of the bill as being a tax upon the members, upon the financial resources of your members, because your dues are going to have to be increased as a result of portions of this bill.

Mr. Bjornson: It just depends on how everything works out. I cannot really say that for sure, but that is something–of course, if we have to go to arbitration, if we have to go to conciliation, that costs us money.

Mr. Ashton: As a person who regularly drives Highway 16 from Thompson, I know how much you have had to drive in, and I appreciate the fact that you have come here.

I want to focus on something else. You know, I have talked to a lot of teachers in my own area, and I have had the opportunity to talk to teachers in various other areas of the province. One of the feelings of a lot of teachers is, and I think the phrase that they are using now is, that they feel like they are being punished by the government for having spoken out during the election and basically running an advertising campaign that said, think education.

Mr. Bjornson: It was not antigovernment.

Mr. Ashton: Is that your sense and the sense of teachers in your area?

Mr. Bjornson: I would like to say not, but personally, yes, I think they are being antagonistic, they are saying, well, you did that to us, tit for tat. That is how I feel. I am not sure, you know, how any other teacher does feel. I think it is just like in a Grade 5 class I teach every day.

If there are one or two kids that are acting up and I punish the whole class for it, is that fair? It is not fair.

Mr. Ashton: I am wondering too, the advertising that was done, the information that was put out on the election, was that made–that was a decision of the MTS, the teachers generally?

Mr. Bjornson: All of us were part of that decision-making process. I represented our president council. We will be meeting on Saturday again to plan strategy, to look at where we are going, to look at the government and where it is going, and who knows where we are going? That is the way the government seems to want it nowadays. We want to be conciliatory; we are not antagonistic people. Teachers are not antagonistic people. We try to be conciliatory in the way we do things. That is the way our classes are run. But this is the way it seems to be. That is the way it has to be. This is the way it is going to be, and we are ready.

* (2100)

Mr. Ashton: Oh, I just have one further question on the advertising, and one of the things that strikes me as the most inconsistent here is you said it was a democratic decision of the teachers to make a statement in the election in terms of education, but we have, for example, the government right now spending $400,000 promoting the sell-off of Manitoba Telephone System. They did not even go to the people of Manitoba on that in the election. They have no mandate for it, and I know a lot of people who would love to be able to have some say over that.

I am wondering if you do not see some inconsistency in the fact the government can spend hundreds of thousands of dollars of advertising without your consent as a taxpayer but, on the other hand, now wants to interfere in the democratic decision-making process of teachers to prevent you from, in an election, speaking out on something that is as fundamental to teachers as education. Is that not somewhat inconsistent?

Mr. Bjornson: I think it is too, and I also received the two-page, nice letter from the head of Manitoba Telephone System in my mail the other day. If that letter was not political, then I will–

Mr. Chairperson: Thank you, Mr. Bjornson. That concludes the time limit for the questions with this presenter.

The next presenter is Dan Lemieux. Is Mr. Lemieux in the audience? Dan Lemieux? All right, his name will go to the foot of the list.

The next presenter is Edward Hiebert. Edward Hiebert's name will go to the foot of the list.

The next person is Ross Martin. Ah, good. Mr. Martin, I see you have some written presentations as well. Please proceed with your presentation, sir.

Mr. Ross Martin (Brandon & District Labour Council): Thank you. My name is Ross Martin. I am president of the Brandon and District Labour Council, and with me here tonight is the first vice-president, Mr. Ronald Teeple, and also sister Colleen Seymour, the second vice-president.

Mr. Chairperson and members of the committee, the Brandon and District Labour Council represents approximately 4,500 members from 25 affiliated local unions in Brandon and the surrounding area.

We always believed that the government of Manitoba's main objective was to improve the living conditions of all Manitobans. While we often disagreed with their methods of reaching that objective, at least there was some belief that they did have the interests of Manitobans at heart. This government has abandoned that philosophy. They have indicated very clearly through this bill and the others in this legislative session that they are only interested in promoting the corporate bosses, the elite of society, with other Manitobans should be relegated to serving those with money and power.

We have always believed that the Minister of Labour should be an impartial umpire who would ensure that the balance between labour and employers would be equitable. Approximately one year ago the Minister of Labour saw nothing wrong with The Labour Relations Act, yet today it needs major revamping, even against the advice of the minister's Labour Management Review Committee. The minister against labour has introduced legislation which is a brutal frontal attack against all working Manitobans, especially those who are unionized. The minister, in locked goose step with the employer, has declared his bias.

Is it not strange that in every dictatorship throughout the world the first thing that they do is silence the labour unions? Welcome to Big Brother Manitoba.

This government has declared that majority votes in union certifications no longer count. Democracy should not apply to the workplace. Only a vote by 100 percent of the workers is adequate, Mr. Toews says. Votes will take place in seven days or whenever the employer feels that they can intimidate enough workers to change their votes. When was the last time that every member of this Tory government got a clear majority of votes cast, or 65 percent of the vote? Why do workers have to vote twice on whether they want to join a union? Some democracy.

This government has declared that unions must open their financial statements to employers and other nonunion people. Where is the fairness in this when employers do not have the same obligation? What kind of democracy is this? I have always had the opportunity to view and question the financial statements of all union organizations that I have belonged to. It is my individual right to refuse to join, but then I have given up the right to have a say in their affairs. Will Mr. Toews and his Tory Party let me into their conventions with voice and vote without being a member of their party?

This government has declared that unions cannot lobby political bodies in an effort to improve the lives of their members and other Manitobans. Union members decide how their money is to be spent through a very democratic process called a majority vote. They used the same strange method to decide who will represent them and never once in my memory have they voted for the government to represent them. Union members do not need nor want the government to run their unions.

If members do not want their elected representatives to participate in any campaign, political or otherwise, we will tell them or else remove them from office. Yet Big Brother Manitoba has determined that democracy should not be followed in unions and the minority and nonunion people should be able to move their dues to wherever they wish. Does this apply to the corporations? Will Mr. Toews allow me to divert my tax money to the charity of my choice since I do not agree with any of this legislation?

This government has declared itself as Big Brother Manitoba, and its bosses and employers can make union members vote on any of their offers any time. This seems rather one-sided. Will the minister allow union member representatives to have the same right over employers? Union negotiating teams are elected by the members to get the best deal possible. This completely circumvents them, therefore attacks at the heart of union democracy.

This government has declared that more strife is necessary in the workplace; therefore, expedited arbitration is restricted. Expedited arbitration resolves disputes too quickly, I guess, allowing too much time for employers and employees to coexist in harmony. By severely restricting expedited arbitration, the grievances can drag out for years, denying justice in the workplace and always supplying a flash point for other disputes. Yet Big Brother Manitoba says this is good for Manitobans. The government has declared picket lines legal firing lines for employers.

By taking away the right to strike through intimidation, Big Brother Manitoba has fed the workers to the wolves. We fail to see the democracy in this and are sure that Mr. Toews has forgotten a piece of the legislation. By taking away the ultimate union weapon, the right to strike, I am sure that Mr. Toews will amend this legislation such that when a strike is called the employer must immediately shut down the business until the strike is settled. For this there will be no picket lines. After all, Mr. Toews says he is a fair man; let him prove it through his actions.

The Brandon and District Labour Council knows that the proposed legislation eliminates or seriously erodes democracy in the unions that it is purported to enhance. This is a tale of smoke and mirrors where Big Brother tells us what is good for us yet destroys us in the process. It takes the right away from our elected representatives to represent us. It puts real power in the hands of Big Brother Manitoba and its employer bosses.

This is bad legislation that breaks the more or less balanced Labour Relations Act, and it will have serious repercussions in the future if passed. Workers should run unions, not government. This legislation should be trashed for the sake of all Manitobans.

I respectfully submit on behalf of the Brandon and District Labour Council. Thank you.

Mr. Chairperson: Thank you, Mr. Martin. Do any of the committee members have a question of the presenter? I see Ms. Barrett. Ms. Barrett, the Chair recognizes you.

Ms. Barrett: A brief comment and then a question for the presenter, if I may. The comment that through your questions of the minister and the government throughout your presentation you very neatly highlighted the hypocrisy of the Minister of Labour (Mr. Toews) when he talks about this legislation as democratizing the workplace and providing more power for workers. I thank you for that. You have encapsulated that very nicely.

You, on your second page, one of your questions was, when was the last time that every member of this Tory government got a clear majority of the votes cast or 65 percent of the vote? Is the presenter aware that the Minister of Labour actually got 35.5 percent of the eligible votes of the votes cast in the last election?

Mr. Martin: No, I was not aware of that, but I can understand people not voting for him.

Mr. Ashton: I want to thank Mr. Martin for his presentation. I want to focus on the question of political action, because I asked the representative before from Lakeside Teachers, because I know many teachers are feeling they are being punished because of having spoken out. I am wondering if you feel that perhaps one of the reasons behind this piece of legislation is that the government does not like the fact that the labour movement speaks out politicaliy during and in between elections and if this is not really an attempt to prevent the labour movement from having that ability to participate politically.

* (2110)

Mr. Martin: To me this government has shown itself to be very vindictive. It wants to quiet unions. It wants them to shut up and go away, be stuck off in a corner. I believe it is straight revenge. We try to work in the political process. We do it very democratically, from what I saw tonight much more democratically than some things are handled around here. I believe it is outright revenge against anybody that opposes them, and I think we are well on the way, because they have a majority, that they are going to treat it as a dictatorship rather than good government. I am afraid that we have lost the whole thing on good government.

Mr. Ashton: I mentioned the Manitoba Telephone System and the fact the government has no mandate to sell off the Manitoba Telephone System is now spending $400,000 on what a previous presenter called obviously political material, and I am wondering if you do not see some inconsistency here with the government now trying to dictate internally in terms of the affairs of unions, in terms of political activity, when Manitobans, most of whom do not want to see MTS sold off, are forced to foot the bill for $400,000 for advertising. Is there perhaps not a slight inconsistency in that?

Mr. Martin: Well, dictatorship in one form or another–I mean, if they had said they were going to sell off MTS during the election campaign, that would be a little bit different. Now they are trying to hide that they are even selling it or they are keeping it very quiet. They refuse to call public meetings. I mean, the list goes on and on.

We have tried to get public meetings on the sale of Manitoba Telephone System. He refuses to because he does not want people to know that they are selling it, and he is hoping they would pass through the legislation, I believe, before people find out. In this case, fortunately, we knew about the legislation because we know that we have to watch these people because they are not to be trusted, and so basically that is why we are here tonight. We have to make sure that we keep an eye on them because Manitobans no longer have trust in these people.

Mr. Ashton: I am wondering, too, you talked about the process, and we talked earlier about the process. Both the previous presenters have talked about the fact that this bill really is part of a bigger agenda which is taking away much of what we have come to accept as the democratic process in this province.

You mentioned about MTS. This is another principle, I believe, too, the right to form a union and run the affairs of it yourself. I am just wondering if you can comment on the legitimacy of any government interfering in that process, and perhaps, if you might, since it is obvious to my mind that many members on the government side have no idea on how a union operates internally, explain the democratic process that takes place within unions and perhaps indicate to them why people select unions in the

first place, how they do it and how they make those decisions, because it strikes me as absolutely bizarre sometimes that a government that should lecture no one on democracy does not understand that unions are there to represent their members. If they do not represent their members, they do not retain the position of being the union that represents that membership for very long.

So I am wondering if you might want to spend a couple of minutes to explain to members on the committee how unions actually work in practice.

Mr. Chairperson: Mr. Martin, for a very brief response.

Mr. Martin: Very briefly, well, when we join, we vote on everything. There is nobody that really gets appointed. In our union, we vote for a president, we vote for a vice-president, we vote for all the executive positions, we vote for our shop stewards, all through a democratic process. We vote to send people to various places if we want them to go to conventions. We vote for our negotiating committees. There is not too much that we do not vote on, and it is all done through a democratic process. If we send people to represent us at the Manitoba Federation of Labour, we have to vote those people in. If we want to send them to the Canadian Labour Congress, we vote for those people. If we want to have representatives on a labour council, we vote for those people. It is all democratic.

The part that is not democratic is the government interfering within our internal affairs. This is my money, it is my dues, and I think that I am the one who should have a say of who I elect, who I do not elect, and I do not need a government meddling around. I mean, I wonder if the Minister of Labour (Mr. Toews) will take his income tax and bring it to his next public hearing and let the public have a look at it and all the media. If he does not bring it, then I would suggest that, rather than us hiding something, perhaps the minister is hiding something. I would like to see that. If you want openness, let us have openness by everybody and everybody have control.

Mr. Chairperson: Thank you, Mr. Martin. That now concludes the questions for this presenter.

Mr. Martin: Thank you.

Mr. Chairperson: Ladies and gentlemen, there are a number of other individuals who have walked in this evening, and I will read their names at this time in order that they know that we have recorded their names and so that they know they are on the list. Number 57, Buffie Burrell; 58, Brian Bouchard; 59, George Anderson; 60, Bernie Parent; 61, Keith Hillis; 62, Phillip Trottier and 63, Leagh Blackwell.

The next out-of-towner who has priority this evening will be Keith Hillis who is presenting as a private citizen. Mr. Hillis, would you come forward, sir. Number 61 is Keith Hillis. Are you Mr. Keith Hillis, sir?

Mr. Keith Hillis (Private Citizen): Yes, I am.

Mr. Chairperson: Oh, good. Do you have a written presentation?

Mr. Hillis: No, I do not.

Mr. Chairperson: Okay, thank you very much, sir. I would invite you to proceed.

Mr. Hillis: I do not have a lot to add on to what the other speakers have said. The only thing that could be said, I guess, if they are going to legislate where any organization has to declare all their income, how they spend the income, possibly it would be a good idea if the parties also made out a declaration and published it as to how they spend the funds that they receive from other organizations such as the parties of power in the federation, in the labour, also the parties in the Legislature of Manitoba. As long as one person is going to declare everything that comes in, maybe there should be declaration for all. Thank you.

Mr. Chairperson: Thank you, sir, very much. Mr. Ashton, do you have a question of this presenter?

Mr. Ashton: One question that I am being puzzled with in terms of the degree to which this bill goes is how far they are going. I think you pointed to some of the inconsistencies. I am just wondering whether you feel there is much merit in what the government is doing to the extreme that they are going. I mean, some of the disclosure they are talking about is not only going to be available to members within a union internally but to others as well. I am wondering if you feel that is fair as

well to have people getting that kind of information rather than the members, many of whom now have this information available anyway. I know most unions are very open with public statements with their members. There is open discussion of budgets, et cetera.

* (2120)

Mr. Hillis: Within the union that I am in, I know the other unions, there is always open books as far as the membership is concerned. I do not think there is any reason at all for it to be opened up to the public. I have to close there.

Mr. Reid: I thank the presenter for his presentation. I want to ask one question. You have indicated that perhaps the parties should look at opening up the books. I want to ask your thoughts, sir, since this government is only appearing through its legislation here in 26 and the other antilabour pieces of legislation to have certain requirements of disclosure to labour organizations and the working people involved with them, I want to ask your thoughts, sir, about whether or not this particular government should be bringing forward legislation that would require that all companies that do business with the government disclose the benefits, the wages, the expenditures of their top-floor executive officers in any of their dealings as far as disclosure is concerned and whether or not the shareholders of any of those companies should vote on any expenditure of funds before they go ahead and take place in political advertising in this province.

Mr. Hillis: Yes, I think that they are going to go to this extent on this disclosure, that it should be extended to that also.

Mr. Chairperson: Thank you very much. Are there any other questions of this presenter? Thank you, sir, very much for coming this evening.

We now will go back to the start of the list and I will call Mr. Dave Tesarski. He is the individual who stood down earlier to defer to some of his other colleagues who were presenting this evening. Mr. Tesarski, you have some written presentations to circulate. Thank you. I would invite you to proceed, sir.

Mr. Tesarski: The mandate of the Manitoba Council of the Canadian Federation of Labour is to proactively represent our member organizations in a nonpartisan manner to promote labour issues to government, business and workers in our community. In keeping with that statement, the Manitoba Council is also committed to strengthening our economy by supporting long-term growth and development for all of Manitoba. This, however, can only be accomplished with fair and equitable legislation.

The collective bargaining system in Manitoba has, like all other systems, had its successes and problems. It has functioned through the business cycles of the last few decades and should from time to time be reviewed so that we can look forward to the future with greater, more progressive stability in labour relations.

When changes are considered past performance of the act must be examined. Proposed amendments must be designed to enhance the act. A balance must be maintained.

When the government proposed these amendments, the Manitoba Council executive board met with the Minister of Labour (Mr. Toews). The question that was asked of him was to explain the reasoning and intent by which this government proposed such radical changes to an act that currently provides Manitoba with a fairly stable labour relations environment. The response from the minister was, unions need to be more accountable to its members, the need to protect union members from their union, current legislation favours labour and the process of unionization needs to be more democratic.

Let me speak about unions and democracy. Unions practice three kinds of democracy: political democracy, economic democracy and social democracy. Political democracy is a system in which people govern themselves. Unions provide this. Union members determine by means of voice and vote the way their union operates. A union member has the opportunity to participate in their union as much or as little as they desire. Union members have the ability to run for executive board positions, union representative position, shop steward positions or even just volunteer their time on various committees. Unions encourage all members to participate because they are the union. Union members themselves determine the direction the union

takes on issues that affect its members. Union members set union policies to guide the union on day-to-day business matters. Union leaders take their direction from union members.

Economic democracy gives union members the ability to voice their opinion on issues that affect them at the workplace. Union members' input and participation is the heart and soul of their union. For example, union negotiators, negotiation committees are comprised of union members. Their purpose is to represent the members on the issues that need to be addressed at the bargaining table. Union leaders take their direction from union members.

Social democracy. This benefits union members and nonunion members in a more material way. Unions over the past 50 years have been responsible for achieving old age pension, unemployment insurance, universal free public education, medicare, workers compensation, health and safety legislation, decent wages, dental plans and so on. That was accomplished by union members directing their leaders to lobby governments on their behalf. This has benefited all workers. All three types of democracy are an everyday fact in unions.

Just to say a few words on Bill 26. The compulsory vote on application for certification. There is no need for this. Employees are exposed to employers' ways and means of doing business on a day-to-day basis. If the employee feels it would be better served by union representation in the workplace, that is their democratic right. A threshold for automatic certification must remain in the act, and if it is to be democratic it should be a 50-plus one when the cards are signed.

Requiring unions to provide detailed financial statements. Unions have a built-in accountability mechanism. Local union by-laws and constitutions clearly state union representative salaries, expenses. Each and every union member has a copy of their local union by-laws and constitution. Financial statements are also read out at monthly union meetings. Union members can access financial statements at any time; all they have to do is go to their union hall and ask for it.

To have a penalty such as loss of the Rand Formula impacts the people the government believes they have to protect from the union. Dues in some cases are used for health and welfare plans for members, pension plans, insurance plans, dental plans; that is not protection for workers.

Expedite grievance mediation/arbitration. When a member has a grievance with the employer, the union member and their union want to resolve the dispute as fairly and as quickly as possible, the expediting process does just that.

Union dues for political purposes. The Canadian Federation of Labour is a politically nonpartisan organization. However, it is the democratic right of any labour organization that wants to use union dues for political purposes, they must be able to.

Committing acts of misconduct during a strike or lockout. The existing Labour Relations Act clearly defines strike-related misconduct and contains provisions to deal with that conduct. The party can file an unfair labour practice, and the board must hear the case and provide a remedy. If this is such a problem, the best way to prevent misconduct from occurring is put in anti-replacement worker legislation.

Order a vote on employer's last offer. The collective bargaining process gives the workers the right to negotiate through chosen representatives, terms and conditions of employment. This does not give the employer any reason to go back to the table and bargain with the union. In any case, unions already take back final offers to the membership as it is. If this is such a problem, then governments should reinstate the final offer selection procedure.

In my closing remarks, unions are democratic organizations that are totally run by their members. The purpose and intent of The Labour Relations Act is for harmonious relations between employers and employees by encouraging collective bargaining. New or amended legislation must reflect a balance that will enhance the social and economic conditions of Manitoba.

In December, the government, and I believe it was David Newman, used a test on the throne speech. Is it fair? Is it the truth? Will it benefit all that are going to be affected? Bill 26 does not do any of that. It is not the truth. It is not fair and it is not going to benefit anyone

whether they are union members, nonunion members, the economy of Manitoba or anything. Thank you.

Mr. Chairperson: Thank you, Mr. Tesarski.

Mr. Toews: Thank you for your remarks, Mr. Tesarski. Whether or not this committee will agree to amend anything is yet to be determined. However, I do want to state that I know of your activities. You are held in high regard. You are a progressive person. You are a credit to your union, and I hope that the membership realizes what a person they have in you. Whether we, you and I, agree or not, I believe that the trade union movement in Manitoba has much to be proud of in yourself.

Mr. Reid: It is nice to see that the minister has finally woken up. I want to ask the presenter and to thank the presenter for agreeing to–

Point of Order

Mr. Toews: On a point of order, I am just wondering whether that remark was called for and if the member was implying that I have been sleeping. I think he should retract that. I have been sitting here. I have been listening. I have been quiet, yes, but I have been listening as opposed to engaging in rhetoric.

* (2130)

Mr. Reid: Mr. Chairperson, if I have offended the minister's sensitivities and his feelings, I apologize for that. I was only aware that he had not asked any questions of any presenters up to this point.

Mr. Chairperson: Your apology is accepted, and I would ask you to proceed then with our question.

* * *

Mr. Reid: I would like to thank the presenter for taking the time to come out this evening. I have several questions that I would like to ask, because the minister has said quite often that unions function in antidemocratic or undemocratic fashion. I want to ask your thoughts, sir, on the membership which you represent.

Do they have say in all of the activities of your union, the unions that you represent, and is there full accountability of your union leadership to the members themselves?

Mr. Tesarski: Yes, there is. It all has to go through a vote process. Nothing can be approved unless it is the majority.

Mr. Reid: Do you provide, the unions which you are part of, do they provide detailed financial statements to the membership?

Mr. Tesarski: Yes, they do.

Mr. Reid: Sir, did you ask the minister to bring forward this legislation? I am not being facetious by asking that, because the minister said yesterday in the House that 12 or so people of the labour movement asked the minister to bring this legislation forward. I want to know if you are one of those 12 people.

Mr. Tesarski: No, I am not one of those 12 people. The Manitoba Council has approximately 10,000 members.

Point of Order

Mr. Toews: Just on a point of order, I do not believe those were in fact my comments at all. The questions that were asked of me in the House were whether I had discussed this or consulted with anyone on this issue. I did, in fact, indicate that I had and I indicated that there had been dozens if not hundreds of emp'oyees that have in one way or another contacted me on this issue.

I just want to clarify the record.

Mr. Chairperson: That would be a dispute, I believe, on the facts. I would invite Mr. Tesarski to continue with his answer.

* * *

Mr. Tesarski: As I was saying, the Manitoba Council is made up of 10,000 union members. We strictly and adamantly oppose this legislation. It is stated in our position paper that was sent to the Minister of Labour on July 22, 1996.

Mr. Reid: The government proposes to take away the Rand Formula for labour organizations that do not comply with the detailed financial disclosure aspect. Do you represent unions that are in the private sector that freely negotiate the Rand Formula into contracts and, if so, what are your thoughts with respect to the minister and the government interfering in freely negotiated contracts?

Mr. Tesarski: Yes, we have several unions that are in the private sector. The loss of the Rand Formula if you do not file a financial statement is ridiculous. It is not fair. It is unjust, and it should not be allowed in the act.

Mr. Chairperson: Mr. Reid, for one very short question.

Mr. Reid: Mr. Tesarski, could you tell me to the labour organizations that you represent, do they hold secret ballot votes where required under law?

Mr. Tesarski: Yes, they do.

Mr. Chairperson: Thank you Mr. Tesarski. That now concludes the time for the questions, and I thank you very much for your presentation.

The next individual that committee has agreed will have priority out of normal sequence is an individual who cannot return after this evening's presentations, and that is Mr. Bernard Christophe. Is Mr. Christophe–thank you, Mr. Christophe, and do you have any written presentations?

Mr. Bernard Christophe (United Food and Commercial Workers Union, Local 832): Yes, I have.

Mr. Chairperson: Thank you. I would ask that you circulate those for the benefit of the committee members. Thank you, Mr. Christophe. I would ask you to proceed with your presentation.

Mr. Christophe: Thank you to the members of the committee for giving me an opportunity at this time to make a presentation.

We represent some 14,000 members in the province of Manitoba, and I have been working for this union, the UFCW, for some 37 years. I have a lot to say in very little time, and I will therefore concentrate on the issues or the amendments to The Labour Relations Act that have been presented. I have some 19 amendments to propose to what has been presented.

First of all, let me say that there is no evidence to support the need for changes in The Labour Relations Act at this time. The intent of Bill 26 in fact will not increase the democratic rights of union members but will weaken working men and women in trade unions, contribute to lower wages and deny them their democratic right to join the union of their choice. This bill in fact will give additional time and opportunity for employees to be intimidated by their employer not to join the union, and, in this instance, there are plenty of examples of employers intimidating their employees. For example, in the Valdi case which is on record with the Labour Board, for that IGA, eight employees were fired out of 38 during an organizing drive. Subsequent to that, a vote was taken and the union was not successful. Northern Goose was another one; Canadian Tire, Assiniboine Mushroom, for example–many where this in fact took place. In our view, this act is designed to give more power to employers and to give them the ability to control and dictate their terms of acceptance.

It is rather interesting that the Minister of Labour (Mr. Toews) has left. However, I hope he will return.

The refusal on the question of the–

Mr. Chairperson: The honourable minister, on a point of order.

Point of Order

Hon. Rosemary Vodrey (Minister of Justice and Attorney General): Mr. Chair, he was required to step out only momentarily. I am sitting in his place as acting minister for a very short time, and he will be back very shortly.

Mr. Chairperson: Thank you, Madam Minister, and I would invite Mr. Christophe to continue with his presentation.

* * *

Mr. Christophe: In regard to the refusal to reinstate employees after a lockout or a strike, when strikers are engaged in conduct that is improper or illegal, employers have been prompt to have the police lay charges against them, and they often pay the penalty, even though in many instances they might have been provoked. This amendment, in our view, will allow employers to hire union-busting companies who flourish in the United States and infiltrate unions in an attempt to deliberately provoke altercation between certain individuals on the picket line which will then allow the employer not to re-employ an employee after the strike is over.

The words proposed "might have been discharged from employment" is of concern to us because it may not even mean that they would have been discharged, only that they might have been. In our view this gives, for example, the opportunity for an employee not to be re-employed if during the heat of an argument a striker may yell at his employer, make an obscene gesture, call him a scab or slow down his employer's car. These could all be reasons for termination.

What we propose, and it has been mentioned, if this government wants to contribute to reduce the number and length of strikes, then reinstate final offer selection which existed in Manitoba and which was a win-win for everybody. The employer kept his plant operating; the workers continued to work; and the customers were not inconvenienced. As somebody mentioned before, in about 50 percent of cases that we utilized it, the award went for the employers, and 50 percent in favour of the employees. If this section, however, is to remain, we propose that instead the following amendment be made to the proposal on Section 12(2). The amendment you will see in my brief all in a box that I propose on each section: An employee who is not reinstated under this section will have an opportunity to file a grievance and have the matter arbitrated before an arbitration board which shall take into consideration the employer's existing policies and the circumstances of the strike, as opposed to the ability of the employer not to reinstate anybody. This will maintain the right of the employer to refuse to reinstate an employee but gives an arbitration board an opportunity to ascertain the true facts and circumstances of the event.

* (2140)

In regard to strike-related misconduct, this is designed to penalize unions by making them responsible for strike-related misconduct over which they have no control. Our union, for example, issues some strict guidelines in writing to our members to follow on the picket line. Notwithstanding these instructions and the clear position of our union, which is opposed to any strike-related misconduct, it is impossible for any union or any company to control the actions and thinking of their members all the time.

Again, we are opposed to this change. If it is to stay, however, we propose the foliowing amendment: unless a reasonable effort has been made by the employer or the union to stop or clearly indicated that strike-related misconduct would not be tolerated.

If this is proposed and the union does everything they can, then they should not be penalized, and it should not be an unfair labour practice.

In regard to Section 29.1, failure to consult regarding use of union dues, I will comment later on in that regard.

The elimination of interim certification, of course, goes with the automatic vote on application for certification. We believe that there is no evidence to warrant such a change, and we propose that Sections 39(4) and 39(5) be reinstated.

Insofar as the elimination of automatic certification–if trade unions do not, after they have filed, represent 40 percent of the membership–we suggest that the elimination of automatic certification at the present time if the union can demonstrate more than 65 percent is simply designed for the employer to discourage its employees to join the union and intimidate them or scare them into voting against the trade union.

It is really the same the minister had said that some instances that he felt that peer pressure forced people to join unions. My experience has been that this is never the case. It is really the same as if you said that Gary Filmon intimidated voters in the last election to vote for the Conservative Party. I think the analogy would really be the same, and therefore we do not believe that this should be the case. We are concerned about, however, the Manitoba Labour Board to be given wider power in determining the scope of the bargaining unit. In all

labour relations acts throughout Canada, the rules are known in advance that it should be the employees on the payroll on the date applied for. We are concerned that now perhaps it could include other employees hired after the date of application for certification.

In regard to the vote within seven days, again, this will allow employers more time to intimidate employees, and we believe that period of time is too long. We propose an amendment to Section 48(3) which would read: and follow that the vote should be held within five working days or a maximum of seven calendar days. If the vote cannot be held during that period of time, then the union will automatically be certified. When an employer exercises his right to communicate with his employee after an application for certification has been made by a trade union, the employer shall inform the trade union of the time and place that he intends to speak to his employee and give the trade union an equal opportunity, on the premises, at a separate meeting, to answer any of the employee's questions which were raised by the employer. The employer shall also send copies to the union of any written material the employer may give to his employees and the trade union shall likewise do the same. This would, in my opinion, give an opportunity for the trade union at least to be heard in that instance. The ability for the board to extend the time for the vote in my opinion is wrong and should not be implemented.

Mr. Chairperson: Mr. Christophe, you have one minute.

Mr. Christophe: Well, I guess you will have to read the rest, unfortunately.

Insofar as the proposal on Bill 26, Section 69(2), we propose that the employer shall provide the bargaining agent not less frequently than twice per year with the name and address of employees. You are proposing that the word "union members" be replaced with employees. We have no ability in many instances to communicate with those people to invite them to a meeting. If this bill were to pass and if that is the case then we should be given access to it.

In regard to Section 72.1, the voting constituency is important before a strike vote is taken and after, and we propose in Section 72.1, if it is not eliminated, as it should be, then the voting constituency should clearly be defined as the employees who were employees of the company on the day before the strike or lockout began and who were not hired specifically to act as replacement employees for the purpose of the impending strike or lockout. Any offer that the employer requests be put to a vote, or the Minister of Labour requests be put to a vote, should be different from the previous one.

In regard to Section 72.1–

Mr. Chairperson: I think I will have to intercede at this point, Mr. Christophe. Thank you for your presentation.

Mr. Christophe: Mr. Chairperson, can I use my remaining five minutes to conclude my presentation at the risk of having less questions asked of me?

Mr. Chairperson: I would canvass our colleagues on the committee.

Mr. Ashton: I would be prepared to ask the question if Mr. Christophe could explain the rest of the brief.

I would comment, Mr. Chairperson, this is one of the reasons we oppose the 10-minute limit, because this is a very good brief, it is very detailed in its nature, and this is what the committee should be here for.

Mr. Chairperson: Is it the will of the committee to allow Mr. Christophe to continue?

Mr. Christophe: Thank you very much, Mr. Chair. I will be as brief as I possibly can.

In Section 72.1, which has also got to do with the employer having the ability to request a vote, we are opposed to that process because we have always put to a vote the last employer offer. But if it is to remain, we propose again that before the commencement of a strike or lockout, if the trade union did not put to a vote the company last offer, then the employer may request that a vote be taken and, again, the voting constituency should be an employee on the payroll on the day before the strike who were not hired specifically to act as replacement workers.

In regard to union dues for political purposes, we have been routinely doing this for a number of years, giving an opportunity to opt out. We object, however, to this

amendment to the act which we believe is an interference in the right of a trade union to spend money on a political party to defend their rights. However, if this amendment is to remain, again, we would like an opportunity, as I indicated before, to get the name and address of all employees if we are to communicate with them and if what is required is a system similar to the one that we have been using for a number of years, that may be, obviously, a different proposition, but overall we are still opposed to it. It should read on Section 76.1 that the word "each employee" be changed to include the mailing not less frequently than once per year of a document to each employee's last known address in the possession of the union, giving an employee the opportunity in writing to inform the trade union not to use any of their union dues for political purposes.

Now, going to page 19, I am skipping right now. Whatever I said elsewhere will stand. I just want to deal for a moment with a disclosure of information by a union, but before I do that, I am sorry, the most devastating part of the bill in my opinion is the elimination of expedited arbitration procedure which had not been complained by any employees, and I urge you to keep it remaining on the books, because this was an opportunity to quickly resolve grievances that employees had, and I know of no single employee who has objected to that. The intent, as I understand it, was that it was abused or overused too many times and that perhaps some people were abusing the time limit. I propose that it remain exactly as is. If it is to stay, then if a fee is to be paid by the trade union in order to have expedited arbitration reinstated as it was before, we would be reluctantly prepared to that providing, again, the expedited arbitration procedure remain. This in our view would be a source of revenue for the government and will prevent overutilization and yet still maintain the process. Clearly, this will not give more democratic power to union members. It will take away something that has worked well. Eighty percent of the grievances that go to expedited arbitration are resolved before going to arbitration. It worked, and I urge you once again to consider that.

In regard to the production of a financial statement, we are opposed to it. We have a list of five or seven different checks in our union, including a chartered accountant, board of audit, trustees, executive board members, membership, who check line by line all our finances from time to time, but instead of having to file the financial statement with the board, we propose, on page 24, that if an employee covered in the bargaining unit is not being given access by the union to an audited financial statement for the previous fiscal year, as well as access to the yearly income/remuneration/benefits of any of the staff officers of the local union, then the employee may apply to the Manitoba Labour Board to obtain that information.

* (2150)

We are also opposed that copy be made of any financial statement and given to the employees, because it usually falls in the wrong hands, and it usually goes to the employers or to those who are in an adversarial position, and I am sure that if unions are requested by their members to provide information, as we do, as I know all unions do, then there will be no need to go to the Labour Board to apply for same, and if it is provided, if the Labour Board compels a union who has not complied, the employee should be able to go to the board and examine it without having a copy made.

Finally, in regard to the consequences for not filing, I propose that instead of cutting off union dues to a union who has failed to comply, which in some instances if, for example, a Safeway checkoff was cut off, we probably may have to lay off several of our staff because we could not do that. The previous speaker before me indicated that some of the union dues are used to pay for pension and health and welfare contribution, and I suggest that instead of that penalty, if you turn to the next page, the Manitoba Labour Board in fact has the power right now to impose a penalty already, $2,000 per member, if a union is found to be–had committed an unfair labour practice.

On page 27, finally, I propose that if a union failed to file a financial statement, a compensation statement or revised financial statement within 30 days after being served with an order of the board, under subsection 2, the union shall be deemed to have committed an unfair labour practice and shall be subject to the remedies for unfair labour practice as contained in Section 31(4) of The Manitoba Labour Relations Act.

Mr. Chairperson: Thank you very much, Mr. Christophe. That would conclude our time for this presentation.

Mr. Christophe: I have reproduced it for you, and I thank you for the extension and opportunity you have given me.

Mr. Chairperson: Thank you very much, sir, and good evening.

We will now proceed to the beginning of the calling of the list. The first presenter is Betty Green, President, Manitoba Association of School Trustees. Ms. Green, are you in the audience? On seeing nobody responding, Ms. Green's name will go to the foot of the list.

The next party presenting is Frank Thomas and Dave Martin, Manitoba Building Trades Council. These gentlemen are present. I would invite you forward, gentlemen. Do you have written briefs for the committee members this evening?

Floor Comment: Yes, we do.

Mr. Chairperson: All right, I would ask that you circulate them. Thank you, gentlemen, and good evening. I would invite you to proceed.

Mr. David Martin (Manitoba Building and Construction Trades Council): Mr. Chairman, my name is David Martin. I am president of the Manitoba Building and Construction Trades Council, and with me is Frank Thomas, the executive secretary.

The Manitoba Building and Construction Trades Council consists of 16 affiliated craft trade unions that are actively involved in the Manitoba construction industry. Additionally, they cover all of the crafts involved in the industry.

The Manitoba Building and Construction Trades Council, through its affiliates, represents some 5,000 construction workers in the province of Manitoba.

We submit to the committee the following concerns regarding specific sections of Bill 26 which will affect the construction industry, construction local trade unions and Manitoba taxpayers.

I would like to make a point at this time, committee members and Mr. Chairman, that our brief deals specifically with some of the concerns of construction workers and does not deal with all issues contained within Bill 26, but I think it goes without saying that we condemn that bill as being antiunion and antilabour and in the worst interest of the construction industry.

With regard to Section 40(1), Representation vote or dismissal, the requirements to amend the act requiring a vote regardless of the percentage of workers who may have signed cards indicating that they wish a craft union to represent them will create an unnecessary expense on Manitoba taxpayers. Further, the implementation of the proposed amendment will stretch the resources of the Department of Labour in the administration of its duties with respect to labour matters.

The construction workplace is not one common workplace but more typically a number of workplaces or project sites where employers carry on business. The construction workplace can be considered mobile in nature.

Construction trade certifications are applied for and issued on the basis of a province-wide certification. This amendment will require a vote on every construction trade craft application applied for, and will require the Labour Board administration in most construction applications to travel to a number of employer work sites to administer such a vote. Why should government want to add such administrative costs to the certification process?

The implementation of the proposed amendment will also add delays and further deny workers the right to be represented by a bargaining agent.

It is our view that, because of the requirement for a vote according to the proposed amendment, unions will sign materially less cards; 40 percent to 50 percent of the members will be sought. Subsequently, they will seek a mandatory vote to save organizing time and thus campaign after the fact. The obvious result will be increased costs to all stakeholders in this process.

The act should continue to provide for automatic certification when a union has obtained and filed a reasonable percentage of employee representation support for the union, suggesting between 65 percent or 70 percent.

With regard to Section 72.1(2), Employer may request vote, this provision should not include the construction industry where multiemployer bargaining under a common trade agreement is practised. Such an amendment could lead to the destabilization of wages and working conditions in the construction industry, where the employer's offer may not be in accordance with the trade industry, prevailing labour costs or practices.

With regard to Part VII.1, Section 132.2(1) and 132.2(2) Disclosure of Information by Unions, again this amendment will add tremendous cost to the administration of the Labour Board to process information which is already available to union members under union constitutions and by-laws.

Trustees and officers of local unions regularly make financial reports within local unions.

Not all local unions, particularly smaller construction unions, use the services of auditors. Alternatively, financial reviews are conducted in-house by union members, resulting in appropriate monitoring by the union membership.

132.2(2) Labour legislation should be balanced between employers and bargaining agents.

The disclosure of this information to government and the Labour Board is beyond the requirements of good labour relations and is an unnecessary intrusion into the union's financial affairs. With respect to financial reporting requirements in Canada, governments have only regulated public companies, entities associated with government and organizations which receive government funding or grants.

Historically, the justification for government regulation in matters of financial disclosure have been limited to public protection, for example, the protection of investors in public companies. Unions do not invite outside investors to purchase securities, nor do they operate with government funding. What reason would the government have to force disclosure upon unions, while not alternatively require employers to disclose their financial information? An intrusion of this nature, as proposed by this amendment, is unprecedented by any measure.

Additionally, there is no requirement for the employer to file a statement of the employer's income and expenditures or mandatorily disclose the financial condition and operation of the employer. If employers were required to disclose their financial condition, this would have a greater value to employees by confirming the financial well-being and solvency of companies they choose to work for.

In view of today's economy, employees would be able to make an appropriate decision with respect to their job security and matters of financial planning.

Section 132(3) Strike funds not included. We agree strike fund information is confidential information. However, legislation does not recognize that many unions do not have strike funds. So filing financial statements which accurately disclose financial conditions is equally damaging to the confidential nature of the local union. This information in the hands of employers who are increasingly prepared to lock out workers will further erode the ability of small unions to effectively represent their members and secure a fair collective agreement.

* (2200)

The amendment is seeking privileged information. This does not provide any protection for unauthorized communication of such privileged and confidential information.

Section 132.3(1) Inspection by employee on request. This amendment will create an administrative burden for the board. How will the board know who is entitled to such privileged information? The board will be unable to accurately administer this provision. The information is available to union members who attend regular meetings of a local union. Taxpayers should not have to carry the tax burden created through the associated administrative duties of providing unnecessary and unwarranted financial disclosures to individual members who choose not to attend their union meetings, where this information is readily available for their review.

Sections 132.6(4) and 132.6(5) Consequences of failure to file. Imposing a penalty such as removal of the Rand Formula on a union in a workplace will have consequences for the union, the union members and the employer. Should such a penalty be imposed, we can

expect to see union representatives or job stewards visiting the employees weekly or monthly or possibly daily to collect union dues. This, in all probability, will expose employers to far more grievances being raised by workers and ultimately processed by unions.

In a number of construction local unions, health and welfare contributions and training fund remittances are included with union dues payments. If payments are suspended, employees will lose their benefits for themselves and their families. This will make unhappy workers and will lead to grievances by employees against their employers and further administrative nightmares for employers.

The problem will be even worse in industries with multiemployer bargaining units, such as the construction industry.

When reinstatement occurs, another problem will arise in the issue of back dues or arrears dues, which become a further burden administratively on employers.

Government should not be getting involved in the financial information of local unions. Such information must be considered privileged information. Thank you, Mr. Chairman, for the time.

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

Mr. Reid: Thank you, Mr. Martin, for your presentation. You raised several interesting points with respect to the disclosure of union dues. I want to ask your thoughts on the ability of the Labour Board as well with respect to their abilities to hold or conduct certification hearings within seven days. Perhaps you can comment on what will happen, why the minister, in your mind, why do you see the minister is taking the steps that he is here through Bill 26 to require the local unions to disclose detailed financial statements. What do you see the reasons why the minister would be taking these steps?

Mr. Martin: I can offer my opinions, and I trust Frank will offer his as well. The obvious intent in our minds, I believe, in my mind in particular, is to reduce the strength and reduce the ability of the unions to represent workers. This disclosure issue is one that ultimately will be used against us, will be used against us by employers, by governments in general and especially governments that are not particularly favoured to the democratic rights of unions and democratic rights of workers. I see there is only one ultimate motive behind the issue of disclosure of the financial affairs of unions, and that is to do away with the ability of unions to represent workers and to further erode the rights and the powers of working people in Manitoba, both unionized and nonunionized.

Mr. Toews: I thank you for your presentation. It is to the point, it raises certain interesting questions; again, whether we agree or not is another issue. Of particular interest is the issue relating to a board order which would affect insurance or other welfare schemes. How is that done in your particular union? Who pays these particular dues?

Mr. Martin: In my particular union, the member in concert with the employer. Sometimes it is a 50-50 split and other times it is a variation anywhere between 70-30 and so forth in respect to the contributions to health and welfare funds. Ultimately the plan structures, and it is not just in my particular union but it is a typical structure in construction trade unions, is that one must be a member, must have his dues paid up to benefit from the health and welfare plan. This is where this act could jeopardize, in particular, where dues are not remitted timely to our administrators and to our local unions, the ability of the families and the members to access those very needed benefits in respect to health care.

Mr. Frank Thomas (Manitoba Building and Construction Trades Council): If I could just add, in some of our construction unions, the contributions for health and welfare funds are collected as part of the union dues on a monthly basis. So if the Rand Formula by Labour Board order was invoked, then many members would lose coverage on their health and welfare plan. It is taken off as part of the union dues, not in all of our unions, but in some of them that is the case.

Mr. Reid: To the presenters, I would like to ask your thoughts. I take it that you represent working people that are employed in the private sector, and that you freely negotiate contracts with your employers that would, I take it, include the Rand Formula. How do you see the government–what are your thoughts on the government interfering with freely negotiated collective agreements that include the Rand Formula and that the government would step in and remove that Rand Formula capability

from you through the negotiated agreements if, hypothetically, you were not to file detailed financial statements to the government's liking?

Mr. Thomas: I think it is going to create a mess and a nightmare. I think you will get arbitrators with the Rand Formula in the agreement coming down with decisions that may be different to what the Labour Board order is, and it will create a bunch of confusion in the administration of agreements and a dues structure.

Mr. Reid: Do you see that there would be any likelihood of those unions that freely negotiate collective agreements which include the Rand Formula taking action as this being an infringement upon the charter of rights of all union members and their representative bodies? Do you see that this is an infringement of your rights?

Mr. Martin: I think, as Frank has suggested, it is going to create a situation with our collective agreements that is going to ultimately result in grievances and confrontations between ourselves and the employers, and challenges will be flying all over the place. Neither Frank nor I are lawyers, but I would suspect that we will be using all the best advice we can get to protect those rights that are afforded to us under our collective agreements, which in many cases mandate automatic dues deductions and to protect the rights issued us under the Rand Formula.

Mr. Chairperson: Thank you, gentlemen, that concludes the time allotted for questions this evening, and I thank you very much for your presentation.

The next individual on the list is Brian Timlick. Good evening, sir. Do you have a written presentation for the committee?

Mr. Brian Timlick (Private Citizen): Yes, I do.

Mr. Chairperson: I would invite you, sir, to proceed.

Mr. Timlick: Mr. Chairman, Honourable Vic Toews and committee members, thank you for allowing me to make my presentation to you this evening. I will try to keep it short as many of the topics that I find very scary are probably covered already by others.

In more or less short form, my concerns covered by others include: We as a society are all weakened when democratic organizations are weakened by government legislation. The Progressive Conservative Party has long endorsed a philosophy of laissez faire in economic matters, and labour matters are by nature a matter of business and economics.

It seems strange that legislative powers be used to have management assume the most important function of one of the elected positions of negotiator. That position has the responsibility of getting the best deal possible at the table and then and only then presenting it to the members. A negotiator also has the responsibility of recommending rejection or acceptance to the membership.

If management were to assume this responsibility, the offer would recommend acceptance of the agreement with the reasons from the management side only as to why. In most bargaining sessions, management has one view of what the language means, which may differ from what the union may think. Management must present their view to their board of directors while the union must present the union's view to its members. Under this legislation, management would present both views.

* (2210)

As a side issue to this, it would seem to me that if management assumes the responsibility of the union, management would have, in fact, taken over the union, and that union would become an in-house union which is not recognized by the Labour Board.

Union dues are to members what taxes are to governments. If a government were placed in a position of not being able to rely on taxes collected to carry on business because some taxpayer wanted their money to be given to a charity of their choice, democracy would be compromised, and governments would not be able to operate. Democracy must prevail, and the elected officials–legislators for government and union bosses for unions–must be allowed to carry out the responsibilities for which they were elected. What is done with a union member's money is determined by a majority vote at meetings democratically conducted.

Our society views people who operate outside the bounds of democracy as outlaws. A union member who

votes one way on a strike vote and finds themselves on the losing side must abide by the majority decision or be viewed as an outlaw. In this way, striking when there is an acceptance of a contract would be an act of an outlaw. Crossing a picket line to work when the vote was to strike is just as contemptible. People who act contrary to the majority vote are, in fact, saying, I believe in democracy as long as it goes my way.

We as a society cannot allow such contemptible behaviour to go unchallenged and must do everything to rein in such behaviour. Usually unions will take away their right to vote on union matters, including ratification votes, until such time as there is some sign of contrition. The amendments to this act will give these people who hold democracy in contempt the right to vote again. I am not impressed. In a country where citizens are allowed to vote, taxes must be paid whether one is a citizen or not. So it is in unions. Only members are allowed to vote, not only those who pay dues. If any dues-paying worker wishes to vote, I believe they should have the right to sign a membership card and then they would have the right to vote if they so choose. Our governments would never consider giving the right to vote to all taxpayers regardless of whether they are citizens or not as this would diminish the purpose of being a citizen.

Financial reports of unions, where made public, can be useful to members but can also be used against them by management. It would be subject to the Freedom of Information Act should these reports be made under the proposed legislation. This is very valuable information for management to have in terms of how much money is in the strike fund of a union that they are going to bargain with. As such, unions decide at conventions by democratic process how much information it wishes to make public. It would not make unions more responsible to members if it released information that proved to be harmful to its members.

I am a public servant who will have served 25 years with the provincial government on November 1, 1996. I am the inventor of the Citizens' Inquiry Service, which is now common throughout Canada and in many of the United States. I also own my own company, Quantum Leap Technologies, which is working on several pieces of technology and will soon be applying for patents to bring these technologies to the marketplace. One of these patents is for a device to turn a power lawn mower into a power sweeper. I say these things in hope that I may be taken seriously. I am a believer in free collective bargaining as well as a business person. My concern, other than what has and will be said already, is in the form of world or macro concerns.

It is true that we are in the throes of change like never before. We must be more competitive and innovative in order to grow and prosper. Having said that, it is imperative that we do not take steps that deter this growth. Canada is a trading country. If our trading partners are weakened by some action that we take, we will have a weaker partner to trade with, which, in turn, will weaken our trade with them Trade must allow both partners to benefit and prosper. Many emerging economies around the world have grown already and have the infrastructure to assist in net growth. Most are trying to leave a past behind that includes human rights abuses as well as a general lack of freedoms that we in Canada have taken for granted, many labour laws that we abolished decades ago in favour of progressive laws.

In many of these economies, credit is a seldom used concept that has great potential as a tool of business. Take, for example, China with a population of over one billion people and virtually full employment. It does not take too much imagination to see what would be possible if credit were granted to the limit of $100 per man, woman and child in that country. Mr. Chairperson, $100 billion of new money is possible in a country that has an average savings of $400 per person. China has a history of stability in its workforce because it was a Communist country, and still is, and workers are guaranteed a wage. It is surprising that credit did not become more common sooner. To a degree, unionized jobs act as a stabilizing force that allow creditors the comfort feeling they need to grant credit. In a plant that has a strong union and a history of paying good wages, not laying off, and is in a good strong economic position, credit is strong and allows more spending.

It must be remembered that in our capitalist society 90 percent of the money in our economy does not exist but is in the form of loans and credits. Indeed, our business would find it hard to operate if we had to have the wages in the bank before the workers did their work. Employees, generally speaking, work for two weeks on credit and receive their wages after the work is completed.

To expand the world economy, more credit is needed and is possible if more stability can be found. Russia is unstable now and is not worthy of credit. Even unionizing all the employees would not help these guys out much. I suspect that the economic crisis would have been somewhat attenuated if the entire process of conversion to a market economy were undertaken at a slower pace, but unions can still play a very useful role in acting as a catalyst to social change. Remember Solidarity, the Polish union that forced the issue in Poland and carried it over to Russia and around the world too.

There is nothing inherently wrong with a worker trying to improve his or her lot in life. Collectively, they have a better chance than as individuals, especially when dealing with large organizations. The more successful they become, the more credit they can obtain and the greater their buying power. The greater their buying power as a nation, the greater trading partner they can become.

Lessening the ability of unions to organize in developing countries would have a very negative impact on our future prospects for trade with them. If unions cannot take an active social role in their societies and effect change, Canadians would again be impacted upon. In short, we are much better off if we can get the standard of living up in developing countries and promote any vehicle that aims to do so.

Mr. Chairperson: You have one minute, Mr. Timlick.

Mr. Timlick: When we take action that may be viewed as an example of how to correctly do something, we must be sure that that action is correct for the people watching. Third World countries are having unions emerge, only to see that countries that had unions are beating up their unions and making it harder for them to operate. If they use this as an example of how to set working conditions in their own countries, unions will have a hard time.

Mexico, for example, has many chances of improving its workers' standard of living in factories that produce products for NAFTA countries. We are all in agreement that Mexican wages are too low and need to increase many times. Even the Mexican government has told foreign countries to stay home if they intend to set up shop and not pay fair wages.

We as a developed nation will not be competitive if we try to drive our wages down to those of Third World countries rather than raise their wages to something closer to ours. We have it all backwards.

Mr. Chairperson: Mr. Timlick, I would thank you very much for your presentation, and now would be the time for questions. The first question will be from Mr. Reid.

Mr. Reid: In fairness to the presenter, Mr. Chairperson, if he would like to take the remaining five minutes to conclude his presentation, I have no objections to that.

Mr. Chairperson: All right, I would invite you, Mr. Timlick, to proceed with your presentation.

* (2220)

Mr. Timlick: Thank you very much. If Third World countries see that it is a good thing to limit wages, keep unions at bay and oppress the rights of workers, wages in these countries will remain low, and there will still be much hunger, illiteracy, disease and corruption, let alone no improvement in their standard of living.

It has been argued that unions are too strong. It takes two to tango, and it could also be argued that management is too weak. Management in Manitoba seems to follow that of most of North America and uses some sloppy management techniques.

As an example, take the following problem. Toyota has no problem selling its North American built cars here, but GM did. GM said that sales were slow so it laid off workers on its assembly line. Here is a prime example of a wrong solution to the problem. The problem is clearly one of management and not one of the workers putting screws in the wrong holes. It is the wrong design, the wrong style, the wrong colour, the wrong quality, the wrong advertising company, the wrong price or whatever but, clearly, a management problem, yet they blame the worker, buy some time to fix the problem and try again. If GM had to keep the workforce and not lay off its workers, management would sure be addressing that marketing problem in one heck of a lot faster time.

Management must be made to be more responsible for its mistakes and not look for a scapegoat in unions.

Weakening unions will give Manitoban management a small reprieve but will not prepare them to take on the forces of free trade. Improving management skills must become the prime directive, and quality improvement in service and products will surely follow. I believe that companies lose focus on what they are doing best when they look for someone to blame for their woes. It is a cowardly approach that shames me to see my government endorse.

In summary, I strongly feel that these changes are shortsighted and only offer business some token help. Their problems are not with the most important asset, their employees, but their own management skills. These changes will be looked upon by management in emerging countries as justification for keeping wages down. Unions will be looked upon as evil rather than as democratic organizations that they should be. Unions will not be able to be effective because their funding base will be compromised by bullies intent on having their dues go to a charity of their choice. Economic development and the use of credit in emerging countries will be at risk, and starvation in developing countries will continue more than need to be because of this irresponsible legislation.

Thank you for allowing me to present.

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

Mr. Toews: Thank you for your presentation. I am glad to see, as the minister also responsible for the Civil Service Commission, that public servants in fact do care in a very active way about their community and that they come here and make presentations. You are to be commended for that. Thank you very much.

Mr. Reid: Thank you, Mr. Timlick, for your presentation. If I can paraphrase what you are saying in your presentation here today, you are saying that the government through Bill 26 is attempting to help out management in their inadequacies to deal with the problems that they have in their particular companies, in fact their work places. Is that the context?

Mr. Timlick: I think to some degree that is happening.

Mr. Reid: That is all the questions I have. Thank you, Mr. Timlick.

Mr. Chairperson: Thank you very much, Mr. Timlick, for your presentation this evening.

The next presenter will be Paul Moist on behalf of CUPE, Manitoba division. Mr. Moist, you have written presentations for us this evening? Thank you, sir, very much. I would invite you to commence your presentation, Mr. Moist.

Mr. Paul Moist (Canadian Union of Public Employees, Manitoba): Mr Chairman, I speak tonight on behalf of the 22,000 men and women who are members of CUPE Manitoba employed throughout the province of Manitoba.

Bill 26 contemplates elected union leaders as separate and distinct entities from rank and file members. As such, the bill purports to protect the interests of rank and file members from the power and undue influence of their elected leadership, or as some of you people choose to call us, their union bosses. Convention would have it that I would dissect the bill, offer critiques on its sections, state my outrage on the attack that it represents on the trade-union movement as a whole, and while it would not be improper or irresponsible on my part to take such an approach, I will not take that stance, for I believe it is exactly what members of the government would like to hear.

CUPE's analyses of Bill 26 is in our written submission, and others as well will speak to the specifics of the bill. For the balance of my time I wish to speak about the real issues facing the province today along with the approaches to these issues that would benefit both employers, employees and indeed the province as a whole.

Firstly, Manitoba's economy is stalled in what seems to be a never ending period of slow or no growth and persistent job loss plus net loss of population. Exports are up, but this is not resulting in jobs. In addition, major employers in key sectors such as Boeing, CP, our city, Bristol Aerospace, are laying employees off. In short, we seem stuck in an economy in which worker productivity is rising significantly, and the result is layoffs and little or no sharing of these improvements through wage increases. The strength and vibrancy of our provincial economy is an issue for all Manitobans. The provincial government ought to be a catalyst to bring

stakeholders together to forge a well-planned and thought-out economic strategy for Manitoba.

Bill 26 does the opposite in fostering bad relations. In fact, the introduction of this bill contributed to the breakup of the MFL-Canadian Manufacturers' Association task force on the restructuring of the Manitoba economy.

Canada, in this last decade of the 20th Century, is a society undergoing great change. Today's and tomorrow's workforces will not spend their careers with one employer. Labour adjustment and transition issues will abound. This past December, the MFL's annual presentation to the provincial government focused a lot of attention on labour adjustment issues, particularly for workers of small business. The leadership of this province's labour movement talked of the need for change in our workplaces and the reality that our workforce must be equipped to deal with change. The Premier (Mr. Filmon) and the cabinet expressed interest in our proposed permanent labour adjustment centre for the city of Winnipeg. Subsequent to our presentation, not word one from the province.

The federal government and all provincial governments are engaged in discussions on a proposed agreement on internal trade. In June 1995, the MFL requested a meeting with the province on this matter. Regrettably, the request was denied, no meetings, no discussions. We have subsequently learned that Manitoba's position on the AIT seems to be to support it at any and all costs. We have learned that Manitoba is only one of a few provinces which has exercised the option of not exempting any of our province's Crown corporations from AIT application. We suspect that the Manitoba Telephone System privatization is only the beginning of the fire sale of Crown assets of the province. One option other than the course pursued would have been for the province to consult all stakeholders, including labour, on a strategic approach for the agreement on internal trade. Not only do you not convene such a meeting, you ignore the federation's request for such a meeting.

In 1994, the Federation of Labour removed two members from the Economic Innovation and Technology Council because of the province's refusal to follow through on a commitment made to provide additional seats on the council, seats we needed to provide effective sectoral representation for the work of the council. The MFL felt and feels that the work of that council is important for all Manitobans. We felt additional representation was warranted. You agreed, and then you refused to grant the additional spaces.

Labour market training, we have an aging trades population in this province. We have an apprenticeship problem in this province. We have a shortage of computer programmers, and those that we have are being raided by the U.S. as we approach the problem of the year 2000 and what it will do to our computer systems, and what have we done on labour market training? Zero, no real dialogue between labour, business and this government.

Finally, our federal government continues to discuss, as do other interests elsewhere in Canada, devolution of powers to the provinces. Manitoba as a have-not province will be devastated without strong federal leadership in our country. That is an issue that business, labour and any government of any stripe in Manitoba ought to be working together on. What dialogue on that issue? None.

The issues I have raised speak to what I believe are the issues of substance in our community that affect all citizens and that warrant our attention. Bill 26 will serve to move us farther apart, and it will focus attention away from the real issues facing the province today. CUPE members neither fear nor seek protection from their elected leaders. Future CUPE members do not need certification votes when 80 or 90 or 100 percent of a workplace sign union cards. CUPE members do not need financial disclosure legislation.

Our national constitution deals with this, and appended to this submission I have given you are the 67-page financial disclosure documents that we table at our annual convention and that we provide in our media briefing kits. Also appended, as the final appendix in the presentation before you, are the audited statements of our largest local, 5,500-member Local 500, the local that I work for.

* (2230)

We recently wrote all of our members and offered them copies of our financial statements. They are the property

of our membership, and I provide them to you tonight to display to you the integrity of our union's–and, I suspect, every other union's–national constitutions. I am done in a minute, Mr. Chairman.

CUPE members do not want the democracy of our union compromised by legislative opting out clauses. The province itself would suffer greatly if taxpayers had such rights. Why force those upon unions? CUPE members elect their negotiating committees and you have no right and no need to expand employer or government rights to force votes, and what goes around will come around. What CUPE members want from government is a fair approach to labour relations. We do not need and we do not want Bill 26, and I conclude, Mr. Chairman, with as much restraint as I can muster and in as much seriousness as I can muster, on behalf of each and every member in this hall and, I suspect, each and every union member in the province of Manitoba.

In response to comments today in the Winnipeg Free Press where a member of the Crown states that if he wanted to, he "could certainly bust the unions very quickly" in this province, I want to state to you and I want to end by stating to you and promising you and all members of the Legislature, no member of this Legislature, no member of the Crown, no government in this province and no government in this country will ever break the labour movement.

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

Mr. Reid, you have a question for the presenter?

Mr. Reid: I do, Mr. Chairperson. Thank you very much, Mr. Moist, for your presentation. It is quite detailed. I too was quite shocked when I read the comments in the newspaper this morning that were attributed to this Minister of Labour (Mr. Toews) and I found it abhorrent that he would make that type of comment, but I want to ask you, Mr. Moist, a question that I have asked another presenter here this evening.

I apologize for not asking the other presenters this same question, but I think in fairness that the Minister of Labour has said in response to the questions that were posed in the House yesterday by the Leader of the Opposition (Mr. Doer) that this minister on Bill 26 has consulted with a dozen or so working people in the province on Bill 26.

I want to ask you, Mr. Moist, have you or any of your members that you may be aware of been consulted by the Minister of Labour on Bill 26 prior to his tabling of this legislation?

Mr. Moist: Through the Chair to the questioner, I know of no CUPE members in Manitoba who have posed problems to the minister's office or have been consulted.

I do recall being part of an MFL table officer delegation in the minister's office in late April, pleading with the minister to prior to putting pen to paper and penning this legislation to meet in confidence and in camera with the Federation of Labour table officers to review contemplated legislation, particularly in the context of the Labour Management Review Committee. That meeting was promised to us. That meeting was scheduled twice and cancelled twice, the last time on a half an hour's notice, and I regret very much that myself and my colleagues from the Federation of Labour did not have the opportunity to dialogue on this matter behind closed doors, so to speak, as opposed to what we are going through now.

Mr. Reid: It is unfortunate that the government tries to tell the public that they are open and that any member of the public can come and talk to them, and yet they refuse to have the dialogue that should take place on this legislation prior to the government tabling it. But I want to ask you, because the Minister of Labour has often said, and he said to the media, that unions are nondemocratic and that they do not give their members the opportunity to vote on matters affecting the members of the union. I want to ask you, sir, when matters that should be going to the membership, on whatever the issue may be, is it the policy of your union to take those matters to the members of the union and let them have a say and have a vote on how the union is to proceed with respect to those matters?

Mr. Moist: Through the Chair, yes, it is, and it is the policy of each of CUPE's 136 locals throughout the province, and I suspect that the minister and other members of government are well aware of this. Just this past winter our largest employer and our largest local was faced with a draconian stance by an employer who

wanted legislation from this Chamber to roll back a freely entered into collective agreement. On the coldest day of February, we put that question to a vote of Local 500 members; 3,200 of them showed up and voted 98.5 percent to say no to Ms. Thompson and her request. The minister is well aware of that. He and I spoke on the phone about that. The Minister of Urban Affairs (Mr. Reimer) is well aware of that, and I suspect every single person in this room is aware that one of the greatest and freest and most democratic institutions in Canada and around the world is the free trade union movement, and it contributes to the first world and all countries on earth where it exists.

That does not mean we need unanimity on all questions that come before legislators, but the notion that the trade union movement that many people before my time fought for is not a democratic and open and free movement defies belief in the late 1990s and a first world nation like Canada. I suspect everyone in the room knows what I am talking about.

Mr. Ashton: Mr. Chairperson, I too have been surprised by the minister's statements, well, many of his statements actually, and I think you have really raised the point that the trade union movement owes nothing to a Minister of Labour's alleged benevolence.

I would like to ask a question based on another statement I know the minister made. He made this to the president of the United Steelworkers of America Local 6166 in Thompson. Before the legislation was brought in, he said to the president of 6166, you will sit at the Rotary Club afterwards, that the existing piece of legislation is a balanced piece of legislation, not this bill we are dealing with, but the existing Labour Relations Act. He also said he was going to be bringing in a few minor changes. Now, I am just wondering if you feel any of these changes are minor and if you might have any–

Mr. Chairperson: A point of order, Mr. Minister.

Point of Order

Mr. Toews: Just on a point of order, if the member insists on putting incorrect allegations onto the record. What I, in fact, stated at that time is that I considered the act balanced to a great extent vis-à-vis employers and unions, and that any thrust of amendments would deal with what many perceive to be an inequity between unions and the employees that they purportedly represent.

Mr. Chairperson: The Chair would rule that this is a dispute on the facts, and I would appreciate Mr. Ashton to finish his question.

* * *

Mr. Ashton: I would suggest the Minister of Labour talk to the president of 6166. Well, I cannot use the word that he has used to describe the minister's comments, because I would be ejected from this committee. Let us put it this way. He feels that he was misled by the minister, and I would like to ask the presenter if he sees anything in here that would fit the minister's description of this being a minor piece of legislation, the kind of comments that he was making when he met the few people in the trade union he did meet with, including the president of the Steelworkers in Thompson.

Mr. Moist: Through the Chair, the federation table officers first met this minister shortly after his appointment in 1995, and I recall that meeting in his office in June of 1995. We were advised that there was nothing on the horizon of any great consequence vis-à-vis The Labour Relations Act, and Bill 26 represents a fundamental shift. There are some firsts for Canada in the act, and they are not firsts that are advancing workers' rights.

* (2240)

A previous Minister of Labour said, as one of the first delegations here tonight, that really this was a show of strength, sort of the tyranny of the majority in practice here. I simply wish to put on the record that the real show of strength would be to admit when one is wrong and to withdraw this.

Mr. Chairperson: Thank you, Mr. Moist. That would conclude the time for questions, and I thank you very much for your presentation this evening.

The next presenter would be Mr. Sidney Green. I would ask if Mr. Green is in the audience, if he would come forward. Good evening, Mr. Green.

Mr. Sidney Green (Private Citizen): Good evening, members of the Legislature, Mr. Chairman.

Mr. Chairperson: Do you have a written presentation tonight, Mr. Green?

Mr. Green: I have some material.

Mr. Chairperson: Thank you, and we will see that is circulated. I would invite you to proceed with your presentation, sir.

Mr. Green: Mr. Chairman, I was not aware of your rules. Generally, it takes me 10 minutes to say hello, but I will try to move along.

Mr. Chairman, the reason I am here is that I have been involved in labour relations and labour relations legislation since 1956 when I commenced practising law and represented many of the unions that you have heard from tonight and the Manitoba Federation of Labour. I wish to put my position on the record to start with so that you will know where I am coming from.

I am a believer in free collective bargaining. I am a believer in less legislation rather than more legislation. As a matter of fact, I was heartened to hear what Mr. Moist had to say about the trade union movement. The trade union movement existed strongly in Canada without any legislation whatsoever. The first piece of labour legislation was PC1005, which dealt with three simple subjects, namely, recognition of trade unions, an obligation to bargain, and the arbitration of disputes during the existence of a collective agreement. Now we have loads and loads of legislation, all of which, in my opinion, go to weaken and not to strengthen trade unions.

In 1970 when I was the member of the cabinet of Ed Schreyer in the New Democratic Party government, we passed legislation whose philosophy for the most part, with one important exception, which I will deal with, was to undo restrictions that applied vis-à-vis trade unions, compulsory conciliations and many other things, and to remove government intervention from the free collective bargaining process. That legislation continued significantly until 1981. I say "significantly" because the Lyon administration looked at that legislation and decided that this was healthy legislation, that it promoted the free collective bargaining process, and that it was fair to both parties.

In 1981 a New Democratic Party government was elected and, between 1981 and 1986 passed new and significant labour legislation designed and at the request of unions who felt that they needed assistance from the government in terms of the bargaining process. That legislation continued until almost the present because there were some changes. Mind you, I do not know whether it needed legislation. The elimination of the final offer selection process, which is a piece of fascist legislation which prevents union members from going out on strike, and when it was passed, similar legislation by Mr. Bennett in British Columbia, the New Democrats correctly described it as fascist legislation. If the Conservative government now enacted that type of legislation and applied it equally to unions and to management and named the selector, the New Democratic Party would call it fascist legislation in the province of Manitoba, because it inhibits the right of the employee to withdraw his labour in concert with his fellow employee and to seek public support. When you take that away, you indelibly interfere with the rights of the trade unionist.

The New Democratic Party made the strongest and most vicious attack on the free collective bargaining process between '81 and '85. They wanted to help Mr. Christophe's union, because it was a weak union and needed the assistance of the state. If you are going to go to the state for assistance and say that the state will be the lord in determining how labour relations will operate, then you must remember that the Lord giveth and the Lord taketh away, and what the lord is now doing is taking away. What Mr. Enns is doing is making a sincere attempt, and I do not agree with it because I do not agree with the legislation, but I would not eliminate the legislation that he is now enacting, I would eliminate almost all the legislation that was enacted after 1981 and go back to free collective bargaining.

Why are we having a mandatory vote? Are people in this room aware that at the present time when a union applies for certification, let us say there are 20 people and they have 15 signatures and the next day 15 people come and say we do not want the union, that those 15 people who are opposing the union–some of them already have signed cards and changed their minds, and I will deal

with that in a moment–have no status before the Labour Board. They cannot contest.

Now, that is the problem. You know, you give a person a right–if they come to your home and sell you a vacuum cleaner and the next day you say, gee, I do not really want this vacuum cleaner, I think you get 48 hours, I am not sure, but there is a Consumer Protection Act passed by the New Democratic Party that says you can change your mind about a vacuum cleaner, but to give a union the right to negotiate on your behalf and bind you to collective agreement and take your union dues and pay them to a political party that you do not believe in, you cannot complain the next day. You are prohibited from appearing before the Labour Board.

What the minister has done, and it is a problem, and I want people in this room to know that I acted for employees all my life and I continue to act for employees, and the employees that I have lately acted for the last 10 years or so have been employees who are having problems with their unions. Now, that does not mean the unions are bad, but it means that there are other employees, some employees have a difference of opinion. The '81 to '85 legislation took away many of the rights of those people so that the dissident employee is caught between two stools.

The Labour Board is composed of a chairman, virtually a union representative, and an organized management representative. It is in the interest of organized management that its competitors be organized. It is in the interest of the union member that the union be certified, and therefore nobody looks out for the interest of the employee who may be a dissident. That has caused serious problems, so I do not agree with mandatory votes. Frankly, I would go back and say, as Mr. Moist has said, we do not need you, governments. We, the workers of this province and of this city, are strong enough to bargain collectively without your assistance, thank you but no thank you. But that is not the position that we are in.

We are in the position that legislation has begot legislation, and I want to indicate what I believe to be the free collective bargaining process. It will take me a minute, if you will go to page 10 of this pamphlet. Sometimes, I am surprised at myself. This was 1976. Mr. Chairman and members of the Legislature, you can read it today, and it applies to today's legislation. What I said is, the free collective bargaining process, it is essential to free collective bargaining that the employee may choose not to work or the employer may choose not to hire, and each of these positions should not be encroached upon by the state. Mr. Pawley's government encroached on that. They said the employer has to hire under certain circumstances. When the union went on strike and they lost, somebody put up their hand and said, strike is over, you have to take us all back to work, no matter what we have called you, no matter how we tried to drive you out of business. That is not free collective bargaining. It never was free collective bargaining.

Every employer should be made abundantly aware that every form of social and economic ostracism is available to his employees in the event of either a strike or lockout, that the exercise of these measures can put him out of business and that the state will not take any steps to inhibit his employees from obtaining such public support. That is one side of it.

* (2250)

Employees who choose not to work in support of their position must be made well aware of the risk they are taking with respect to either losing the strike and/or losing their employment. Any attempt to mislead the employees in this connection or to suggest that they will be protected by law or by the government will detract from free collective bargaining. Then I have two other paragraphs which I do not have the time to read.

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

Mr. Toews: Thank you, Mr. Green, for your presentation. I would like some of your comments in respect of the Rand Formula.

Mr. Green: First of all, Rand Formula is the–

Mr. Toews: Maybe if I could just finish the question, specifically, in respect of Rand Formula, I know that you had no small part in bringing that formula into legislative form here and perhaps have in some way contributed to the unfortunate tendency to create bureaucracies in organizations in the same way that governments create bureaucracies. Rand Formula has done some of the

same, and I am wondering what your comments on Rand Formula are just generally.

Mr. Green: Mr. Minister and members, I said that the legislation we passed between '70 and '77 was largely towards free collective bargaining and no government intervention, and I said one exception. The exception was legislating a compulsory checkoff after a collective bargaining agreement was arrived at. I believe that was a mistake. It is also a misnomer to call it Rand Formula. Mr. Reid was pointing out Rand Formula was never legislated until Manitoba did it, but many, many unions achieved the Rand Formula through free collective bargaining. If you had not legislated it you would be in a much stronger position to say what we bargain with our employer cannot be touched by the government. But, when you say that the government has legislated a Rand Formula, the Lord giveth and the Lord taketh away. Now that you have this legislated Rand Formula, the government says, we gave it to you, and now we have a right to say that you cannot use it for political purposes. So, yes, I agree with you; there are numerous forms of union security, only one of which was the Rand Formula. I agree with freely collective bargained Rand Formula, and then I disagree with the government saying what the union can do with its money.

Mr. Reid: Thank you, Mr. Green, for your presentation. Dealing with the issue of the Rand Formula, do you think that–I note back to the number of times I have heard various people of our Legislative Assembly talk about your ability and your skills as an orator in the Legislative Chambers here–

Mr. Green: But not as getting elected.

Mr. Reid: Well, that as it may be, sir, we are quite aware of your particular skills. I reference back to one particular government minister referencing your ability to talk about the head of the pin for some hour at a time and keep them all mesmerized by your particular skills, but I want to ask you more particularly with respect to the legislation that we have before us.

The government is proposing that for those unions–I am referring specifically here to private-sector unions, although it does impact on all unions. The government is proposing that where private-sector unions have freely negotiated Rand Formulas as a part of their collective agreements–this government is saying that they will, via Bill 26, where the particular labour organization says, we are not going to provide detailed financial statements to the Labour Board because we have negotiated that particular formula, and it is not your right to take it away from us through a piece of legislation; it is something that we have negotiated.

I would like to know your thoughts, Mr. Green, on the government's proposal, through Bill 26, to remove the Rand Formula from those private-sector unions that do no comply with the detailed financial statements. We have asked questions of some of those presenters here tonight who say that they regularly, as a matter of their business with their members, provide that information to their members. I would like to know your thoughts, sir, on the government's proposal on the Rand Formula here.

Mr. Green: It has not been my experience that a member of a union has difficulty obtaining financial information from his union. That has not been my experience. I believe that, if one came to me and the union did not want to give him the information, I believe that the law permits me to get that information.

I understand what the minister is doing. He is saying, since we are in this field, since we are in with the proposal, we have a right to see how the money is spent, and the member has a right to know how the money is spent. We are telling the member who does not want his money to go to the union, who does not want the money–do not forget when you said negotiated, there were many forms: I will agree with you, eliminate the statutory Rand Formula. Once you eliminate it, every single union security clause will be negotiated between the union and the company, and your position will be right because I can tell you that there were many, many "Rand Formulas" because the Rand Formula was, you know, an arbitration award. When Ford and its union were negotiating, they could not arrive at a collective agreement; Mr. Justice Rand made it an award. It was not legislation, but there were all kinds of different union securities and the employer and the union had to negotiate it and many people were not required to join a union.

What the government did, mea culpa, I was there, we said that once you got an agreement, this was in the agreement. Take that out, you are right, let Rand

Formula be negotiated between the union and the company and then the government has no say with what happens to the union money. You are right. But you are not right with that clause in. Move an amendment. I dare you. Take that clause out of The Labour Relations Act. I will tell you something, you will be pilloried just as I was when I said I would not pass a law that said that an employer, that a hospital could not hire a nurse if the nurses went on strike. That is what I said, and I still say it. I will not pass such a law.

Mr. Chairperson: Thank you, Mr. Green. That would consume the time allotted for questions tonight, and as ever, it is always a pleasure to see you, sir. Good evening.

The next presenter is Bob Stevens on behalf of the Manitoba Restaurant and Foodservices Association. Is Bob Stevens in the audience tonight? Good evening, Mr. Stevens. I see your written material is being circulated. Thank you, sir, I would invite you to proceed.

* (2300)

Mr. Bob Stevens (Manitoba Restaurant and Foodservices Association): On behalf of the 500 members represented by the Manitoba Restaurant and Foodservices Association and the Canadian Restaurant and Foodservices Association in Manitoba, the associations wish to convey strong support for the proposed amendments to The Labour Relations Act. These changes are important first steps in addressing current legislative flaws that have allowed the interests of trades unions to be elevated over the interests of employees.

On the union certification vote, the associations strongly support the secret ballot vote amendment believing that a government-supervised secret ballot vote is the only fair and accurate mechanism in which to determine the true wishes of employees. It brings democracy to a process that is currently biased in favour of trade unions. There is no obligation on the union organizer to inform employees in advance about the rules of certification and the significance of the signed card in the certification procedure. Because a union organizer's goal is to obtain as many signed cards as possible, it is unrealistic to expect that the organizer will voluntarily provide a full and balanced account of the individual's right to accept or reject the union's campaign.

The union can make whatever statement it chooses about the employer including commenting on the financial viability of the business. However, efforts by employers to advise employees of their rights or provide information about their business are labelled as interference by unions.

Joining a collective bargaining unit is a major decision for employees, and the associations believe that there must be more mechanisms in place to ensure the prospective union members are informed fully of their rights and responsibilities when they join a union. The secret ballot vote respects the intelligence of employees to make reasoned judgments and improves the degree of control which employees exert over the certification process. It is the only free and democratic way to ascertain the desire of employees to be represented by a third party.

Requiring unions to file financial statements is another needed reform to make union activities more open and visible to employees. The associations often question why employer decision making and activities are held up to such close scrutiny while unions are not. Corporations are required by law to be accountable to their shareholders; however, unions are not required to be accountable to their members.

While the associations applaud the amendment giving union members more access to financial information, we believe there should be more access to fundamental information for all employees. Often prospective union members do not have access to basic information such as the responsibilities and obligations of union memberships and the cost of union dues. A mandatory standardized union membership form is also recommended which would include information on the certification process, employer and employee responsibilities, initiation fees and the cost of annual dues.

As above, requiring employers to consult with employees in the bargaining unit about the use of union dues for political purposes give employees a greater degree of control over how their union dues are spent and the fundamental right to choose if they wish to support a

particular political party. The associations view this proposal as very positive.

Giving the Minister of Labour the power to order a vote on an employer's last offer gives employers and employees some recourse when the union refuses to take an employer's last offer to the membership. This again shifts the decision-making power from union staff to the employees whose livelihood is most affected. The associations support this amendment.

On reinstatement, the associations agree that this amendment is necessary to curb picket line violence and prevent further misinterpretation of current legislation which has required employers to reinstate employees who committed illegal activities during a labour dispute. Under no circumstances should employers be required to reinstate employees guilty of strike-related misconduct. The legislation was designed to protect employees from any repercussions from exercising their legal rights and the proposed amendment makes this important clarification.

Most labour relations acts and boards focus on employer restrictions, employer interference and employer misconduct, and yet it is often union organizers and staff that violate the spirit of the labour relations process. This amendment rectifies this imbalance during labour disputes and clearly assigns responsibility to unions and employees for their actions. The associations endorse this amendment.

Since all members of a bargaining unit would be subject to the working conditions in the collective agreement, it is only fair that all members of that bargaining unit would have an equal vote on whether to ratify the collective agreement or not.

In general, the associations believe the responsibility of resolving industrial disputes should be left primarily to the negotiating parties. Mediation services should be available on a request basis and both negotiating parties should be assessed equally for these services. The associations have no objection to a three-way split in costs between the employer, the union and government, as proposed.

On limiting fast-track grievance procedures, the associations believe that government intervention in industrial conflict should be as a last recourse and support limiting legislated procedures for mediating or arbitrating grievances to truly urgent cases.

In summary, Manitoba labour legislation is currently viewed by business to be very union-friendly, making Manitoba less attractive for new business investments. The proposed changes are important first steps to correct the imbalance that exists between unions and employees and to make Manitoba a better place to start a new business or expand an existing enterprise.

The Manitoba Restaurant and Foodservices Association and the Canadian Restaurant and Foodservices Association hope that this is only the beginning of a review process that will address the imbalances in the legislation. For example, the associations are strongly opposed to mandatory first contract arbitration and believe this should only be imposed when there is a demonstrated refusal to bargain in good faith. The associations also opposes secondary picketing which jeopardizes the business of an employer who has bargained in good faith.

In summary, the Canadian Restaurant and Foodservices Association and the Manitoba Restaurant and Foodservices Association are strongly supportive of these initial amendments to The Labour Relations Act. These are important and necessary first steps to make Manitoba more competitive with other Canadian jurisdictions.

Manitoba's food service industry is a huge contributor to the Manitoba economy, representing 3.3 percent of the province's GDP with over $791 million in commercial sales and 6.3 percent of employment with approximately 35,000 full- and part-time employees on its payroll. It is composed of a variety of sectors, including liquor-licensed restaurants, quick-service restaurants, hotel food service, takeout, institutional feeders, clubs and caterers. It is dominated by independent locally owned companies with a high proportion operated by families. Independents comprise 67 percent of the food service industry in the province.

The food service industry workforce is diverse with 48 percent of its employees in management and skilled occupations. The industry also includes a large number of unskilled and semiskilled occupations providing entry

level employment to thousands of Manitobans and part-time jobs for thousands of students.

The Manitoba Restaurant and Foodservices Association represents over 500 members throughout the province of which 85 percent are smaller independent businesses. We were incorporated as a nonprofit organization back in the 1970s, and funded by membership fees and income from trade shows and festivals which we operate. Our counterpart, the Canadian Restaurant and Foodservices Association, is the largest hospitality association in Canada. They represent over 13,000 corporate members controlling more than 39,000 outlets. They also are raising their money with memberships and with nondues income from member shows and trade shows. Thank you.

Mr. Chairperson: Thank you, Mr. Stevens.

Mr. Reid: Thank you, Mr. Stevens, for your presentation. I have a few questions for you. I am not fully aware of all of the activities of the Manitoba Restaurant and Foodservices Association or the Canadian Restaurant and Foodservices Association, so I would like you to provide for me some information, if you will, please. Can you tell me, in your organization do you have annual policy conventions?

Mr. Stevens: We have annual general meetings for our members, yes.

Mr. Reid: Are your members allowed, sir, to bring forward policy resolutions, say, to a convention floor and vote on these policy resolutions?

Mr. Stevens: Yes, they are.

Mr. Reid: Do you have monthly membership meetings to allow your members to have input into the activities of your organization, and have they had the opportunity to make comment on this particular presentation that you have tabled here before us today?

* (2310)

Mr. Stevens: We do not have annual general meetings. We have board meetings, and we have committee meetings which involve all our members who want to come and participate. And yes, they have been talked to about this particular matter.

Mr. Toews: Thank you very much for your presentation. Just following the line of questioning that the member for Transcona (Mr. Reid) has embarked on and perhaps anticipating where he is going, do you in fact enjoy the benefit of any government-mandated legislation which requires the payment of dues to your organization by members from your organization?

Mr. Stevens: No, we do not. It is strictly a voluntary membership which they can join for the benefits and for what we can do for them.

Mr. Reid: Mr. Stevens, can you tell me. You have made a statement in your presentation here under the financial statement section. It says that corporations are required to be accountable shareholders, but unions are not required to be accountable to their members. Can you tell me, sir, have you ever been a member of a union to be able to make such a statement as that?

Mr. Stevens: No, I have not.

Mr. Reid: So then, sir, can you explain to me why you made such a statement?

Mr. Stevens: It is from consultation and research with the Canadian association, and I presume that they have also talked to people who have been union members and have people on staff with their 300-odd employees down there who have been members of unions.

Mr. Toews: I note with some interest your comments that you see this legislation, Bill 26, as a first step towards–that you are hoping, if I am paraphrasing it correctly–that the government looks at other issues. As you are aware, the focus of this bill is to ensure that employees have a more meaningful and democratic say in organizations where they in fact do not have it, excluding those organizations that already provide that. So this is designed to give those employees that join unions where they do not exercise all those democratic rights, and perhaps that is unfortunately not the focus you are looking at that is unfortunately for you. In what respect do you see our Labour Relations Act as not being equal between employers and unions or that is balanced

between employers and unions, if you would care to discuss that for a few minutes?

Mr. Stevens: In the associations, every association that I am aware of, our members join at will. We collect our dues. We operate and/or not operate, close down if we do not get our membership dues. We do not have any legislation saying that they have to pay these dues to join us, and most businesses–I mean I do not know of any other operation where the government forces employers to collect dues for somebody that is fighting everything that they do. It just does not seem fair. I believe that the union should perhaps collect their own dues and have people join them at will. If people just want to support it, then it is their decision to do so. I do not see why they should be mandated to do it.

Mr. Chairperson: Thank you very much, Mr. Stevens. That concludes the time allotted, and I thank you for your presentation, sir. The next presenter tonight is Maureen Hancharyk. Is Maureen Hancharyk in the audience? Good evening, madam. Do you have any written presentations for the committee tonight? Thank you. Your presentations are being circulated at this time. I would ask you to proceed with your presentation.

Ms. Maureen Hancharyk (Manitoba Nurses' Union): I am making this presentation on behalf of the 11,000 nurses who are members of the Manitoba Nurses' Union, and I thank you for the opportunity to present our concerns regarding this legislation.

We believe that Bill 26 will contribute to a climate of increased labour tension and will be detrimental to the livelihoods and quality of working life of nurses, as well as to the quality of health care our members are able to deliver to their patients. We believe that Bill 26 should be withdrawn.

Evidence shows that strong unions contribute to social equality. According to recent analysis from Stats Canada, a unionized worker is more likely to have a full-time job as opposed to part-time work. Union members stay with their employers longer. In fact, seniority amongst unionized workers is on average almost twice that of nonunionized employees. Union members have higher hourly wage rates than nonunionized workers, and this wage disparity has widened over the last decade.

The difference between belonging to a union and not belonging to one is particularly important for women's wages. In 1990, the average hourly rate wage gap was $4.39. Approximately 77 percent of unionized workers have a pension plan. Only 33 percent of nonunionized employees do. Since 1968, the Manitoba Nurses' Union has worked together with bedside nurses across the province to organize over 100 nursing union locals. Most unionized nurses have the right to guaranteed days off, overtime pay, maternity leave, paid sick leave, a pension plan, long-term disability insurance, a dental and vision plan, seniority and layoff provisions.

We enjoy the protection of the collective agreement against, for example, favouritism, unjust discipline or discrimination. We have the right to grieve when the employment contract is violated with the full force of the law in defence of our rights. Unionized nurses have the right to address their workload and staffing concerns through workload documentation and through joint union-management committees, and these rights have been won gradually through over 20 years of collective bargaining and with only one strike.

A nurse working 30 hours per week for a nonunionized private agency would earn an income barely over the Stats Canada poverty line. If she had one or more children, she and her family would be living in poverty. Many nonunionized nurses do not have benefits, pension plans or other collective agreement rights mentioned earlier, and where nonunionized nurses do enjoy similar wages and working conditions, they do so because their employer follows the standard set by unionized nurses through negotiation.

Although the news today is all about nursing layoffs and reductions in pay, there will again be a nursing shortage. We are already experiencing shortages in medical and surgical intensive care units. Enrollment in nursing programs falls every year. Between 1991 and 1995, there was a 30 percent drop in the number of R.N. graduates in Manitoba. In 1993, fewer than one-third of licensed nurses were younger than 35. This figure is likely to drop further over the next few years. At least one-third of nurses are over 45 years of age. Where will the nurses of the future come from? Without adequate pay and working conditions and the hope of job opportunities and career development, young women and men will continue to choose other careers.

As I said at the beginning of my presentation, evidence shows that strong unions contribute to social equality. What will undermining nurses' collective strength accomplish? This government talks about creating a business-friendly environment which will inevitably mean a low-wage economy to minimize labour costs. Is the new economy an economy without qualified nurses to provide quality health care?

I would now like to comment on some of the specific amendments to The Labour Relations Act. Amendments to Sections 40 and 48 eliminate automatic certification of the union as the bargaining agent which currently occurs when 65 percent or more of employees demonstrate their support for the union. In our own organizing efforts, particularly in workplaces with a small number of employees, there have been situations where employer intimidation has made it very difficult to organize nurses. In those cases, the existence of a mandatory vote after application for certification to the Labour Board would have left employees even more vulnerable to the disapproval of their employer. We are currently in the process of defending a nurse in one of our newest locals. She was disciplined for trying to organize her local.

* (2320)

Current labour law allows unions to refer grievances against the employer to an expedited arbitration process. The government's changes will only allow for an expedited process in the case of unjust dismissal or suspensions longer than 30 days. Amendments to other sections of the act replace the words "union members" with the word "employees." These sections of the act deal with voting procedures for ratification votes during collective bargaining. If the proposed amendment to Section 69 is passed, union members will no longer solely determine the outcome of collective negotiations. Employees who have not signed a membership card will have a voice in determining the outcome of collective bargaining undertaken by informed and active union members. It could happen that a minority of employees who do not support collective action will have the ability to undermine efforts of the majority who do.

This amendment contradicts basic democratic principles, that of electoral voting rights. In Canada, you must be a Canadian citizen in order to vote in any election for any level of government. The current Labour Relations Act does not allow for a nonunion member to cast a ballot on the acceptability of a contract offer. One must accept the full obligations of membership to have democratic rights. Provisions which allow the Minister of Labour to order a ratification vote on the employer's last offer, when in his or her own opinion this is necessary or when the employer requests it, legislates state intrusion into the bargaining process. The interference is also heavily slanted in the employer's favour.

Collective bargaining is not the only area of attack. MNU has been a consistent and outspoken advocate for patients, which has sometimes necessitated us to be critical of government policy in the area of health care. We have developed both internal and public education campaigns to articulate nurses' concerns about the direction health policy has taken. These campaigns have not been popular with the government. However, they have been well received by the public. Twice as many Manitobans consider the MNU to be a trusted source of information about health care compared with the Health Minister or the Premier.

It seems obvious that sections of the act are specifically aimed at silencing nurses' opposition to government health care policy. MNU is a nonpartisan organization. We do not and have never advocated voting for any particular party or candidate, nor do we attempt to interfere with our members' exercise of the ballot. We do not have any affiliation with any political party and do not make financial contributions to political campaigns. Two of the three sections of 76(1) defining political purposes therefore do not apply to the MNU. But Section C defining political purposes as expenses incurred for advertising in connection with a provincial or federal election, does. It applies specifically to public interest advertising campaigns which ask the electorate to carefully consider the government's record on health care.

The issue is democracy. The amendment restricts the MNU's ability to express the views of the majority of our membership by allowing those individuals within the bargaining unit, whether they are union members or not, to withdraw a portion of their union dues. What this does is to ignore the concept of majority rule by which union democracy functions, by allowing the minority to opt out. We are not saying there is no room in the union movement for disagreement on the issue of political

action. Our union members consistently debate this issue. The point is that all bargaining unit members are free to debate the question within the ranks of the membership, are free to influence others, but democratic principles mean that the vote decides.

The government should not be interfering in this process. Opting out of union dues used for political purposes has been rejected by the Supreme Court in Lavigne versus OPSEU. The court's argument is that the union has a right to self-government. We wholeheartedly agree, which is why we have democratic decision-making structures in place. Although the government promotes the idea the union leadership without membership approval spends hundreds of thousands of dollars on election campaigns designed to defeat government at the polls, this is simply not the case.

In March of 1993, the executive committee of MNU proposed an advertising campaign about the impact of health reforms to the board of directors. The board discussed it at length and ultimately made the decision to refer the majority of the cost of the campaign to the general membership for input. This campaign was approved a month later at the annual general meeting.

Mr. Chairperson: Thank you very much, Ms. Hancharyk, I believe that concludes your time for presentation.

Mr. Reid: In fairness to the presenter, Mr. Chairperson, I believe there is only a page, or a page and a half left of the presentation, and if she wants to take a few moments to conclude her remarks, I have no problem with that.

Mr. Chairperson: Fine. I have allowed her a minute over the appropriate time just to come to an appropriate break in the text, but if it is the will of the committee, I would invite the presenter to conclude her remarks. Thank you very much.

Ms. Hancharyk: I was discussing our campaign, and I was saying that all locals were given prior information regarding our campaign in 1993 and its cost. The campaign ran during the provincial by-elections. The process that I was talking about is our process, an open process that allows every member input into decision making.

Amendments dealing with disclosure of financial information, again, are designed to feed the misperception that unions are not accountable to the membership about how union dues are spent. Ironically the amendments requiring disclosure of union finances to the Labour Board will provide MNU membership with much less accessibility to financial information than each member now has under our own rules regarding financial decision making. So we challenge the government's claims that it is acting in the best interest of our union membership.

Each MNU member is able to obtain financial information through a variety of sources. Every year before our annual general meeting where the union's budget is determined by delegates, each member of the MNU receives, mailed directly to his or her home, a copy of the audited financial statement for the previous fiscal year as well as the proposed budget for the following fiscal year. As a matter of fact, every MLA receives one as well.

The MNU office sends out to each local on a regular basis copies of monthly financial statements, and union members can ask to see these at any time at their local office or at local meetings. Every local has collective agreements covering the MNU's staff, including salary ranges and benefits. The compensation paid to our union president is published in the MNU handbook which is available in every local office.

In conclusion, in proposing this package of changes to The Labour Relations Act, the Manitoba government is undermining a social and economic consensus between workers and employers that has kept our province prosperous throughout the last half of this century. Even though the highest court in the land has defended the Rand Formula and demonstrated both its constitutionality and its contribution to labour relations stability, the Filmon government rejects the court's analysis and has chosen to interfere in the self-government of the union.

The government has chosen to attack unionized workers through the back door by chipping away at the financial strength of the union, by interfering in the collective bargaining process and by making it more difficult to organize the unorganized. This strategy lacks courage. Although the government may consider itself forward thinking, these amendments are an anachronism

best belonging in an era when workers' collective rights were denied by employers and governments and when repression of collective action was commonplace.

Based on all of the above arguments, we urge the government to withdraw Bill 26.

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

Mr. Reid, you have the floor for a question of this presenter.

Mr. Reid: Thank you very much, Ms. Hancharyk, for your presentation here today. I am happy that you had the opportunity to conclude your very valuable comments.

I want to ask you a question in the few moments that are remaining to us. You have indicated that your organization does provide detailed financial statements to your members, which I thank you for providing for the members of the Legislative Assembly as well. We do look through your documents that you send to us.

Can you tell me, have you or any member of your organization, the MNU, been one of the 12 or so members that the Minister of Labour (Mr. Toews) has consulted with on Bill 26 prior to his tabling of the legislation?

Ms. Hancharyk: To my knowledge, no member of MNU had any input into this legislation.

* (2330)

Mr. Chairperson: Thank you very much, Ms. Hancharyk, that now concludes the time for presentation and questions, and we thank you for your presentation this evening.

The next presenter will be Mr. Rob Hilliard, president of the Manitoba Federation of Labour.

Mr. Hilliard, I would ask you to come forward. While your written briefs are being circulated, sir, I would ask you to commence your presentation. Thank you very much.

Mr. Rob Hilliard (President, Manitoba Federation of Labour): Thank you, Mr. Chair. Ordinarily a brief of this nature to this committee would be prefaced by a brief explanation about what the Manitoba Federation of Labour is all about. We would explain what sort of work it undertakes on behalf of the unions that are affiliated with it and their 85,000 members. Normally, this explanation would be relatively wide ranging, but the content of Bill 26 brings the nub of the topic into sharp focus. This bill is about democracy. It is about worker democracy, political democracy and democracy in the workplace.

Since the fall of 1995, the Conservative government of Manitoba has been preaching long and loud about the need to empower workers to protect them from their big, bad union bosses. This is a sharp departure from the tone set in the federation's first meeting with the Minister of Labour (Mr. Toews) during the summer of 1995. At that time we asked Mr. Toews if the government had any particular changes to labour legislation in mind. He said no, and he characterized The Manitoba Labour Relations Act as a fairly sound piece of legislation, and that the only things on his agenda at that time were housekeeping items and the review of The Employment Standards Act.

By the fall, everything was changed. He gave the MFL delegation a general overview of the bill that is now before us. He went on to say that the recently concluded Manitoba Conservative convention had passed resolutions calling for far more drastic changes. In answer to the question why, he responded that many delegates and more than a few of his colleagues were outraged about the role that unions had played in that year's provincial election. He made it plain then that he was about to change The Labour Relations Act to make it reflect Conservative Party values.

That is what this is all about, making The Labour Relations Act into a document that could have been passed at a Tory political convention. The irony is that one of the major motivations for the Conservative government in the drafting of Bill 26 was workers exercising their democratic right of free speech through their unions during the last election campaign. What form did this take? Was it lavish ads urging voters to support a particular political party or candidate? No, it was not. It was advertising undertaken by three unions that raised what we think are important election issues

which should be discussed in every election, not just the one held last year. These campaigns focused on public services, health care and education. These were classic examples of issue advertising.

This is not to say that unions should not pay for partisan political ads if they want to. This is also part of their democratic right to free speech and to participate in the political process. In fact, no less an authority than the Supreme Court of Canada considers it not only a right but a responsibility. To quote from the Levine Supreme Court decision in the last 1980s, the justices said, quote: To achieve their legitimate ends and maintain proper balance between labour and management, unions must to some extent engage in political activities.

But it was issue advertising not partisan political advertising that kicked the wheels off the cart. The Tory rage over labour activism was enough to tear away any restraints about passing draconian legislation to try to silence us. Whether the Conservatives care to admit it or not, in many ways union democracy is more vibrant and responsive than that in the political world. Union members exercise their control over their union through secret ballot votes. They decide who their local leaders are from among their co-workers. They decide what their unions policy should be and what the short-, medium- and long-term plan should be for promoting them. Union members elect their negotiating committees, their grievance committees and many others as well. They decide what issues they want their negotiators to take to the bargaining table. They decide whether to accept the contract offer or to reject it. They decide whether strike action is necessary.

Unions leaders meet with their co-workers on a regular basis, usually every month. Union leaders use these meetings to bring members up to date on evolving issues and to receive direction on how to proceed. In most cases a financial report is part of every union meeting. It is certainly part of every annual general meeting. These reports are available to any union member who cares to ask for one. Any union leader who strays too far from the membership's wishes or who attempts to withhold financial information would have a very short career.

Just what is it that the Conservatives are trying to improve with Bill 26? The Conservative majority on this committee has limited our presentation to 10 minutes, so let us get right to the point. The Conservatives want to improve their hold on power and their hold on society. They want silent unions, so they create ways for nonunion members and union members who support their party to frustrate decisions for political action that were made by the majority of union members. They do not want unions opposing them during election campaigns; never mind that union members and unions have every right to participate in a campaign just like everybody else; they do not want unions and their members opposing their policies, be they economic or social. They want fewer unions so they draft language forcing a second vote for every certification. It is not to make sure that the majority of union members can have their say; they have already done that by signing a union card. It is specifically designed to give management an opportunity to intimidate their employees in order to defeat the certification.

Freedom of association for working people: A right guaranteed by our Charter of Rights and Freedoms means the right to join a union if they so wish. It is not an employer's right to keep a union out of the workplace. To do so would necessarily mean that working people would be denied their Charter rights. It should not take an act of courage for working people to exercise their rights, but this amendment brings that situation about.

The Conservatives also want to make it easier to break a union, hence the financial reporting requirement in Bill 26. Union members already get the financial information they want, so who is this designed to help, really? Union busters, that is who. In the United States, which is the only jurisdiction where this kind of legislation currently exists, the largest consumers of this information are management consultants, the people employers hire if they want to attempt to discredit a union and either bust it or keep it out of their workplace.

If unions do not step right up and open their books wide open for government, then the Conservatives say they will take away the right of unions to have dues deducted from the pay cheques of everyone covered by the collective agreement. For the first time in Canada since the 1940s when Justice Ivan Rand outlined fair rules for unions' financial security, a government is holding the process hostage in order to force the unions to comply with their will.

What is compulsory dues checkoff and why is it important to unions? Justice Rand was charged with ending a confrontation between the United Auto Workers and the Ford Motor Company of Canada. In his decision, Justice Rand said that all members of a bargaining unit, whether they are union members or not, are obligated to pay dues, in the case of union members, or an amount equivalent to it, in the case of nonmembers. Why should nonunion workers have to pay too? Because they receive the wages and benefits that union members fought long and hard for, only they did not take part in the fight. In return, unions must provide nonunion workers with the same representation that union members get. Justice Rand directed the company to ensure everyone would pay by deducting dues at the pay cheque. This the so-called Rand Formula.

Nonunion workers covered by a contract have to pay the same amount union members do because they get the same wages, the same benefits and the same representation in matters such as grievances. They are not being forced to pay for no good reason. When the government says it will force companies to stop collecting dues on behalf of the union, it is threatening the financial underpinning of the very organizations which workers have created to achieve these improved wages, benefits and workplace justice, not because unions have stopped doing something for union members and nonunion members alike, not because unions will not have to continue doing these things but only in order to force unions to comply with whatever government wishes, regardless of whether it is in the best interests of workers or not.

* (2340)

This, of course, is only the beginning. Today, the stated issue is financial reporting. What will it be in the future? Who knows? But we do know that it will be the government using blackmail by threatening the loss of the Rand Formula in order to get its way.

What else do the Conservatives say they are doing to promote worker democracy? According to government propaganda, by enacting legislation to allow companies and the minister to determine bargaining strategy for unions, Bill 26 will allow companies to ask the minister to order a vote on their last offer. If this does not occur to management, the minister can go ahead and order a vote on his own. The point is, it takes away the ability of union members to empower their bargaining committees to carry out a strategy that will result in the best possible settlement. Companies and the minister will decide when they will be able to call a vote and have their offer accepted, not unions or their members. The issue is not whether union members will get a vote; they already do. The issue is the timing of the vote, and now the employer will be able to determine that, not the democratically elected union leadership.

Let us take a look at another amendment and see how the Tories are empowering workers and improving their lives. Bill 26 will limit access to the expedited arbitration process eliminating 80 percent of the caseload. Before this mechanism was enacted in the mid-1980s many grievances went unresolved for months and even years. Companies dragged their feet in order to wear down workers who filed grievances in the hopes that the complaints would either go away on their own or as part of a trade-off at the bargaining table.

Mr. Chairperson: Mr. Hilliard, I would point out that your time has expired. Mr. Reid, for the first question.

Mr. Reid: In fairness to the presenter, Mr. Chairperson, perhaps he can take some of the time allotted to the question-and-answer period.

Mr. Chairperson: Is this the will of the committee? I would invite you to proceed, and I thank you very much, Mr. Hilliard.

Mr. Hilliard: In the interest of ensuring that fairness and justice were accessible to union members, expedited grievance arbitration was made available to them. This process has speedy time lines and definite reporting requirements that all but ended employer foot-dragging. Bill 26 denies individual workers justice that is their due. It encourages employer foot-dragging on workplace justice and fairness and it undermines the faith of union members in their union's ability to effectively represent them. These are the objectives of the Conservative government.

The Conservatives have moved to reduce the effectiveness of unions in another way. They want to remove protections that union members now have from being fired for relatively minor picket-line infractions.

Let there be no mistake about this point. Unions neither condone nor encourage lawlessness on a picket line. However, let there be no mistake about this point either. This amendment has nothing to do with stopping picket-line lawlessness.

Remedies for serious breaches of the law already exist in the Criminal Code. This amendment is specifically designed to intimidate union members from going on strike in the first place. Who is going to support a strike vote if they are in fear of losing their job forever because of a shouted insult in the heat of the moment, for an act of defiance when passions are running high or because someone in management thought one individual did something when in reality it was some other striker or even someone not from that plant that was there in support of the strike? This amendment is designed for one thing and one thing only, to minimize the effect of strikes and picket lines in order to give more power to employers to determine wages and working conditions.

These amendments are not about the democratic rights of workers or individual power. They are all about limiting the ability of working people to get effective representation from their union. They are about silencing workers and their unions during election campaigns. They are about stopping unions from organizing new locals and they are about allowing employers to rid themselves of existing unions and they are about weakening workers' bargaining relationship with their employer in order to restrict wages and return working people to a time when they were totally subservient to their employer.

But the amendments say something else as well which reveals what the Conservatives feel about working people. The amendments mean that the government believes workers are stupid people who do not make good decisions when they vote on spending and policy decisions, when they vote on ratifying collective agreements, when they vote on whether or not to strike and when they elect their leadership from among their own ranks. The Conservatives believe that they will have to intervene and through amendments contained in Bill 26 influence these decisions so that they conform more to Conservative Party values.

Through Bill 26 and through other bills currently before the Legislature, the Conservative government of Manitoba is undermining the very essence of parliamentary democracy. Our democratic form of government relies on a vibrant opposition to keep it healthy and an asset to our society. The government is trying to limit and choke off organized opposition to its policies and initiatives. This is a perilous path that the Conservatives have taken. We fear that in the end all Manitobans will be the losers.

Mr. Chairperson: Thank you, Mr. Hilliard.

Mr. Reid: Thank you very much for your presentation, Mr. Hilliard. I have a couple of questions and I would like to combine them because I know that our time is short here for the question-and-answer session.

Can you tell me, are you aware of any member of any union in the province or any working person for that matter that as one of the 12 people who the minister said he has consulted with on this legislation? Are you aware of any of those 12 people who have been consulted on this legislation, as the first question, and the second one is, can you tell me, has this legislation been sent to the Labour Management Review Committee, and what were the recommendations, if any, that may have been sent back to the government with respect to Bill 26?

Mr. Hilliard: The Federation of Labour met with the minister a number of times when he talked with us about the concept of Bill 26, although we did not actually see the legislation itself. As Mr. Moist had indicated earlier when he was up here, during a meeting last April, the minister in fact offered to show us the legislation prior to it being tabled in a closed-door meeting. We accepted that offer gratefully and it was cancelled on us after short notice. It was rescheduled again and then again cancelled with less than an hour's notice. So in fact we did not see anything in Bill 26 prior to it being tabled in the Legislature, although we had discussed many of the concepts contained in it.

By the way, I am not aware of anybody else who may have seen the bill. Insofar as the Labour Management Review Committee is concerned, the minister did refer a good chunk, probably about three-quarters of what is in Bill 26, to the LMRC. The LMRC chose to deal with it in the following way, by referring it to the steering committee, which has three labour members and three business members and the chair of the committee. That

steering committee met four times and came up with a package of recommendations which was referred to the full committee.

The full committee then met dealing with all of those recommendations and indeed passed on its whole series of recommendations to the minister. The recommendations were as follows: Insofar as the issue dealing with financial reporting and the use of dues checkoff as a penalty, the LMRC recommendation stated that a majority, in fact the majority was all but one, of the members recommended to the minister that that provision be dropped and not included in any legislation.

On the provision dealing with consulting concerning use of dues for political purposes, there was a similar recommendation in that all but one of the LMRC members–

Mr. Chairperson: Mr. Hilliard, I think I am going to have to interject at this point in time.

Mr. Hilliard: The answer takes a while.

Mr. Chairperson: Yes, I realize the complexity of the question. We have gone significantly over and in fact the problem is that we are impinging on other presenters' time. So I would thank you very much for appearing tonight.

Ladies and gentlemen, I have one comment which offers the difficulty perhaps to the questioners and to the presenters. When you applaud, when people have run over their initial presentation time and you see where the committee has recognized and allowed the presenter to proceed, when you applaud I realize that you are enthusiastic and congratulating the presenter. However, what the net effect of that is is to impinge upon the time of the questioner and, while I am being quite relaxed about keeping people to the time limits, it does cut down on their ability to respond to questions. So I would ask you to keep that in mind when you are acknowledging the speakers.

The next presenter is Greg Patterson, a private citizen.

Mr. Toews: Again, I know that the member for Transcona insists on putting erroneous information on the record in terms of having only consulted 12 people. I want to just ensure that the record in fact discloses that that is erroneous and that for proper recollection of my words, I would refer the member for Transcona to my comments in Hansard of yesterday.

Mr. Chairperson: Thank you, Mr. Minister. I would point out, that is a dispute of the facts and I thank you for your comments.

* (2350)

Is Mr. Patterson in the Assembly this evening? You are Mr. Patterson, sir? Good, I would ask you to come forward. Do you have a written presentation? Thank you, that will be circulated. While the presentation is being circulated, sir, I would ask you to commence your presentation. Thank you very much.

Mr. Greg Patterson (Private Citizen): At the outset I will ask everyone to keep their applause short, then.

Mr. Chairperson: Is Mr. Patterson's mike being picked up?

Mr. Patterson: Thank you, Mr. Chair, for this opportunity to speak to you about Bill 26. My brief is before you, so I will just summarize my concerns.

I am a nurse. I have worked on the burn unit at Health Sciences Centre for the past 12 years. I am a member of the Manitoba Nurses' Union. I will say at the outset that I do not know what has prompted these amendments. I certainly was not one of the 12 or 18 or the other people that were consulted on this bill. I have yet to speak to one person who has viewed these changes to the labour act as necessary. There is no obvious public outcry about the act as it is currently being practised, and I doubt that the government receives huge volumes of mail on a daily basis demanding that something be done about the labour act. Even the Labour Management Relations Committee appears to find little that they can endorse in this legislation. They have almost as many concerns as I do about the impact these amendments will have on the labour climate in Manitoba. I will touch on each amendment briefly.

Section 14.1 refers to the possibility of strike misconduct being grounds for termination. During the emotional pressure of a strike, it is blatantly irresponsible

to allow one side of the conflict, the employer, to inflict the ultimate punishment on a worker who is likely upset. Saying things in the heat of the moment is something I believe even the Minister of Labour can empathize with as I believe he has done so during strike situations. I think it is unfair to compare misconduct during a strike and treat it as if it is the same misconduct that has occurred during a regular workday. Threat of termination will also be used to intimidate workers who are contemplating strike and others have touched upon that.

Sections 29.1 and 76.1 talks about failure to consult regarding use of union dues for political purposes. It refers to a mandatory process through which members are canvassed about their willingness to have their dues used for political purposes and refers specifically to TV ads during elections. There is no failure to consult. Unions speak out on issues of membership concern all the time. Members in the front lines drive these concerns through general meeting resolutions passed by a majority of nurses. The voice of dissent is also heard. I know; I have been that voice of dissent in the past, and I have always been allowed to voice my concerns. I am always convinced I am right. Others convince me I am not, but my voice is always heard. Any member can speak to any motion or resolution. The most recent ad campaign had endorsement from nursing delegates province-wide. MNU is nonpartisan, but MNU does have a vision that reflects its members' views on health and social policy. Members expect MNU to speak out on these issues year round, especially during election campaigns when awareness of these issues is heightened. I repeat there is no failure to consult.

Mandatory votes for certification of bargaining units. On its face, voting for certification seems fair and democratic. I do wonder why a further vote needs to be held when 65 percent or more of nurses in a workplace indicate a wish to join a union, but I will not belabour the point, although I do not believe that anyone who signs a card has had a gun held to their head. I do have concerns about the opportunity for employers who do not want a union in their facilities to intimidate nurses prior to this vote. Seven days is a very long time and without increased resources within the Labour Board itself, the delays will likely be longer. Nurses may have more reasons to join a union now than ever before, especially with levels of employment insecurity at an all-time high. Unfortunately insecure nurses, insecure workers are also vulnerable to intimidation, and a vote affords the employers that very opportunity to intimidate.

A minister or employer demanding a vote prior to a strike is referred to in Section 72 and it is another affront to union democracy. I elect my bargaining representative. Through an ongoing process of negotiation updates, I know what issues that are outstanding. She has known my key priorities since the outset of negotiations. Neither the minister nor the employer should presume to know the membership of my union better than my bargaining representative. In my view, this is merely an attempt to discredit the union bargaining team in the eyes of the membership. I elect my bargaining team. I trust them; do not bypass them.

Section 132, financial disclosure, thanks just the same, I do not need it. I have always had it. I get yearly financial reports, and I have access to the most intimate, minute financial details including the salaries of my president, executive director, all staff. In fact, I can drown in financial statements if I choose to indulge myself. This information is available to me because my dues pay for the wages and work that my union does. The Labour Board or any person or group outside of my union should not have access to this information. Simply put, it is none of their business.

Expedited arbitration limits only the most extreme forms of discipline to be dealt with in an expedited manner. I personally, as a grievance committee member in the past, have seen the smallest of suspensions devastate employees as their integrity and good name hang in the balance. When employees feel that they have been unjustly disciplined, a lengthy grievance process compounds the impact of the discipline.

In conclusion, these amendments are either unnecessary or detrimental to the average nurse. They cause a deterioration of the employer-employee relationship in some workplaces and cause strife in other workplaces where none currently exists. Low morale does not promote quality work, nor does it foster productive employees. A false impression the government wants to make is that individuals within the union structure need their rights protected by the government. Nothing could be further from the truth. Unions respect the rights of the individual, and they give them voice. Sometimes they give them voice where they have never had voice before.

The minister should protect the integrity of the labour act; he should protect the integrity of the employer-employee relationship. In this manner, he will protect the individual workers he says he care so much about. Thank you.

Mr. Chairperson: Thank you very much, Mr. Patterson. Ms. Barrett, do you have a question of the presenter?

Ms. Barrett: Yes I do. Thank you, Mr. Patterson. It is a pleasure to hear from an individual worker, someone who is represented by their union, and you have made some very good points. I thought one of the interesting points was in your discussion about the strike-related misconduct section, where you talked about the employer being able to exact revenge by handing out harsh discipline and the concept that both sides are acting outside of the regular working conditions when a strike takes place, and that they should not have the same kind of discipline, perhaps, attached to that. I thought that was a very interesting thing. The question I have in this regard is, nurses were on strike a few years ago. Do you have a sense that there was anything on the picket lines in that strike that would necessitate the kind of amendment that is being put in place here?

Mr. Patterson: No, I am certainly not–

Mr. Chairperson: Excuse me, I have to indicate to the recorder behind us, Mr. Patterson, so I have to acknowledge you, and then your mike is turned on. That is the way the system, unfortunately, works. It is a little antiquated.

* (0000)

Mr. Patterson: Thank you. I am not aware of anything that happened during the 1991 strike that would have caused any misconduct. Certainly, nurses were not jumping on the hoods of ambulances and tearing off the wiper blades, although I am sure harsh words might have been spoken. But we have essential services agreements in place, so there was no one crossing the line, to any extent, that would even be considered a scab. Certainly, it was a very stressful time for all of us. Families were being stressed, money was being lost and, like I said, anybody can lose their cool during a strike situation.

Ms. Barrett: Just one more question, I think, depending on your answer to it.

Your concerns about the expedited arbitration section, I have not heard any reasons given tonight that would lead me to believe that this is an essential, necessary amendment to put in. I have not heard any reasons by the government in their few debaters on this issue in second reading as to why it is necessary to have this in. Why do you think the government is putting this section in as someone who has worked on grievances for your union?

Mr. Patterson: I really have no idea why the government has decided to choose this particular area to amend. Certainly, the speakers I have heard earlier this evening have indicated that, if anything, there has been more success than failure in this process in resolving issues even before the arbitration occurs.

My concern certainly is–and this may be a reason–that is does offer an opportunity for the griever to get ground down. I have seen grievances take months and, in some cases, even years to settle. If the issue is a burning one, an important one for that employee, that time can seem interminably long. Certainly, if I have been suspended for 28 days, that is something that is not minor. I have been out the money, and not only that, my good name is in question and that for anyone, beyond the money, the fact that your conduct, your professional standing and your good name is left in question for so long and it is not addressed is painful for people.

I cannot think of any reason why this was chosen.

Mr. Chairperson: Thank you very much, sir, for your presentation this evening. Much appreciated.

Mr. Laurendeau: Mr. Chairman, I think we have an agreement to, at midnight, look at where we are going and I think we had decided that we continue to carry on the names. Those who wanted to present this evening could present, and anyone whose name was there would just drop to the bottom of the list, but we would not read them a second time tonight. I do believe that was what we had agreed to.

Mr. Chairperson: I have a copy of the motion here. Is that the will of the committee? The will of the committee so ordered.

We will now not be eliminating any names from the list of presenters. When they are called, if they are not present, and we will proceed with the call of the list.

The next persons on the list are Candace Bishoff and William Gardner Jr.

Mr. Gardner, good evening, sir. Do you have a written presentation, sir?

Mr. William F. Gardner, Jr. (Winnipeg Chamber of Commerce): I do, Mr. Chairman, thank you.

Mr. Chairperson: Thank you. We will be circulating that.

Mr. Gardner: Mr. Chairman, Mr. Minister, members of the committee, I will proceed and I will be brief, which I suspect is a virtue as we pass midnight. You will have the brief presented on behalf of the Winnipeg Chamber of Commerce. You will have an opportunity to read it. I want to focus on a central theme. It is one that a number of presenters before me have picked up on, and I would like to present the particular point of view of the chamber.

The theme is fairness. I will go a little further, I will say that it is fairness that is transparently done. I think most people who have been in the labour management community for any length of time understand the extent to which perceptions are important. I think everyone in the Legislature is aware of the maxim that justice must not only be done, it must be seen to be done. I suspect that is, too. [interjection] I got my assistant answering it, letting my son and daughter know that I will pick them up at the dance in due course.

It is my submission to you that a number of the proposals in this draft legislation will achieve fairness, and they will achieve fairness that is transparent and clear to all. From my perspective the changes to make a secret ballot vote the primary means of selecting certified bargaining agents is one of the most significant of these proposals. No one in this room, I suspect, would argue with the proposition that the secret ballot vote is the best means achieved by humankind yet of determining the wishes of a constituency. No one in this room would quarrel with the proposition that selecting a union for members of a bargaining unit is one of the most significant choices they will face in their working lives. Logic and reason and experience would suggest that such a significant choice be made in the best possible way and by means that have stood the test of time over the centuries and have proved to be the best available.

I would suggest, with respect, that signing a membership card is not the equivalent of a secret ballot vote, because it is not secret. No one would suggest today that we pick our governments by sending representatives of the various parties around to people eligible to vote and getting them to sign cards as to whether they wanted to support Progressive Conservatives, the Liberals, the NDP or the like. A membership card is not the equivalent. I would suggest to you that, given the laws as they exist in the present Labour Relations Act and the Labour Board that we have got, intimidation will not be a problem provided that the votes are held quickly. Logic and reason would suggest that intimidation has the best chance of working where you have a campaign that has been unable to sign up more than 65 percent of the bargaining unit.

In the areas where votes are held today there is no groundswell of outcry or complaint with respect to the majority of representation votes that are held today. The vast majority of them receive a fair vote certificate, and the ballots are counted. I would suggest that if unions can get in excess of 65 percent of the bargaining unit to sign membership cards, they will have nothing to fear from the secret ballot vote. I would however suggest that selection by secret ballot vote will have a salutatory effect on a relationship if the vote is in favour of the union.

Having practised in this area of the law for 20 years, mostly on behalf of management, I can tell you from personal experience that a significant proportion of employers who are faced with automatic certification are convinced that if a secret ballot vote was held, their employees would vote otherwise. I rather think in most cases that is not true, but that is hardly the way to start a relationship. In Canada today, in particular in Manitoba, we are used to accepting the results of secret ballot votes. I can tell you from experience that where representation votes are held and the employees vote in favour of the union, the reaction of management that I have experienced is, okay, it is clear they want it, I guess we had better sit down. That will be better for the process

and for the same reason, I would suggest, that a vote on the employer's last offer will help the process.

* (0010)

Legislation similar to this is existent in Ontario, if I am right, since the late '70s. It has survived successive Liberal and NDP administrations. If I am not wrong, the NDP used it to settle an MTCC strike in Ontario not long ago. There is nothing to fear in having this additional tool for settlement. The vote will still be held. It will be held properly. It will be held by secret ballot. I rather suspect that in most cases the experience in Ontario that the votes will follow the recommendation of the union executive but, again, it will help the process because it will be clear. The employer will not be able to say, if there was only a vote there would be a settlement. They will know that they will not have to do something better if they want a settlement. It will help the process.

I have heard, and I welcome this, a question rhetorically to me, why is there a suggestion to change the expedited arbitration procedure? I can hardly wait to suggest one.

The expedited arbitration procedure went in as part of Bill 22 in 1984. We were told at that time it was to deal with matters which were urgent. Since then I would suggest with respect that it has been horribly abused by some, not all, unions, but the effect of it has been very insidious. One of the great strengths of the labour arbitration system is that you get to choose your judge. The parties in the normal regime under the collective agreement get together and they agree on a neutral, impartial chairperson or arbitrator in whom they both have confidence and you walk into the arbitration knowing that you have someone who will give you a fair hearing.

The expedited arbitration system turns that upside down, not intentionally, but the legislation as it exists today is designed because you do not get to choose your arbitrator. It is designed to select the least popular individuals to arbitrate. It does so because statutorily you must give early dates. Who is not likely to have early dates? The most popular arbitrators, the ones who are mutually acceptable, they will be busy, they get passed over. Who has early dates? People who are not mutually acceptable, who for one reason or another to either side are not acceptable. They are the ones who come up most often. As a result one of the great strengths of the labour arbitration system is lost.

This proposal will focus expedited arbitration back where it was supposed to be, and that was with respect to the matters that are–

Point of Order

Mr. Laurendeau: Mr. Chairman, I notice that the time has probably expired. I was wondering if there might leave of the committee for the gentleman to finish his report?

An Honourable Member: No.

Mr. Chairperson: No leave? All right, leave has been denied.

* * *

Mr. Chairperson: I would thank you, Mr. Gardner, very much for your presentation tonight. The honourable minister has a question to put to the presenter.

Mr. Toews: If you want to continue your answer in the context of some of the questions that I would like to ask, I thank you for the presentation.

But some of the concerns that I have been hearing tonight, and I wondered if you want to address that, is in specific, I do find it somewhat surprising members of the Legislature would view with suspicion a secret ballot vote. I understand the concern that one has to have a vote as quickly as possible and certainly I would suggest to you that the time period is well in line with other provinces in this respect. I would also ask you to point out for the committee whether in fact if an employer did conduct himself in an improper way, is the employee or the union without any remedy, as some of the presenters have seem to have suggested?

The second question again on the limited expedited arbitration, my understanding is that there would be nothing to preclude a union and an employer to extend expedited arbitration through free collective bargaining in The Labour Relations Act generally, even if this amendment came through. So those are the two issues.

Mr. Gardner: Certainly, if there is intimidation or coercion or threats or promises, there are a variety of avenues under The Labour Relations Act to the Labour Board, including the possibility of automatic certification without a vote if the Labour Board feels that the employer has committed unfair labour practices of sufficient seriousness. This gets into one point that I wanted to make, which is that in Manitoba, in my view, we have a very competent board and one which enjoys the confidence of both sides; and, provided that the Labour Board has the necessary funding to deal with the increased workload of holding representation votes obviously far more often, it is my belief that they will do the same good job that they have been doing for the last 15, 16 years that I have been involved.

With respect to the expedited system, you are right that parties have generally been moving to a faster means of resolving disputes which are referred to arbitration, and the time lines have come down substantially since I started. Many of the things that have come into the collective agreement going more to sole arbitrators, going to a rotating list of arbitrators who are there and can be picked so that you do not spend time picking them. All of these speed the system; on the other hand, I have been involved in an expedited arbitration that took 16 months. There was nothing expedited about that arbitration other than the fact that it started through the system.

Mr. Reid: Mr. Chairperson, I would like to thank the presenter for the presentation here this evening. I have a couple of questions that I would like to ask.

Manitoba has had a significant number of years with relative calm in the labour-management within the province of Manitoba, and this year, unfortunately, we have seen a dramatic increase in the number of days lost to strike and lockout. Unfortunately, that is an unenviable record for the province of Manitoba. We have in Manitoba a process called the Labour Management Review Committee, which, I am sure, you will be familiar with. I would like to ask you, sir, can you tell me, did the Chamber of Commerce members participate in the Labour Management Review Committee when this legislation was sent to that committee for a review, and can you tell me, sir, what the position of your organization was as a member of that committee respecting Bill 26?

Mr. Gardner: I can tell you that we participated; I can tell you that we were a dissenting member; and I can tell you that our position was as it is set forth in our presentation.

Mr. Reid: Can you tell me, sir, did your organization recently hold meetings to deal with this matter, Bill 26? Did you allow for only prescreened questions to come from the floor of your membership and that only those questions would be answered.

Mr. Gardner: The answer to your first question is yes, we held meetings. No, to my knowledge, the questions were not screened; however, they were asked to be submitted in writing in advance, but I know of no questions that were deselected.

Mr. Chairperson: Thank you very much, Mr. Gardner. That now concludes the time for presentation and questions, and we thank you very much for your attendance here this evening.

Mr. Gardner: Thank you for all of your attention. I will now go to the dance.

Mr. Chairperson: The next presenter on the list is Dan Kelly. Mr. Kelly, do you have a written submission tonight, sir? Thank you very much. We would ask that you circulate those. While the briefs are being circulated, I would ask you to proceed, sir, with your presentation. Thank you very much.

* (0020)

Mr. Dan Kelly (Canadian Federation of Independent Business): Thank you very much, Mr. Chairman. On behalf of the CFIB and our 4,000 members in Manitoba, I am very pleased to be here this evening to offer our support for the package of amendments to The Labour Relations Act that have been proposed by your government.

As you know, CFIB has been very vocal in our support, and I have conducted literally dozens of media interviews on this very subject. In fact, the president of the Manitoba Federation of Labour, Rob Hilliard, and I, have had what has amounted to a travelling road show on labour law reform in the local and national media.

As you may have heard, the CFIB earlier today released a massive new job study. It details the who, what, where, when and how of job creation among small firms in this country and in this province. One of the key findings of this report is that rather than intervention by direct government job creation programs, small firms favour moving to fix the economic and social framework of the province in order to help create jobs. We would far rather have a payroll tax cut to a business subsidy program.

How does this relate to the bill that is before the committee today? Well, in July of 1996 our members responded to one of our regular surveys designed to determine the high priority issues for small business in Manitoba. Of a sample of 777 Manitoba small- and medium-size companies, 30.1 percent said that they were highly concerned with Manitoba's labour laws. Importantly, this was the second highest result at the second highest level of concern in the country, only following the level of concern in British Columbia and in Saskatchewan, and with the incredibly onerous minimum wage laws in B.C. and the part-time benefit legislation in Saskatchewan, this really does not present a very rosy scenario for Manitoba.

Reforming Manitoba's labour laws is far from an academic study or an ideological debate. It is vital to the future of job creation. I can tell you that some of the most frightening phone calls that I have are from business owners that tell me they are holding off opening up a second grocery store out of fear that they are going to have the union organizer marching on their door the very next day. I can also tell you that there is a great deal of concern out there in the small business community because labour is moving its focus to smaller firms. As big businesses and governments, the traditional unionized sectors, have downsized, unions have paid an increasing amount of attention to small- and medium-sized companies to pick up their lost market share.

I can assure you that every year Manitoba misses out on job creation and new economic development opportunities because of its very pro-union set of labour laws. We simply must return some semblance of balance in this important legislation.

Having said this, I also feel it is important to recognize that these labour law reforms have very little to do with changing the balance of power between unions and management. I dearly wish that we could enter this debate. In our view Bill 26 is a good first step, but in reality a very small one. Most of the provisions of this bill concentrate on changing the balance of power between unions and their members. It is attempting to ensure that unions behave in a democratic fashion and are accountable to their members. It seems odd to me in fact that we are having such a high-level debate over this issue. Why are the unions resisting the need to provide financial statements to their members? Why are the unions worried about the secret ballot votes for certification, the very cornerstone of our democracy?

Looking at the substance of the legislation, CFIB is particularly pleased to see the government has accepted our recommendation and others that a secret-ballot process be used in all certification attempts. In fact, a recent CFIB mandate survey showed that 78 percent of our members support this idea. Employees must be able to make the decision to form a union free from undue pressure from union organizers, other persuasive colleagues of theirs, and even their own employer. Secret balloting is the only true way to ensure that this happens.

A great deal of controversy has developed over the requirements of unions to disclose detailed financial information to their members, including significant salaries paid to employees. I believe that this move is completely reasonable, given the significant legislative powers granted to unions by the Legislature. Additional accountability is necessary, given the enormous privileges unions have through the Rand Formula. Imagine unions have the ability to collect dues automatically, following a certification vote. No one can opt out of these dues, regardless of how much they may disagree with the purpose for which the dues are used. To top this off, employers are required to collect these dues from employees and remit them to the union without any remuneration whatsoever. These are significant privileges that are unavailable to anyone else, and until this legislation is in place, unions do not have to tell their members why or how they are using their dues.

One of the defences the Manitoba Federation of Labour has made is that this will place an undue burden on small unions. Quite frankly, I am quite offended by this logic, as the unions never seem to have a problem calling for heavier regulations when it comes to business

The same principles of accountability must be taken to unions using members' dollars for political purposes. When unions were simply the bargaining agents for their members, this concern did not exist, but now that they have become one of the most sophisticated political action organizations in the country, allowing members the choice in using their dollars for political purposes is a primary concern.

I also want to tell you that I was a union member. When I put myself through university at Canada Safeway, I worked and I was a member of the United Food and Commercial Workers Union. At that time, the union allowed me to opt out of my political contributions that were at that point sent to a particular political party. They allowed me the option in that and I was thankful for that, but what they did not allow me was to opt out of some of the other political action that was taking place. I wrote literally dozens of letters, with the head of the UFCW, asking how much of my dollars was being spent fighting the Free Trade Agreement, something I felt very strongly in favour of. I was given no response; in fact, received very terse responses from Bernie Christophe saying, basically to me, to shut up and go away. That is the kind of legislation that I think you have got in front of you, and that is the reason why it is so important that it be passed.

One of the other important policy changes is allowing the Minister of Labour the power to call for a vote in cases of long-standing disputes. If this is used judiciously, this can be a major positive step in creating a more harmonious labour climate in Manitoba. Giving the minister the power to call for a vote on the employer's last offer puts the power in the hands of those that should have it, the employees, rather than simply the union bosses. This is a major step forward and should avoid the temptation on the part of unions to hold back information on an employer's last offer from the membership.

I am also here to tell you, I am not here alone to extol the virtues of this positive piece of legislation; I also want to tell you what is missing. I think that it is time the government examined the "hot goods" provision, the contentious issue of secondary picketing, establishing some means for employees to obtain unbiased and accurate advice on labour relations issues and, of course, dealing with successor rights.

As the unions will no doubt tell you, 1996 has been one of the highest years in recent memory for lost-person days due to strikes. Unions will try to tell you that it is because of the proposed legislation that we have had such an unstable year. However, I believe, that the record number of strikes has far more to do with the unions' pressing need to justify their own existence rather than any change in heart on the part of the business community or of government. Their traditional sectors have undergone significant restructuring, which has challenged the very relevance of unions in a modern economy. Rather than simply fighting for the little guy, unions have now become one of the political elite.

It is also important to note that the vast majority of lost days due to strike have been in the public sector, not the private sector. This must be kept in mind when making generalizations about the current labour relations climate as the public sector has undergone a very necessary adjustment period. As you know, CFIB research continues to show a 21 percent wage gap between provincial civil servants and similar occupations in the private sector. With regard to the public sector, we have surveyed our members and have found that the vast majority favour allowing those paying dues to the MGEU to opt out altogether. In addition, we urge the government to require the taxpayers' ability to pay be considered in all arbitrated settlements of public sector contracts. It is not enough to offer this only to school divisions.

As a member of the LMRC, I know how difficult it is to deal with these labour relations issues in the current climate. While these moves are a good first step, they are just that, a first step. To deal with the myriad of other complicated and highly technical labour law amendments that are required to create a healthy business climate, we need a careful and measured process. I suggest that immediately following the passage of Bill 26, the government conduct a comprehensive review of Manitoba's labour relations legislation. Bill 26 is a vital tool to increase the accountability of unions to their members, but does not address many of the other very real concerns of Manitoba's employers.

I also want to commend the government for its courage in introducing these changes. I can assure you that these changes have not gone unnoticed by small- and medium-sized employers in this province. I have had calls from

across the country asking me for additional details on what is happening here.

We must work to change the perception and, unfortunately, far too often the reality of Manitoba's inhospitable labour laws. Again, this cannot be an ideological or an academic exercise. Labour law reform is a vital tool that can be used at very little cost to help create new jobs in Manitoba. Thanks very much.

* (0030)

Mr. Toews: Just a couple of questions about your own organization. I understand that the Canadian Federation of Independent Business is a voluntary organization, and does it require the payment of any dues to your organization by the force of legislation?

Mr. Kelly: We have no legislation that guarantees us anything. If a member does not like what has been said by the organization and, again, everything we say is based on survey research of our members, if they do not like what we are saying, they quit. They have that power. A union member, if they do not like what the union is saying, they cannot quit, and that is the most clear difference. That is the reason why I think it is so vital that we put some additional power and some additional tools in the hands of union members to allow them to express the voice when they might otherwise not be heard.

Mr. Toews: Well, generally speaking, I have spoken up in favour of Rand Formula. I continue to be a supporter of the Rand Formula, and I know that I use that phrase in a general way, and I bear in mind some of the comments that one of the earlier presenters, Mr. Green, made. I do not know whether your organization or not agrees with me on Rand Formula, but certainly the purpose of our amendments in terms of keeping Rand Formula and yet allowing some measure of control in the hands of the employees while recognizing the necessary, what I believe to be a necessary degree of legislative involvement, in your opinion have we done the wrong thing? Have we gone far enough, or what should we have done?

Mr. Kelly: We have not surveyed our members on their views on the Rand Formula. I will be very clear about that. We have asked whether or not it should be continued. We have not asked the right-to-work question of our membership in Manitoba. We have asked it in other provinces, and we have had a favourable response. I might suspect that would happen in Manitoba, but again I do not have a survey result to say that, so I have no official position on that at this time. However, we have asked our members if the members of the MGEU should have the right of opting out of paying their dues, and our members are supportive of that.

I think what we need to look at is a comprehensive review where we can ask these questions in a more thoughtful way rather than having political statements from one side and from another side. If we can set up some form of process to take out a bit of the two-sided nature to this issue, I think that we would all be better off and we would concentrate on what we should, which is making Manitoba a place where we have a hospitable place of doing business and one where people want to come here rather than avoid it.

Mr. Toews: One of the things that I have been a little confused about generally is the whole concept of right to work. What do you mean by that concept?

Mr. Kelly: Right to work, as it has been described to me, is where, if you do not want to become a member of the union and you do not want to pay dues to that union, you are not required to do so. In Manitoba, as I am sure we are all aware, you have the choice of opting out of the union, but you still have to give them your money, and that is the issue in my mind.

Mr. Reid: I want to ask you, Mr. Kelly, about your organization, because quite frankly I do not know that much about it. Can you tell me, you have some 4,000 members, that you have surveyed your members for this information that you have presented here to us this evening. Can you tell me, does your organization hold annual conventions? Do you have policy resolutions that you accept from your members on the convention floor, and can you tell me when that last convention may have taken place?

Mr. Kelly: We have no conventions; our members never meet. What we do though is we have a process where every single important public policy issue–as I have just stated our views on the Rand Formula, which of course we have not asked, and I have no statement to make on

that–every single, solitary important public policy issue we bring before our membership for a vote of our entire membership, and we allow them the opportunity to do that. There are very few organizations in this country that have as democratic a process as our organization. I am certainly not suggesting that every company or every organization can operate the same way, but the CFIB operates under the principle of one member, one vote. All of our survey research is based on that, and my job is to bring that information forward to you here tonight.

Mr. Reid: Can you tell me then, when you do not have any annual conventions, you do not have any regular monthly membership meetings, you do not have any policy resolutions on the floor of a convention that members of your organization can perhaps bring forward, how it is that you can see in your mind that you would have the democratic mandate of your organization to come forward and say that you represent 4,000 members, when you have never given the members of that organization, as you call it, the opportunity to vote on yourself as an elected representative of that organization and no ability to debate the issues on the convention floor? How is it you say that you are democratic?

Mr. Kelly: I am very happy to respond to that. For one thing, if anybody does not like anything that I have ever said, they quit the next day, and they do not have to pay us another nickel, and we refund their membership dues. We provide them with detailed financial statements every single year. If they want to find out my salary, a member calls me and asks, and I tell them. On important public policy issues we give every single member a survey, and they have the choice of responding in that way, and until I get that result I say nothing.

Mr. Chairperson: Thank you, Mr. Kelly. Your time has expired, and I thank you very much for your presentation here today.

The next presenter on the list is Mr. Lance Norman. Good evening, Mr. Norman. Do you have a written presentation for us this evening?

Mr. Lance Norman (Manitoba Chamber of Commerce): Indeed, I have a one-page copy of a resolution. We have heard lots about resolutions from the floor. So our annual meeting, we had a resolution that was passed unanimously. I will pass that around.

Mr. Chairperson: Thank you, sir. Now your resolution is being circulated, sir, I would ask you to commence your presentation.

Mr. Norman: Thank you very much, Mr. Chairperson. Initially when I walked in here, I saw these badges "Unions should be run by the workers." I thought that they were handing them out for presenters such as myself. So I picked one up–and I only later realized that the unions were distributing them–because I fully agree with that message and indeed so does the Manitoba Chamber of Commerce.

The Manitoba Chamber of Commerce counts over 275 leading corporations in Manitoba as direct corporate members. We represent 63 Chambers of Commerce. Chambers of Commerce in this province represent over 8,500 businesses. As such, the Manitoba Chamber of Commerce is the single largest business organization in Manitoba, representing the interests of business in the debates that determine public policy.

Central beliefs of the Manitoba Chamber of Commerce are that the competitive enterprise system is responsible for the social and living standards that we currently enjoy and that there is a need for a greater understanding of the nature of competitive enterprise, both the necessity for profits and a constant risk of losses.

* (0040)

Policy in the Manitoba Chamber of Commerce is drawn from three sources: (1) ongoing statements of policy, (2) policy resolutions, and (3) board resolutions. Ongoing statements of policy contain the broad positions of the chamber in relation to the basic issues facing the province. These statements reflect the principles of the Manitoba Chamber of Commerce and the people and organizations that it represents. The principles are, by definition, universal and perennial.

Policy resolutions, such as the that one you have before you, consist of positions on specific issues generated by member chambers, refined by committees, debated, amended, voted upon at the annual convention. Approved resolutions, such as the one that you have before you, become official positions and part of the chamber's lobbying program for the year following the annual convention. Because of their contemporary

nature, they have an effective life span of one year, although all resolutions are followed up until a conclusion is reached.

Board resolutions are official policy positions of the Manitoba Chamber of Commerce on issues that arise between annual general meetings. However, they must be consistent with both ongoing statements of principle and policy resolutions.

Support for this legislation is derived variously from all three of those sources. I am not going to speak to every section of this bill, but rather will speak to the broad areas, the first of which is fairness.

The Manitoba Chamber of Commerce ongoing policy provides that labour legislation should establish fair rules as between labour and employers. This legislation provides for a compulsory secret ballot on all qualified certification attempts. This is not only consistent with fairness, but also with the subject of the resolution passed at the Manitoba Chamber of Commerce annual meeting in April of this year, a copy of which you have before you. Indeed, the Manitoba Chamber of Commerce has been calling for this legislation since 1979, and for Mr. Reid's purposes, I have brought a book of policy resolutions from the Manitoba Chamber of Commerce dating back to 1978.

The reason is that employers have always been suspicious that a bunch of signed union cards may not reflect the true will of employees in the bargaining unit, especially in small shops. Employers fear undue influence from organizers, peer pressure from workmates and/or a lack of understanding that simply signing a union card could result in an automatic certification. Whether these concerns are logical, rational or justified is entirely irrelevant; what is relevant is that they are believed. This gives rise, in many cases, to the owner being either suspicious of the motives of, or questioning the validity of, the bargaining agent right from the start, which is clearly not conducive to good-faith bargaining. A secret ballot in every case is necessary to ensure not only fairness but the appearance of fairness. This has been alluded to several times by previous speakers.

Why this would meet resistance from unions is hard to imagine unless there actually is a benefit under the existing rules to them. Unions have nothing to fear from this amendment provided they have conducted themselves properly, which will be reflected in the vote result. Successful certification in this context would clearly validate a bargaining agent in everyone's eyes. Labour has said in opposition that it should not take an act of courage to join a union. Given the logical conclusion of that statement, I assumed that the comment must be a misquote. However, I heard it again repeated here today, and I say nothing more about that.

What could be more discreet than casting a vote anonymously and secretly? It is the current system that has the potential to put pressure on individual employees. Similar legislation has been enacted in other jurisdictions, and it is about time that we did so here.

The other amendments that fall generally within the rubric of fairness pertain to the clarification that strike-related misconduct may be the subject of an unfair labour practice complaint for unions and employees and potential grounds for dismissal for employees. It seems incongruous that behaviour that could form the subject of a criminal charge could not form the subject of a termination, so that is certainly also to be commended.

The next broad area are those amendments relating to the accountability of unions. The Manitoba Chamber of Commerce believes that unions must be accountable not only to their membership but also to all due payers.

Unions as organizations have unique rights and therefore unique responsibilities. It is interesting. I have heard many kind of analogies to government, to share capital corporations, to nonprofit associations. In fact, there is no proper analogy, because unions are unique. Unions as organizations have unique rights and therefore unique responsibilities. These are two sides of the same coin. Of course, the primary distinguishing feature of unions is the Rand Formula, compulsory check-off, mandatory deduction of union dues, whatever you want to call it, from employees regardless of their union membership. From a business perspective, accountability of unions to employees is important for the assessment of the union's credibilities and effectiveness or lack thereof by the employees, because employers cannot make such comments.

On the issue of financial disclosure, as publicly traded companies are required to disclose their receipts and

disbursements even though the purchase of shares is not mandatory, there is all the more reason for financial disclosure by unions, whose dues are not voluntary.

On the issue of political activity, some unions choose to undertake lobbying government and political action. However, unlike other lobby organizations where the payment of dues and membership are not distinct, there is no recourse for dissenters. In the case of the Manitoba Chamber of Commerce, for instance, it has been said by my colleague Mr. Kelly with his organization, but in the case of the Manitoba Chamber of Commerce, payments of dues and membership are one and the same.

The Manitoba Chamber of Commerce takes political action that a member and, in that case, a due payer, disagrees with strongly enough, that member can resign and is not obligated to continue to pay dues. Not so with a union. If a member or a due payer disagrees with political action taken, they may have the option to resign from the union, but they do not have the option to stop paying their dues. The effect of this legislation is to recognize this distinction, which I do not believe has been made clear enough in the discussion tonight, and allows a dues payer who is morally, philosophically or religiously opposed to his or her dues being spent for political purposes to prevent a pro rata share from such use.

The next general area to which these amendments pertain is with respect to certain labour disputes in the economy. There are certain circumstances where labour disputes are of such magnitude in the context of the Manitoba economy that it becomes an issue for all Manitobans.

Mr. Chairperson: You have one minute.

Mr. Norman: I will read fast.

Typically this will occur in a situation where big business squares off against big unions in the context of big bargaining units. These disputes can, of course, have significant and sometimes irreparable harm, not only to the parties and the employees, but also to supporting industries and the livelihoods of many persons not directly involved. International giants can fight each other anywhere in the world, and a strike or a lockout in Manitoba may be just a small battle in a larger war. In that context, local issues and concerns can become diluted. In these situations, it is not unreasonable to have a mechanism to provide for a reality check for both employer and a union alike with those who are most affected, namely the employees.

As early as 1979, in fact, the Manitoba Chamber of Commerce has passed resolutions for calling for just such an mechanism. This legislation recognizes that a Labour minister has the discretion to let workers decide if it is in the public interest to do so. The Manitoba Chamber of Commerce supports the amendments with respect to expedited mediation, arbitration and also with the cost-sharing provisions. Thank you.

Mr. Chairperson: Thank you, Mr. Norman.

* (0050)

Mr. Reid: Mr. Chairperson, I would like to thank the presenter for coming out here this evening to present. I have a couple of questions I would like to ask.

Manitoba has, until this year at least, had a fairly good record with respect to harmony between labour and management in the province of Manitoba. Unfortunately, this year we move into the point where we have almost broken the record for the number of days lost due to strike and lockout. With that labour peace that has occurred over a number of years, of course, I believe it is in large part due to the process in place through the Labour Management Review Committee, which allows the parties to come together and work out their differences and then, hopefully, to come to a consensus position.

I would like to ask you your thoughts on the Labour Management Review Committee. Were you a part, was your organization a part, of that process when this bill was sent to that committee, and do you concur with the recommendations that came from the Labour Management Review Committee back to the government not to proceed with certain sections of this legislation that we now see before us?

Mr. Norman: No, and no.

Mr. Reid: Could you tell me why you do not agree with the recommendations? Since you are a party to the LMRC and they came forward with recommendations

that were almost unanimous in their recommendations, why are you now saying that your organization is a party that did not agree? Mr. Kelly, before you, was saying that his people did not agree, yet we heard that there was only one dissenting party. Can you tell me what is wrong with this picture? Why are there now two dissenting parties when we heard previously that there was one?

Mr. Norman: Maybe I misunderstood your question. I thought you asked me whether or not we were involved with the LMRC, and I said no.

Mr. Reid: So you are saying that you have no representatives from your organization that sit as management representatives to the LMRC, none of your members?

Mr. Norman: That is correct.

Mr. Toews: We have heard some discussions this evening in respect of final offer selection, and I have heard some of the presenters say what a wonderful device this was, and it has been described to me as a situation where the employer essentially had a gun put to his or her head and it was said: You can agree to the collective agreement, or you can have your brains blown out. Now that is, I would not certainly describe it in such graphic terms, but what I certainly saw in terms of the combination of first contract legislation with final offer selection is that–correct me if I am wrong in this respect–first contract guarantees a collective agreement, regardless of fault in this province and at the option of the employees, without any right of the employer to vote, the employees could then vote, provided they have met the legal requirements, but ultimately they can vote on a collective agreement without ever having to resort to strike or lockout and effectively taking any management control of the situation or any control out of the situation by management. Is that a correct assessment or do you agree with final offer selection, that it was a good way of maintaining labour peace in this province?

Mr. Norman: Final offer selection is not a good idea. The Manitoba Chamber of Commerce has policy back to the date that it was passed opposing it, continuing to oppose it throughout its existence. In fact, final offer selection effectively was only available to the union. So the unions would only use it when it was in their interest to do so. There was no availability of the employer to make use of that mechanism. It was foisted upon him. The employer would participate, but there was no ability for the employer to initiate that process in any circumstance, essentially. So, no, final offer selection is not a good idea and, incidentally, neither is mandatory first contract.

Mr. Toews: Well, you and I might disagree on mandatory first contract, but clearly we no longer have final offer selection here, and I assume that from what I have heard you believe that our government has taken the right steps, that is, the Legislature has taken the right steps not to revive that.

Mr. Norman, in respect of, we have heard much today about free collective bargaining, and I noted with some interest, and I do not know if you had an opportunity to hear Mr. Green talk about free collective bargaining. Essentially, free collective bargaining, according to Mr. Green, is the virtual absence of legislation, and would you go as far as Mr. Green does in respect of eliminating much of the labour legislation that we have here in this province?

Mr. Norman: I do not have any policy with respect to that particular issue which was raised by Mr. Green. However, I do have a copy of his pamphlet dating back to 19-whatever which I found very interesting and his suggestion that in fact there be a moving backwards of the clock to a period earlier in Manitoba's legislative history. I was intrigued by that and suspected that in fact the business community of Manitoba would indeed agree with that for the most part.

Mr. Chairperson: Thank you, Mr. Norman, very much. That concludes the time for the questions of this presenter, and I thank you very much, sir, for coming before us this evening.

The next person on the list is Patrick Martin. Is Patrick Martin in the Assembly?

Diane Beresford. Good evening, Ms. Beresford. You have a presentation that is being circulated. Thank you. I would ask you to commence your presentation.

Ms. Diane Beresford (Manitoba Teachers' Society): I am here on behalf of the 14,000 teachers in the public schools of Manitoba. The Manitoba Teachers' Society

appreciates the opportunity to make a presentation to the legislative committee reviewing Bill 26. Unfortunately, we have serious concerns not only in respect to the inclusion of teachers in this legislation but also in respect to the effect of this bill on the labour movement in general. We view this legislation as an unwarranted attack on the labour movement and an unwarranted interference by government in the affairs of labour organizations.

As others have very ably identified the flaws in this piece of legislation with regard to labour organizations in general, we will use our time to concentrate on its effects on the teachers of Manitoba.

The society, on behalf of all teachers and all teacher associations, objects to the inclusion of teachers in Bill 26 on the grounds that membership in the society is voluntary. The Rand Formula does not apply to teachers. The Labour Relations Act does not apply to teachers or to school boards in relation to teachers in any other matter, and nonmembers who receive all services at no cost are given unwarranted rights. The Rand Formula, again, does not apply to teachers.

The stated purpose of Bill 26 is to give rights to employees to access certain information regarding the operation of their union since they are forced to pay union dues by virtue of the Rand Formula. On this basis, Bill 26 should not apply to teachers since teachers do not have the legislated right to apply the Rand Formula to collective agreements.

Only The Labour Relations Act provides this right and, since teachers are specifically excluded from this act, teachers and their associations do not have this right. Membership in this society and its teacher associations is voluntary. Any teacher can obtain exclusion from membership for the next ensuing year by informing the society prior to July 1 of any year or within 60 days of receiving his or her first certificate. No reason for exclusion from membership is required or requested. Nonmembers pay no fees but still receive the full benefit of the collective agreement.

Notwithstanding that nonmembers effectively get a free ride, the vast majority of public school teachers, 99.9 percent, are dues-paying members of the society. Over the past two decades the society has repeatedly requested various governments to provide for compulsory membership or its equivalent, the Rand Formula, but has always and consistently been denied. Thus, the teacher associations' lack of rights to the Rand Formula is a direct result of government policy.

A very small number of teacher associations have managed to negotiate the Rand Formula into their collective agreements but, as happens in negotiations, had to sacrifice some other benefit for this provision. The overwhelming majority of local associations do not have this provision in their collective agreements, and the society submits that the teacher associations with the Rand Formula should also not be included in Bill 26, since the benefit was achieved by negotiation and not as a matter of right. It would be discriminatory to remove a negotiated benefit from those few associations without some countervailing compensation.

The Labour Relations Act does not apply to teachers. In 1956, the provisions covering collective bargaining between teachers and school boards were removed from The Labour Relations Act and transferred to The Public Schools Act. As a result, neither The Labour Relations Act nor The Employment Standards Act, with the exception of parenting leave provisions, applies to teachers or school boards. Originally, the rights of teachers under The Public Schools Act were similar to those under The Labour Relations Act. However, over the past 40 years The Labour Relations Act has improved while The Public Schools Act has remained virtually at a standstill.

We are excluded or have diminished rights in the following areas: right of association, enforcement of arbitration decisions, just cause for discipline, fair and reasonable application of collective agreement, right to employee information, Rand Formula, access agreements, consultation and so on.

* (0100)

The society submits that it is unreasonable to apply to teachers, who have already reduced rights under those sections of The Labour Relations Act which further limit employee rights. If teachers are to be subjected to the liabilities of The Labour Relations Act, they should receive its benefits as well.

There is a gross inequity in Section 4(2), which includes teachers and school boards in The Labour Relations Act solely for the purposes of Bill 26. They have no other rights under The Labour Relations Act. Teacher associations can be found guilty of unfair labour practice for alleged failure to consult respecting union dues, but teachers cannot allege unfair labour practice by anyone else. Thus, the only unfair labour practice applicable to teachers is one that punishes teachers. Teachers do not have the democratic right to defend themselves against an alleged unfair labour practice complaint. Therefore, teachers are the only employee group that can be summarily convicted without due process of law.

The society submits that the inclusion of teachers and school boards under The Labour Relations Act is totally biased and contrary to our rights to equality under the law and that it allows only penalties but no benefits to either teachers or school boards and denies due process to both parties. There is a potential for abuse by nonmembers. Nonmembers pay no fees, but receive the benefit of collective agreements. Yet Bill 26 says that these persons should have the same rights as dues-paying members. This could lead to abuse and harassment.

Under Section 132.4, a nonmember could request not only the financial statement of the teacher association and the identification of salaries of its employees, but continue to request more detailed information. Since each request can be ordered to be certified by an auditor, an individual could not only harass a local, but in the case of a small local, bankrupt it. All of these rights are bestowed on a person who pays no fees but receives benefits.

The Labour Board is going to be used inappropriately. All rights and duties of teachers are covered under The Public Schools Act and the Collective Agreement Board. The Labour Board has no jurisdiction over any matters respecting the rights, duties or protections of teachers and school boards. The Labour Board does not even have the right to lists of members of the society or of any local and cannot even determine whether an applicant for information has a legitimate right to apply. The society submits the use of the Labour Board for purposes of Bill 26 is inappropriate. If the government wished the Labour Board to affect education, the Labour Board should be in charge of all bargaining related issues in education. To date, the government has refused to grant this right to teachers.

We have general objections to Bill 26 as well. The requirement for financial statements including a list of employees and their salaries–this provision is unnecessary. Statements such as this have always been available and have been submitted to union members. Each year the budget is debated by representatives of the membership at an annual general meeting. There is no party system, and any representative is free to amend any portion of the budget, and the annual general meeting has all the powers of the union and can make any changes or any demand for information. This is far more than the citizens of Manitoba have. They do not have the possibility of excluding part of their taxes that may be used inappropriately, for example, to advertise that MTS's sale is a good thing.

There is also a requirement for unwarranted detail. A person could request more detailed information, certified by an auditor, and there is no limit to the amount of detail that can be requested. The society submits that there must be a limit on the specificity of information which can be obtained.

There is also provision for publication of information. There is no limit placed on how the material may be used. The information could easily become public. The media might use the information by publicly disclosing the names and salaries of employees and depriving these employees of any privacy. Of particular concern is the possibility that an employer could obtain information about a union which is involved in negotiations through getting someone to apply for this information. The lack of any limitation on the use of this information would also allow the government to intrude into the affairs of nongovernmental organizations, which contrasts with the democratic ideals of Canada. There are some situations where the disclosure of private information serves the public interest, the salaries of politicians, for example, and chief executive officers of publicly traded corporations. The reason for this is that they set their own salaries for the most part and are not at arm's length.

There is also the issue of invasion of privacy. Any criminal can now find out, for example, what a person earns, what their name is. It is very easy through a phone book to find out where a person lives, what their phone

number is. This kind of information is invaluable to the criminal element and represents an invasion of privacy. The society submits that the effect of the legislation will place employees at risk for no other reason than the fact that they work for a union.

The whole issue of money for political purposes–the society by policy is politically neutral; we have no affiliation to any party. We do not and never have done, made contributions to either political parties or individuals, but we do use the media to promote a message, just as the government uses media, as private organizations the media.

We submit that in order to lobby, we must have this freedom and to take it away is a violation of the Canadian value of the right to free speech.

Mr. Chairperson: Ms. Beresford, that now concludes the time for presentation.

Mr. Reid: Thank you, Ms. Beresford, for your presentation, and I will read through the remainder of your comments that you have provided to us. Because we only have such a short time frame here as a result of the government's rules here this evening, I apologize for the imposition of those rules.

I want to ask a few questions because there were other presenters here this evening who referenced that representatives of various labour organizations and societies and associations have indicated that those leaders are elite and that they do not in any way have to be accountable to their membership and take any direction from their membership.

Can you tell me a bit about your organization and how you may or may not be accountable to your membership and also provide for me since time is short, has anyone in your organization that you might be aware of been of one the 12 people that the Minister of Labour (Mr. Toews) said he has consulted with respect to this bill.

Ms. Beresford: We were not consulted with respect to this bill. Our organization has an annual general meeting that sends about 300 representatives who are selected by their local associations to a general meeting, at which the audited report is reviewed with all financial transactions included. A budget is improved or amended as the members wish, and free, secret elections for the leadership of the society are held. I should point out that our rules mean that not a single union boss is ever more than two years away from the classroom. That is the longest you can be involved.

Point of Order

Mr. Toews: Just on a point of order, I have listened very carefully to the presentation that Ms. Beresford has been making. I note that these are indeed some of the concerns that she raised with me in my office when she came to discuss the contents of the bill with me, and I thank her for bringing those comments into the public forum. I think her discussions with me–

An Honourable Member: Is this a point of order?

Mr. Toews: Yes. And her discussions with me were helpful in understanding her particular position, but in this particular respect, Mr. Chair, again, the member for Transcona (Mr. Reid) has indicated for some reason that I have simply consulted with only 12 persons. I know that you have indicated that this does not seem to be a point of order, and yet it seems to fly in the face of all order to consistently put false information on the record knowingly. That does concern me, and I do not know whether it is a lack of concentration that Mr. Reid has been having on the process.

* (0110)

I do not know, and so, Mr. Chair, I am seeking some direction here in order to assist this committee so that I could determine exactly how to approach this issue should Mr. Reid again insist on putting false information on the record. I know that he is not a person who would tell untruths into the record, and I am certainly not suggesting that he would do that, but more particularly on the exact point of order then, it appears to me that this individual, Mr. Reid, has abused the time limits here by asking questions premised on false information and then requesting an answer on that basis and attempting to use that information in a very, very inappropriate way, so, again, I would seek the Chairperson's directions.

Mr. Reid: On the same point of order, I do not want to create any difficulties here for the minister. I am sure that he must be aware, and I know the presenters that are in

this room here this evening may not have been in the House here this week when the minister very clearly, in response to the questions from the Leader of the Opposition (Mr. Doer), stated that he had gone out and consulted with 12 or so people on Bill 26.

Now, if the minister and the members of the public that are here this evening want to go back and review the minister's comments in Hansard, they are recorded. The members of the public are free to do so and so is the Minister of Labour. You know you made those statements in Hansard. They are there for the world to see.

Mr. Chairperson: Could you address your questions to the Chair.

Mr. Reid: Yes, through you, Mr. Chairperson, to the minister, the minister knows full well that he made those comments and that they are in Hansard and that he can review them. Now, he can deny them all he wants, but they are there for the whole world to see, and they are there for members of the public as well. That is why I referenced them here this evening, because these people are the people that come before us that may have been consulted by the minister, and I want to make that determination. Were they part of the consultation process that the minister says that he has undertaken? That is why I think that the minister's point of order is out of order and that the Hansard will support the question that I have been raising with the presenters here this evening.

Mr. Chairperson: I thank you, Mr. Reid, for those comments. This is not a point of order, and I would refer both colleagues to the Hansard record. This is a dispute on the facts, and I would rule it as not a point of order.

On a new point of order?

Point of Order

Mr. Toews: I just want to make sure that in fact the member's comments just now are again inaccurate for the purposes of the public record and, on a new point of order, it appears to me to be a deliberate abuse of the rules that have been established in this House, and to simply continue to misquote and put false information onto the record concerns me.

That is beyond a dispute of the facts, Mr. Chairperson. It just seems to be a deliberate abuse on the part of the member, and so it is not the facts that we are disputing about, that he and I have a disagreement about, but it is in fact the fact that he insists not on in fact bringing the record, Hansard, here and quoting it properly but simply making up statements as he goes along. That is the point of order. It is not the facts themselves.

Mr. Chairperson: Thank you, Mr. Minister. I would urge both parties to resort to the rule of Hansard, and I would urge that no further members refer to this point, because it is deteriorating into debate at this point in time, and that is not the purpose for this presentation tonight. Having said that, Mr. Reid, I would recognize you now for further questions to the presenter, and–the honourable minister on a further point of order.

Point of Order

Mr. Toews: Yes, I do not want this–[interjection] If I might just finish.

Mr. Chairperson: The honourable minister, on a point of order. The Chair has not heard the minister yet. I will hear him and then determine whether it is an abuse of the rules.

Mr. Toews: Thank you for not judging me before I have spoken, Mr. Chair, as the member for Transcona has. But what I do want to make sure is that this presenter is not prejudiced by this unfortunate dispute between the member for Transcona, and I think that the time limit should be extended to recognize for a very important right to speak.

Mr. Chairperson: I can tell all honourable colleagues here tonight that when this discussion started, I instructed the Clerk to stop the clock. We will now start the clock again, and I will recognize Mr. Reid for his next question. I can let the honourable member know that he has four minutes left, or we have four minutes left, to discuss the presentation with this presenter.

* * *

Mr. Reid: Thank you, Mr. Chairperson. My apologies to the presenter. This is an unfortunate turn of events. I can only say to you that I will let the Hansard record

stand for itself and refer you to that record for your own advice and contrary to what the minister is saying here.

I want to ask you more specifically, because the minister has been making public statements since he tabled this legislation back in the springtime that he believes that unions, associations and societies are not financially responsible to their membership. Can you tell me, does your organization provide detailed financial statements to your members, and do they have the ability to cast judgment or be involved in the decision-making process of your organization on how those funds are expended?

Ms. Beresford: Both an audited report of last year's financial transactions and a budget are presented at the annual general meeting, and the budget can be amended by any member who can get a majority vote on their amendment. This is a yearly event. In the interim we also provide other kinds of financial information to our president's council, which meets three times a year and gives us advice on the operations of the society.

Mr. Reid: Thank you for that information. You have made extensive comments in your presentation here today with respect to the Rand Formula and the fact that you are being asked to provide for the first time, I believe, detailed financial information from the MTS, and that you are afforded no other opportunities under The Labour Relations Act to take advantage or to utilize any provisions of that act. If you were to make recommendations to this minister for amendments to this piece of legislation, what would you recommend to this committee by way of amendments to this legislation on the Rand Formula?

Ms. Beresford: We have repeatedly over the years requested that the Teachers' Society and the teachers of Manitoba be included in the Rand Formula, and we have been turned down. However, history has shown that 99.9 percent of teachers in the province are very willing and voluntary members of the society. I am not prepared to make a statement one way or the other on the Rand Formula, but the point is that the rationale for this portion of the bill is being accountable to people who must pay dues but who are not members. People like that do not exist in the Manitoba Teachers' Society.

Mr. Toews: Thank you. Just in respect of your organization itself, it seems to be a curious one, and I do not mean that in a derogatory sense. I mean that in the sense of how it has evolved. It does not have simply employees but clearly has management people in it such as principals, and I do not know if anyone higher than principal, and you indicate that 99 percent of the people in your organization pay dues voluntarily. So they could simply now choose not to pay their dues, and all professional benefits would still continue, including liability insurance, and so you would be more than happy to let anyone know that they can stop paying those dues and their professional liability insurance and the like would continue. Is that correct?

Ms. Beresford: There are certain privileges that a non-dues-paying teacher in Manitoba would not get, but they would certainly get the benefits of collective agreements that are negotiated by the union and certain other rights. I need to also make the comment that we do not look upon principals as being managers. We look upon them as being team leaders.

* (0120)

Mr. Chairperson: Thank you, Ms. Beresford. That now concludes the time available for this presenter, and I thank you very much for coming before us this evening.

The next presenter on the list is Mr. Alan Borger. Mr. Borger, I would ask you to come forward, sir. Good evening, Mr. Borger, I see that you are circulating your presentation, and while it is being circulated, I would ask you to commence your presentation.

Mr. Alan Borger, Jr. (Private Citizen): Good evening, Mr. Chairman, Mr. Minister, honourable members of the Legislature, ladies and gentlemen. My name is Alan Borger Jr. I am here tonight as a concerned private citizen. Thank you for the opportunity to comment on Bill 26. Fortunately, like the others, I only learned that I would be presenting at about eight o'clock this morning, and I was not able to put together all the information that I hoped to present to you, but I put together the bulk of it.

I believe that the importance of balanced labour legislation cannot be overstated. These laws ultimately affect our ability to attract and maintain business,

investment and jobs. Few if any businesses will remain in a jurisdiction that is not competitive or that is openly hostile.

For many years, The Labour Relations Act of this province has helped to render business in Manitoba less competitive than business in a number of other jurisdictions. While other jurisdictions have helped to create jobs by modernizing their labour codes, while other provinces have amended their legislation to discourage picket violence and the expansion of work stoppages, for years, business in this province has been saddled with an act that is virtually identical to the act I studied in law school in 1985 with only a few minor modifications barring final offer selection which was repealed and perhaps the increase in the requirement for automatic certification from 55 to 65 percent of the proposed bargaining unit.

Unfortunately, there has been a great deal of misinformation and distortion in connection with these proposed amendments. I have listed a number of examples in my brief, but I will not bore you with all of these tonight.

The government should not pay any attention to any of the rhetoric. It clearly does not accurately describe the proposed amendments. Bill 26 seeks to enhance the democratic rights of workers, to make unions accountable to their constituents and to discourage misconduct during strikes and lockouts. I think the government should be congratulated and supported by all parties and by each member of the Legislature for taking a first step towards the review and modernization of this act. Bill 26 is a good first step. However, it is essential that the labour laws be continuously reviewed to ensure that they are balanced and in line with the laws in force in other jurisdictions.

Let us examine a few of the so-called grotesque amendments proposed. Sections 8 and 9 of the bill will require a compulsory vote for certification. These amendments bring our legislation into line with the legislation, as I understand it, in Alberta, Ontario, Nova Scotia and Newfoundland. Certain commentators have stated that these provisions are an attack on democracy and the unions because they will make it more difficult for a union to become certified. This is true. It will be more difficult to be certified where the employees do not wish to be represented by the union. So what? In addition, there is no question that fraud and coercion can and do occur in many certification drives. For example, it was recently reported that a staff member of the Crystal Casino was involved in a little technology transfer to the Maritimes recently. He was on loan to the Nova Scotia Government Employees' Association and allegedly helped to forge more than half the cards needed for certification. This amendment is long overdue.

An example a little closer to home. Section 9 of the bill also amends subsections 48(3) and 48(4) and provides that the board may extend the time for taking a vote if the board is satisfied that exceptional circumstances exist warranting an extension of that time. This amendment is essential in dealing with any application for certification in a seasonal industry. I note that I am personally aware of a case where approximately 20 employees in a bargaining unit were able to certify a seasonal workforce of more than 400. This is democracy in this province, or at least it was.

Section 10 will amend Section 69 and make it clear that every employee, and not just union members, is entitled to participate in a ratification vote. So what? Do the unions assume that everybody is going to have a closed shop? Since every employee must pay dues, every employee should be entitled to cast their vote.

Section 3 deals with what one critic has called picket line infractions. Currently Section 12(2) provides that an employer does not commit an unfair labour practice if he or she fails to reinstate an employee after a strike or lockout if the act was not any act in support of the strike or in opposition to the lockout. The intent of Section 12 is obviously to ensure that an employer cannot refuse to reinstate an employee who chooses to exercise his or her legitimate right to strike or picket. Surely the legislators did not intend that the employers could not consider criminal acts committed in support of a strike. However, the Labour Board in this province and in other provinces has interpreted this section and has required reinstatement even where the parties involved were prosecuted and convicted of a criminal offence. Obviously, an employee should be accountable for these sorts of acts, regardless whether they occur during a strike or lockout.

Section 19 adds Part VII.1–I do not like the drafting, but that is okay–which requires that all unions must file

financial statements disclosing certain information, including an income statement and a compensation statement, disclosing the salary and benefits of employees earning $50,000 or more. Today the salaries of politicians, civil servants and the officers of public corporations, there has been some dispute, but these are all people who use other people's money. They are not like private corporations, but their salaries and their benefits are all a matter of public record. Surely every due-paying employee is entitled to know exactly what a highly paid union official earns; however, I have spoken with some of my friends in industry, and they tell me that you could consider increasing the threshold to $75,000 and that would make more sense, but I leave that to your judgment.

Mr. Chairman, the amendments contained in Bill 26 are all reasonable and balanced and long overdue. I have dealt with these in a lot more detail in my brief. However, Bill 26 does not go far enough. A number of additional changes can and should be made, and my brief sets out approximately 10 additional changes that should be made to the act. I will focus on some of the more important points.

First, the "hot goods" provision should be repealed. This legislation encourages the spread of disruption and work stoppages to other employers and to other segments of the economy. Again, I have first-hand knowledge of what this means. There are no similar provisions in the labour legislation of any other province in Canada and, I doubt, anywhere else in North America, and perhaps only in France or Sweden. I am not sure we want to emulate them. In fact, Section 83 of the Alberta Labour Relations Code specifically prohibits this sort of activity.

I have also described a number of amendments that should be made dealing with technological change and also with picketing. The legislation again should not condone picket violence. It is ludicrous to pretend that picketing is completely about freedom of expression. We have doors blockaded during casino strikes. We have had police officers and their families threatened during Boeing strikes. We have had one picket apparently state in the paper that the police were there to protect management, and I have to ask why management would need protection if people are just there to peaceably demonstrate.

* (0130)

Mr. Chairman, I think I am out of time, so I will leave you to read the rest of my brief.

Mr. Chairperson: Thank you, Mr. Borger.

Mr. Toews: Yes, thank you, Mr. Borger. There are some interesting proposals and suggestions that you have made in your brief.

The one that causes me a lot of concern, I do not know exactly how to approach that particular issue, and that is the one about the seasonal workforce that would start off, let us say, in your example of 20 employees. A majority of those employees, let us say, you know, choose democratically a union, and let us assume that everything is appropriate there: no employer interference; it is not an in-house union; and the union has properly and, perhaps, voluntarily taken a secret-ballot vote. What concerns me about your example is that essentially 380 employees then are deprived of the democratic right to select their own bargaining unit.

I am wondering whether you could comment on how a greater measure of democracy could be brought into the situation, firstly, and secondly, what you think of statutorily recognized bargaining units where employees have never had the right to vote on who the union is that should represent them.

Mr. Borger: I am not sure what you mean in your last comment by statutorily recognized bargaining units. I am not familiar with them. In terms of–

Mr. Toews: Just to clarify, for example, the Manitoba Government Employees' Union is recognized by law as the bargaining agent for all line government employees and even if an employee wanted, even if the majority of all employees wanted to change unions, by law they cannot do that because our statute recognizes only one bargaining agent, and that is the MGEU. So that is the context of the second.

Mr. Borger: Mr. Minister, it flies in the face of democracy.

On the other question on how to design the law to take account of seasonal industries, I am not exactly sure, I

would have to give it a lot more thought, but I do know that when you have a construction company unionized in the winter by 20 people working in the shop and there are 400 or 500 people working there in the summer, that is just not fair, and it is certainly not democratic.

Mr. Reid: Thank you, Mr. Borger, for your presentation here this evening, and I will read through the remainder of the comments.

You have referenced the fact that there should be detailed financial disclosure from various labour organizations in the province and that, I take it, you have a sense that there is not that detailed financial reporting that goes on now to the membership. I am not sure how you came to that conclusion, but I want to ask you more specifically on the question that, if the government is intent on going down the road for detailed financial disclosure from labour organizations, do you think that it would be fair that where companies are conducting business with the provincial government, in this case, that they should disclose the salaries, any wages that are paid, any benefits, any other funds that would be payable to the top four executive officers including perks such as cars and trips, et cetera, as a means of ensuring that those companies are able to be viewed more broadly in the public context, so we have some idea of who we are dealing with in the private sector for people that may be bidding and receiving contracts from the government? How do you feel about expanding the disclosure provision to include private companies that bid on government contracts?

Mr. Borger: I think that the difference is that those companies are generally qualified or the low bidder. They have chosen not to go to the market to obtain external financing. They are not playing with anyone else's money, at least on the investment level. What you are talking about is, if I have a contract with the government then I should disclose and, no, I do not think that is warranted. I think that if the government wants to create VCC corporations like they did under Mr. Pawley's regime and you want to invest money that way, then I think that it would be appropriate for the top four officers to disclose their salary and benefits.

Mr. Chairperson: Thank you, Mr. Borger. That concludes the time that we have for examination, and we thank you very much for your presentation tonight.

The next presenter on the list is Thomas Henderson, Jim Silver, Brian Hunt, Peter Olfert, Allan Finkel.

Ladies and gentlemen, we have a written report submitted by Allan Finkel from the Manitoba Fashion Institute. This is in lieu of presenting. [interjection] I am advised by the Clerk that he will not be presenting. So his report is considered read in and is on the record.

The next presenter is Albert Cerilli, Deb Stewart, Mario Javier, Grant Nordman, Cy Gonick. [interjection] I am advised by the Clerk that Mr. Grant Nordman has left a submission in lieu of presenting, and his submission is now being circulated and is considered as if it were read into the record.

Cy Gonick, Yvonne Campbell, Kenneth Emberley, Gerald Joyce.

Gerald Joyce, good morning, sir. Do you have a written submission this morning?

Mr. Gerald Joyce (Private Citizen): No, Mr. Chair, I do not. I have notes, but not a written–

Mr. Chairperson: All right, thank you very much. I would invite you to proceed, sir.

Mr. Joyce: Being the late hour that it is, originally I was simply going to listen to the other presenters and perhaps shore up my own mind and my own argument, go home and get a decent night's sleep and go to work tomorrow morning at 7:30 and come back next Tuesday or next week or whenever we are rescheduled.

Unfortunately, I sat here and I listened to a number of the business representatives that were making presentations to this committee. Not only did I get annoyed, I got insulted. I got upset at the absolute lack of knowledge, of understanding, the elitist attitude, the obvious misconception or misperception of the word "democracy," the word "accountability." I was originally upset a week or so ago when Mr. Vic Toews was quoted in an interview in the Free Press as attempting to restore democracy and accountability to the labour movement. At this point in time, I will make it clear, I am a member of the labour movement. I am a rank and file member of the Canadian Auto Workers. I have been a rank and file

member of the Canadian Auto Workers for some 11 years now.

From my local I receive every month a financial statement which I discuss, either approve, disapprove, argue, change, amend, et cetera. Every six months there are three trustees elected to my union executive that audit those books. Every two years the national union audits those books. How much more accountability do you need? Ah, you do need some more, and we have it. I can go and look at those books any time I wish. If they refuse me, I can force them to show them to me.

* (0140)

If any member of the Canadian Auto Workers anywhere tells you that they cannot get financial information, they are wrong. They have not even read their own by-laws. They have not even read their own constitution. They probably have never attended a meeting. I would call that accountability.

There is more accountability within my local and within my union. Any elected official may be recalled from office by petition. Any elected official cannot and may not carry out any decision, any policy, any determination which is either against the national policy or against the wishes of the membership or without giving approval from the membership before proceeding. That is accountability. That same elected official cannot hold that office unless he has a majority of the votes cast, not a plurality, not the single person with the most votes, such as Mr. Toews with 33 percent, but he must have 50 percent plus one. If he does not get it, there is a run-off ballot, which means you go back to the polls again.

Do you want to know where the polling booths are in my plant? They are on the floor. The members do not have to leave their workplace to vote. They do not have to drive away. They do not have to leave their family at home on a Sunday afternoon or a Saturday afternoon or Thursday night, or whatever. They can go to work in the morning; the polls are on the plant floor. He can go during any of his off times, prior to work, coffee break, lunch time, after work. We have more than one shift. Those polls remain open till such hours as everyone has a reasonable chance, as easy access as is absolutely possible. That is accountability.

Did we need The Labour Relations Act to do that? No. Do we need The Labour Relations Act amendments to force us to be accountable? No.

There were a few members this evening that said, if we belonged to such organizations as the Chamber of Commerce or the Canadian Federation of Independent Business, if they disagree with any statement we make, they can quit. Well, that is very nice. As a union member, I cannot quit paying dues. Odd.

Hey, I can quit, I can quit my job. Is that a reasonable option? To get out of a union, I can quit my job? So why would I not? If I disagree with the union so much, why would I not quit my job? It is the same as somebody with the Chamber of Commerce. They can quit. What is the difference?

My goodness, I cannot believe it, a member of the Conservative Party is actually shaking his head, he does not know. I quit my job, my children starve. I quit the Chamber of Commerce, big deal, I take that sticker out of the window. I am still earning an income as a business. Have you ever owned a business, sir? That is the attitude that got me annoyed tonight.

This is a PR game. This is not about democracy. This is not about accountability. This is not about putting power into my hands. I already have more power within my union movement than I have over you ladies and gentlemen sitting here, and you ladies and gentlemen are supposed to be the trustees of my interests.

Democracy is supposed to be government of the people, for the people, by the people. Now, that is a U.S. definition, but it applies pretty generally. This what we have here is not democracy of the people. The whole Conservative government that is currently in power only received 43 percent of the vote. To me that means a minority. If you want a lesson in democracy, maybe you should adopt a union constitution. I do not think you need to dictate to us what we need to do. I think you need to learn from us, you need to take a page out of some of our books. I know for a fact some of these gentlemen that presented earlier definitely would like to learn something from our books. I kind of doubt that they have ever even looked in a union constitution. They are pretty good at labour law, I think.

You want to restore some balance? If you want unions to be accountable and present audited financial information to the Labour Board, why does the Chamber of Commerce not do this? Why do you not require he Canadian Federation of Independent Business to do this? Are they not political action groups? Do they not engage in political action the same way as a union engages in political action? Why must a union stop? Why must a union be controlled by government legislation? Why can a union not advertise on television or radio to get the message across to the people, to educate, to put issues forward?

We must allow our members the opportunity to have their money go off to a charity? That sounds very lofty, it sounds very good, except for one problem. We do have members who are part of the union, they pay dues. They are not willing to be members, they are members because they have a job in that workplace. That seems unfair, except that those members receive all the same benefits, all the same wages as we do.

Now, since when do you get something for nothing? In order to protect those benefits, we are legislated by the current Labour Relations Act that we must protect them against the employer. We must preserve their rights, we must make sure we have the duty of fair representation. We have to represent that member whether he stands up at every meeting, screams, yells, and calls us better red than dead. Whatever he says we must still represent him. If we do not, it is an unfair labour practice.

Is it necessary that we do that for free? I believe it is called right-to-work legislation, and that is how the U.S. has managed to get unionization somewhere down around the 6 percent mark. I do not want to be an American, but if I did, I would move. I do not want their system of law. I do not want their system of justice. I like being Canadian.

Mr. Chairperson: Thank you very much, Mr. Joyce. That would conclude your time limit for your presentation. Mr. Sveinson has a question.

* (0150)

Mr. Sveinson: Mr. Chairman, there was a question asked and I would like to just give an answer, not for any kind of an argument or to create any kind of argument, but I was asked if I had ever owned a business. The answer is yes, I have owned three businesses. But I would like to add something too. I have also been vice-president of one of the largest unions in Winnipeg, one of the vice-presidents. I have also-[interjection] The UFCW, Local 111. Upon leaving the place of employ the members wanted me to run for president. I declined. I have written contracts for union, for business. I have worked for government and now I am part of government.

The question that I have, Mr. Joyce, is, does your union contribute to what is called a war chest? It is monies that is in fact put together by many different unions, and it goes towards NDP candidates in elections.

Mr. Joyce: I am not aware of a fund. I know the CAW is affiliated with the NDP. By war chest, are you referring to a special fund that is allocated specifically for NDP candidates?

Mr. Sveinson: That is right.

Mr. Joyce: My local does not have and never has had a war chest.

Mr. Sveinson: Have you ever heard of a fund called the war chest?

Mr. Joyce: No, sir, I have not.

Mr. Reid: Mr. Chairperson, I am sorry to keep you here so long this evening, Mr. Joyce, but we are quite happy that you decided to stay and present to us here this evening. We found your presentation very enlightening and there is no doubt you had a chance here this evening to reflect on some of the comments that other presenters have made here.

The government has proposed through this legislation, and I reference the comments that you made in your presentation with respect to accountability. This government is saying that if the unions, associations or societies do not present to the Labour Board detailed financial statements, this government will, as the end result of that process, force the withdrawal of the Rand Formula, deduction of members' dues, from that particular organization, effectively rendering it or neutralizing that society, association or union

Would you like to comment on the government's plan to take away the Rand Formula, particularly in the case. I am not sure if this applies directly to you, because some unions have freely negotiated Rand Formulas as part of their collective agreement, quite particularly in the private sector, and I am not sure if that applies directly to you, but perhaps you would like to comment on the government's plan to remove the Rand Formula.

Mr. Joyce: Personally, I find it rather despicable. I think Justice Rand, according to some of the labour law courses that I have taken, and I have done a few so that I would have some idea of what was going on, is currently considered one of the greatest legal minds as far as labour law was concerned. The Rand Formula has essentially established the balance between not being able to strike during the period of a contract. The Rand Formula was a balance, on the other hand, to ensure that you had the means to carry on with your representation, to build your union, to do your representative functions that were necessary. It was all part of the balance.

The Rand Formula was not pennies from heaven. It was not something that was thrown down at unions willy-nilly just because somebody felt easy with the pocketbook. The Rand Formula is there to enable an organization such as a union to function. They functioned without it prior to the Rand Formula. Unions were recognized in some work cases prior to PC 1003. But people lost their lives gaining that recognition. Companies lost productivity, profit, economy, stability, harmony prior to that. Is that what we are going back to? Are we regressing back?

I do not want to regress back. I do not want to have to go back to the days when workers got shot on picket lines when they were simply going for a 40-hour workweek and paid vacations. I do not want to go back to those days. I do not want my children and grandchildren to go back to those days. You take the Rand Formula away, and that is where we are headed to, because what is next?

Mr. Chairperson: Thank you, Mr. Joyce. That concludes the time that we have for presentation and questions tonight. Thank you very much for coming before us this evening, or good morning.

Mr. Joyce: You are welcome. Thank you.

Mr. Chairperson: I believe I had called Darrell Rankin, Kelly Logan, Barny Haines, Reg Cumming, Peter Magda, Heinrich Huber, Edward Hiebert, Caroline Stecher, Allan Beach, Iris Taylor, Robert Ziegler, Carolyn Ryan, Mark Sahan, Victor Vrsnik, Claudette Chudy, Alex Puerto, Ken Nickel, Cindy Garofalo, Jack Samyn, Buffie Burrell, Brian Bouchard, George Anderson, Bernie Parent, Philip Trottier, Leagh Blackwell, Emil Clune, Anthony Joyce and Heather Grant.

That concludes the lists, ladies and gentlemen.

Mr. Laurendeau: Committee rise, as agreed.

Mr. Chairperson: What is the will of the committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee shall rise, so ordered.

COMMITTEE ROSE AT: 1:57 a.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Re: Bill 26.

We are pleased to submit on behalf of the Manitoba Heavy Construction Association our position paper reflecting upon the directions effected through the proposed amendments to The Labour Relations Act.

The Manitoba Heavy Construction Association (MHCA) which represents the heavy construction industry in Manitoba was founded in 1943. Its membership base includes contractors and their suppliers and subcontractors engaged in road building, sewer and water, bridge building and heavy equipment dealers, virtually every aspect of the industry. We provide employment to in excess of 10,000 Manitoba men and women.

We have had the opportunity of examining the amendments to the existing legislation and wish to express our support for the changes and in particular the following:

1. Any employer ought to have the right to not reinstate an employee who during the course of a strike

commits acts which in the absence of a strike situation could lead to termination for just cause. Strikes should not be used to protect any person, employer or employee from responsibility for the commission of misconduct or violence.

2. We fully support the notion of union accountability to its membership as provided by the proposed legislative requirement to file financial statements along with disclosure of compensation paid in excess of $50,000 per year. Individual members of unions ought to have the right to that information, if they are obliged in first instance to pay for union operations through their union dues.

3. We fully support the notion allowing the Minister of Labour to order a vote during the course of a strike where the public interest is so best served. The amendments call for the Labour Board to conduct such a vote with its results being binding. Such an arm's length opportunity allows for all employees affected to express their views.

4. We support the strike-related misconduct provisions. As with the ability to terminate for misconduct during the course of a strike, no one ought not to be shielded from misconduct under the guise that it occurred during the exercise of a strike.

5. We believe it is appropriate for unions to consult with all employees in the bargaining unit in advance of making contributions for political causes. Individuals ought to have the right to determine to what purpose their contributions are put. Unions ought not to be placed in a position of having disproportionate influence on the political system or any political party by arbitrary application of union dues for political purposes.

6. Given that all employees of a bargaining unit will be affected by a proposed collective agreement, all therefore ought to have the right to express their opinion by vote on its merits and not just those who are members of the union.

7. We support the notion of requiring a union certification vote if 40 percent of employees indicate certification approval. The principle provided in these amendments allows unfettered opportunity to support or oppose certification without undue pressure being exerted.

We view the amendments to the Labour Relations Act as democratic in nature and providing more of an input by rank and file members upon the union leadership as to the positions they ought on their behalf be articulating during the course of the strike.

The MHCA has also had the opportunity of reviewing a number of positions expressed relative to Bill 26. At a meeting of the MHCA board of directors held October 24, 1996, a resolution adopting and supporting the positions expressed both above and in the brief entitled Position of the Winnipeg Chamber of Commerce regarding Bill 26: The Labour Relations Amendment Act, copy attached, were unanimously carried.

We regret not being able to make our presentation in person but trust that our submission will be of assistance in the committee's deliberations.

Yours truly,
Colleen Munro, President
Louis Bouvier, Labour/Safety Chair
Chris Lorenc, Chief Executive Officer

Position of the Winnipeg Chamber of Commerce regarding Bill 26: The Labour Relations Amendment Act

Approved by the Board of Directors–September 24, 1996

The Winnipeg Chamber of Commerce, founded on March 8, 1973, is the leading organization representing the voice of all businesses in Winnipeg. Our membership consists of more than 2,500 representatives from in excess of 1,300 member companies. About 62 percent of our corporate membership consists of those companies having 10 or fewer employees.

Our mission is to foster an environment in which Winnipeg businesses can prosper, and one of our goals is to provide input on government policy and support those initiatives that contribute to a thriving business environment. We have spent considerable time reviewing The Labour Relations Amendment Act, Bill 26, and we appreciate this opportunity to communicate to you our thoughts on this matter.

1. Compulsory Vote on Application for Certification: Section 8 of Bill 26 contemplates revisions to provide for a compulsory secret vote within seven working days of the receipt of an application for certification where there is at least 40 percent support in the proposed unit for the union.

The Winnipeg Chamber of Commerce endorses this proposed amendment in that it is a movement towards ensuring that employees have the opportunity to express their true wishes free from any outside influences.

Bill 26 also proposes that a provision be added to allow the board to determine the voting constituency for the purposes of any compulsory vote conducted. The Chamber supports this amendment since it may allow the Manitoba Labour Board to apply the build-up or build-down principle which recognizes the situation that employees working at a particular point in time are not representative of those who will be affected by the outcome of the vote. The Chamber takes note of the Labour Board's own comments in the Manitoba Food and Commercial Workers Union, Local 832 v. Paddlewheel Riverboats Ltd. case, which involved a situation where the board was compelled to grant certification even though the true wishes of the employees affected by the outcome were not determined:

> ". . . the more thorny issue is that relating to the 'build-up' principle, here we have a situation where the union has chosen, one can only assume for strategic reasons, to make an application for certification at a time when the bargaining unit is a fraction of its normal size. The employer quite understandably questions how the wishes of this small number of employees can be representative of the units as a whole. He directs us to the build-up principle in support of his position . . ."

The Manitoba Labour Board, however, was constrained by the provisions of The Labour Relations Act and was forced to grant certification despite the fact that, using the board's own words:

> ". . . the true wishes of the work force in this case cannot be ascertained as of the date of application."

Section 9 of Bill 26 addresses this issue by providing the power to the board to extend the time for taking a vote in exceptional circumstances. The Chamber supports this measure so that situations such as described in the Paddlewheel Riverboats case can be avoided.

Section 19 of The Labour Relations Act currently makes it an unfair labour practice for unions and persons acting on their behalf to seek by intimidation, fraud or coercion or the imposition of a penalty to compel a person to become a member. Since representation votes will now become the primary means of a union gaining certified bargaining rights, the Chamber recommends that this section be amended to make it clear that a union which seeks by such unlawful means to obtain an employee's vote in favour of the union also commits an unfair labour practice.

2. Disclosure of Information by Unions: Part VII.1 of Bill 26 would require unions to file with the Manitoba Labour Board an audited financial statement and compensation statement for its fiscal year. The financial statement is to set out the union's income and expenditures in sufficient detail to disclose accurately the financial condition and operation of the union and the nature of its income and expenditures. The compensation statement filed must reveal the amount of compensation the union pays or provides, directly or indirectly, to or for the benefit of each of its officers and employees whose compensation is $50,000 or more. Compensation is defined broadly to include cash and noncash salaries or payments, allowances, bonuses, commissions and perquisites. Employees are permitted to inspect such documentation filed and may request a copy of same. The Labour Board may order a union to prepare and file a revised financial statement or compensation statement, where an employee files a request for further information and the board is satisfied the statements that are filed do not meet the requirements of the act. A union who does not comply with the disclosure obligations of Part VII.1 would, upon the issuance of an order from the board, forfeit compulsory dues check-off rights until such time as the necessary statements are filed with the Labour Board.

The Chamber supports the principle of accountability of unions to the employees they represent.

3. Limited Expedited Grievance Mediation/ Arbitration: Section 18(1) of Bill 26 proposes an amendment which would have the effect of limiting the

availability of expedited arbitration to dismissals and suspensions greater than 30 days.

The Chamber agrees with the proposed changes and further recommends that the right to access the expedited arbitration provisions should be a right available to either party to the grievance irrespective of who brings forward the suspension or dismissal grievance. In situations where the parties have agreed upon an arbitrator(s), such as in a collective agreement or some other agreement, it is further recommended that the Labour Board be required to appoint one of the persons listed or agreed if they are available within the time designated by the act or within such other time agreed by the parties.

4. Union Dues for Political Purposes: Bill 26 proposes the introduction of Section 76.1 which would require a union to develop and implement a process for consulting each employee who is in a unit about whether they wish dues to be used for political purposes. An employee may object in writing to the use of his/her dues for political purposes and direct such amount of dues be remitted to a registered charity designated by the employee. Failure on the part of a union to make such consultations would be an unfair labour practice.

As indicated, the Chamber supports the principle of accountability of unions to the employees they represent.

5. Refusal to Reinstate After a Strike or Lockout: Section 3 of Bill 26 proposes new wording for Section 12(2) of The Labour Relations Act which establishes a defence to the allegation that an employer has committed an unfair labour practice where he/she refuses to reinstate an employee after a strike our lockout. The proposed Section 12(2) states that an employer would not commit an unfair labour practice if he/she satisfies the Labour Board that the refusal to reinstate the employee in employment was for a cause for which the employee might have been discharged from employment outside the context of a strike or lockout.

The Chamber supports the principle that employees should be held accountable for their actions during a strike or lockout and be subject to dismissal for cause if the employer can satisfy the board that the behaviour would warrant discharge.

6. Strike-related Misconduct: Section 5 of Bill 26 proposes the repeal of Section 14(3) of The Labour Relations Act and the introduction of Section 14.1 which states every employer, employers' organization, union or employee and every person acting on behalf of an employer, employer's organization, union or employee and every other person or organization who or which engages in strike-related misconduct commits an unfair labour practice.

The Chamber supports the expansion of the unfair labour practice provisions and the attendant remedies to apply to unions and employees who engage in strike-related misconduct.

7. Costs of a Mediator: Bill 26 proposes the remuneration and expenses of a mediator appointed by the minister pursuant to a joint request of the parties be paid one-third from the Consolidated Fund and that the remaining two-thirds be equally borne by the parties.

The Chamber supports this change which will assist government in defraying costs of mediators and which will give the parties a financial stake in the outcome of mediation. Accordingly, frivolous applications should be avoided and potentially the success rates will be enhanced.

8. Ratification Votes: Bill 26 proposes the addition of provisions to The Labour Relations Act which in circumstances of a strike or lockout authorize the minister to, on his own initiative or upon the request of an employer, order a vote of the employees in the unit to accept or reject the offer of the employer last received by the union. If a majority of the employees participating in the vote accept the employer's last offer, the proposed agreement would become a binding collective agreement.

The Chamber supports the principle of a supervised ratification vote and the expansion of the voting constituency to include all members of the bargaining unit, as these individuals will obviously be affected by the collective agreement and have to pay dues whether or not they are members of the union.

* * *

BOEING, MEGEU (lottery and health care workers), INCO, Westfair Foods. On and on it goes. Intimidation,

coercion and misconduct are alive and well and living in the Manitoba Federation of Labour.

When do we, the business community, say enough to the union leaders of Manitoba? We do by supporting the new Labour Relations Amendment Act (Bill 26) proposed by the provincial government. After a spring and summer of virtual civil disobedience by a number of unions, this new legislation will give the individual union member some voice in the process outside of what union leaders have to say.

Some of the amendments include a movement towards ensuring that employees have the opportunity to express their true wishes free from any outside influences such as raised hand votes in union meetings; that unions provide financial accountability to the employees they represent; that unions and employees should be held accountable for their actions of misconduct during a strike or lockout; that the cost of a mediator be covers one-third each by both of the parties, the union and the employer and one-third from the Consolidation Fund; that the minister can authorize a ratification vote on the request of the employer.

We are the union of business and believe in the fair treatment of both employees and employer. We no longer live in the dark ages where the master mistreats and abuses the serfs under his control as the MFL radio ads would have you believe. The profit motive is an appropriate and proven method of economic development. When wages become a disproportionate part of the budget of any organization, expansion, development and services must be cut or the line must be held or rolled back on wages. The fantasy of job guarantees is almost laughable. In 1996, there is no tooth fairy and there are no guaranteed jobs.

For too long in this province the tail has been wagging the dog. The new legislation will give more say to the union members (the dog) and not just to the leaders (the tail). For this the provincial government can count on the support of the union of business, the Assiniboia Chamber of Commerce.

Grant Nordman, Executive Director
Assiniboia Chamber of Commerce

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Manitoba Fashion Institute
Presentation to the Standing Committee on Industrial Relations, Thursday, October 24, 1995, Winnipeg, Manitoba. Written brief prepared by Allan Finkel, Executive Director

Industry Profile:

There are 115 apparel manufacturers in Manitoba, and similar to the Canadian average, 99 percent of them are privately held and Canadian owned.

They employ about 8,000 workers, making the apparel industry the second largest manufacturing sector in Manitoba. This direct employment is supported by a substantial network of suppliers and service providers, with estimates variously of one to one and one-half indirect jobs for each direct job in the industry.

The Manitoba Fashion Institute, through its member firms, represents approximately 65 percent of the labour force and includes among its members the largest firms, most of the medium-sized manufacturers in Manitoba and an array of smaller manufacturers as well.

In 1995, the industry grossed $650 million in sales, 90 percent of which were exported outside Manitoba. Exports to the United States have grown dramatically during this time.

Manitoba's apparel industry is the third largest in Canada, behind Ontario and Quebec, with 8 percent of the national labour force (98,000 estimate for 1993), and is responsible for 14 percent of Canada's secondary manufacturing in the sector.

Manitoba's apparel manufacturers are highly unionized, with an estimated 65 percent of employees in direct manufacturing working under collective agreements negotiated with two international unions (UNITE and UFCW). This 65 percent participation is high compared to the estimated 27 percent national average in the national apparel manufacturing industry. With the high degree of unionization and with a high labour demand in the industry, we have found that the collective agreements in place within the industry act as benchmarks in nonunionized factories.

Labour relations in Manitoba's apparel industry have been very stable over the past decades, noted in particular

by an absence of strike action or lockouts within the industry.

Position of the Manitoba Fashion Institute on the Proposed Bill 26, Labour Relations Amendment Act

As a preamble, the MFI is appreciative of the general thrust of the legislation as put forward by the Minister of Labour. We feel that the general intent of the legislation does not favour one side or the other, but in fact is a positive first response, long overdue, to legislative changes instituted [in] other Canadian jurisdictions.

While the argument has been made that "leaving well enough alone" is the appropriate response where there has been a satisfactory labour-management climate, the MFI's position is that it is nevertheless important to review the proposed changes on their merits.

A. In particular, the MFI is strongly supportive of legislation changes which strengthen the democratic process in the labour relations field. Accordingly, we are specifically supportive of the legislation changes which provide for:

1. Compulsory votes on applications for certification and decisions on voting constituency (Section 8): The apparel industry is very labour intensive and at the specific firm level, the labour force can become very cyclical for a variety of external reasons (delayed fabric shipments) or internal reasons (lost sales, contracting issues, low seasons). As such, the proper designation of an appropriate voting constituency is a specific concern within the apparel industry. As well, the apparel industry tends to have within its numbers a significant visible minority as well as recent Canadians, who may not always have the opportunity to express their certification wishes in a democratic fashion. A secret ballot provides such a mechanism–if we trust this mechanism in voting for elected officials, this should certainly be warranted in the decisions related to the designation of an individual of a bargaining unit.

2. Better disclosure between union management and its members (Part VII.1): Unions in the apparel industry do not have comprehensive membership coverage of all job occupations within unionized plants. As such, the consequences of their actions, on an ongoing basis as well as during negotiations, place them in a "public trust" position vis-à-vis nonunion workers in those plants. We feel that this position of public trust requires a greater degree of openness, which these amendments to the legislation appear to address.

B. The apparel industry, as noted, has not seen strike action in recent memory. This is likely due in equal measure to the international nature of the unions active in the industry, which allows for due regard to international competitiveness issues, and to the firms themselves which could and would be ruined by their failure to meet their customers' needs as a result of a strike. Accordingly, the MFI supports any legislative changes which serve to expedite the resolution of conflict where businesses have shut down.

1. The power of the minister to order a vote on contract offer: We feel this is a reasonable extension of the right of the minister to appoint mediators, and is simply an extension of the "discretionary tool box" which is intended to, at all times, serve the broader public interest. In particular, given the impact on both nonunion workers, businesses and upstream and downstream enterprises who may be dramatically affected by the closure, the addition of this tool, whether actually used or is seen to be available, should only be viewed as a facilitating tool to a proper resolution of the labour-management conflict.

2. Share mediation costs: The MFI supports any steps which motivate parties to resolve impasses expeditiously. This provision provides a financial element to the introduction of the mediator, and is likely to encourage parties to settle matters internally, or to accept the additional costs associated with the mediation service.

3. Reinstatement after a strike (Sections 3 and 5): The MFI notes, with considerable concern, the trend towards violent behaviour in strikes in other sectors in Manitoba. As the intent of a collective bargaining process is to negotiate an ongoing working agreement between labour and management, we see no reason to condone, in any way, behaviour that is otherwise illegal or improper. Poisonous conduct by either party is in no way productive during the business closure and will certainly detract from the normalization of relations after collective bargaining is completed.