

TO THE HONOURABLE THE LEGISLATIVE ASSEMBLY OF MANITOBA:

Your Standing Committee on INDUSTRIAL RELATIONS presents the following as its Third Report.

Your Committee met on Monday, August 14, 2000 at 6:30 p.m., Tuesday, August 15, 2000 at 10:00 a.m., Tuesday, August 15, 2000 at 6:30 p.m., and Wednesday, August 16, 2000 at 3:00 p.m. in Room 255 of the Legislative Building to consider Bills referred.

At the Monday, August 14, 2000 at 6:30 p.m. meeting, Mr. SMITH (Brandon West) moved that time allowed be 15 minutes for presentations, 5 minutes for questions. The motion was agreed to.

At the Tuesday, August 15, 2000 at 6:30 p.m. meeting, Mr. SMITH (Brandon West) moved that the Committee sits until all presentations are complete. The motion was agreed to on a counted vote.

At that meeting, Hon. Mr. SALE moved whereas all registered presenters have been heard, I move that public presentations on the Bill 44 now be concluded. The motion was agreed to on a counted vote (yeas 6, nays 4).

At the Monday, August 14, 2000 at 6:30 p.m., Tuesday, August 15, 2000 at 10:00 a.m., and Tuesday, August 15, 2000 at 6:30 p.m. meetings, your Committee heard representation on Bills as follows:

(No. 18) – The Labour Relations Amendment Act/Loi modifiant la Loi sur les relations du travail

Roger Cameron	Railway Association of Canada
Gordon Peters	CANDO Contracting
Doug Oschewski	Canadian Autoworkers Union
Wendy Sol	Communications, Energy and Paperworkers Union Canada
Al Cerilli	Manitoba Federation of Union Retirees
Rob Hilliard	Manitoba Federation of Labour

(No. 44) – The Labour Relations Amendment Act (2)/Loi no 2 modifiant la Loi sur les relations du travail

Gordon Peters	CANDO Contracting
Joyce Reynolds	Canadian Restaurant Association
Jan Speelman	Manitoba Teacher's Society
Roy Eyjolfson	Seagram Company Limited, Gimli
Heather Ostop	Private Citizen
Peter Woolford	Retail Council of Canada and Retail Merchants Association of Manitoba
Robert Desjarlais	United Steel Workers Union Local 6166
Sidney Green	Private Citizen
Irene Merie and Murray Siegler	Winnipeg Chamber of Commerce
Rob Hilliard	Manitoba Federation of Labour
Jim Carr	Business Council of Manitoba
Candace Bishoff	Manitoba Employers Council
Dan Overall	Manitoba Chambers of Commerce
Edward Huebert	Mining Association of Manitoba
Brenda Andre	Perkins Family Restaurants
Terry Cooper	Manitoba Association of School Trustees
Jim Baker	Manitoba Hotel Association
Paul Moist	Canadian Union of Public Employees
Dan Kelly	Canadian Federation of Independent Business
Peter Wightman	Construction Labour Relations Association of Manitoba
Bernard Christophe	United Food and Commercial Workers Union Local 832
Colin Robinson	Private Citizen
Randy Porter	Portage Labour Council
Chris Christenson	South Eastern Manitoba Labour Council
Grant Ogonowski	Private Citizen

Roland Boisvert	Manitoba French Chamber of Commerce
Ron Hambly	Winnipeg Construction Association
George Floresco	Canadian Union of Postal Workers
David Condon	Canadian Union of Postal Workers – Prairie Region
Brian Short	International Association of Machinists and Aero Space Workers
Grant Mitchell	Private Citizen
George Fraser	Manitoba Home Builders Association
Maureen Hancharyk	Manitoba Nurses Union
James Hogaboam	Delivery Drivers Alliance of Manitoba
Kenneth Emberly	Citizens for Democracy and Less Poverty
Darlene Dziejewit	Private Citizen
Julie Sheeska	Private Citizen
Joy Ducharme	Private Citizen
Alice Ennis	Private Citizen
Kelly Gaspar	Private Citizen
Colin Trigwell	Private Citizen
Graham Starmer	Coalition of Manitoba Businesses
Gerry Roxas	Communications, Energy and Paper Workers Union of Canada Local 830
Dale Paterson	Canadian Auto Workers
Maria Soares	Union of Needle Trades, Industrial and Textile Employees Local 459
Neal Curry	Westland Plastics Ltd.
Bob Dolyniuk	Manitoba Truckers Association
Lydia Kubrakovich and Krishna Lalbiharie	Canadian Federation of Students
Todd Scarth	Canadian Centre for Policy Alternatives
Albert Cerilli	Manitoba Federation of Union Retirees
Peter Olfert	Manitoba Government Employees Union
John Godard	Private Citizen
Mario M. Javier	Private Citizen
Thomas Novak and Margot Lavoie	Manitoba Oblates – Justice and Peace Committee
Larry McIntosh	Private Citizen
David Newman	Private Citizen
Rod Giesbrecht	Private Citizen
Robert D. Ziegler	Private Citizen

Written Submissions:

(No. 44) – The Labour Relations Amendment Act (2)/Loi no 2 modifiant la Loi sur les relations du travail

Bryan Walton	Canadian Council Of Grocery Distributors
Keith McDougall	Canadian Federation Of Independent Grocers
Shirley Canty	Manitoba Motor Dealers Association
Jonas Sammons	Alliance of Manufacturers and Exporters Canada
Ilene Lecker	Private Citizen
George Bergen	Private Citizen
United Steel Workers of America	
Bob Stevens	Manitoba Restaurant Association
David Martin	Manitoba Building Trades Council
Ron Teeple	Brandon District Labour Council

Your Committee has considered:

(No. 18) – The Labour Relations Amendment Act/Loi modifiant la Loi sur les relations du travail

and has agreed to report the same, without amendment, on a counted vote (yeas 6, nays 3).

Your Committee has also considered:

(No. 44) – The Labour Relations Amendment Act (2)/Loi no 2 modifiant la Loi sur les relations du travail

and has agreed to report the same with the following amendments, on a counted vote (yeas 6, nays 4):

MOTION:

THAT section 3 of the Bill be replaced by the following:

3 *Subsection 12(2) is amended by striking out everything after "employee" and substituting "was because of conduct of the employee that was related to the strike or lockout and resulted in a conviction for an offence under the Criminal Code (Canada) and, in the opinion of the board, would be just cause for dismissal of the employee even in the context of a strike or lockout."*

MOTION:

THAT the proposed subsection 40(1), as set out in subsection 6(1) of the Bill, be amended by striking out everything before item 1 and substituting the following:

Certification, representation vote, or dismissal

40(1) Subject to this Part, when the board receives an application for certification and is satisfied that the employees were not subject to intimidation, fraud, coercion or threat and that their wishes for union representation were expressed freely as required by section 45, the board shall do the following when it receives an application for certification:

MOTION:

THAT the proposed clause 69(1)(b), as set out in subsection 10(1) of the Bill, be struck out and the following substituted:

(b) in the case of the construction industry, of the members of the union in the craft unit;

MOTION:

THAT section 23 of the Bill be replaced with the following:

23 *The following is added after section 87:*

SETTLEMENT OF SUBSEQUENT AGREEMENTS

Dispute about subsequent agreements

87.1(1) Where a collective agreement has expired and a strike or lockout has commenced, the employer or the bargaining agent for a unit may apply in writing to the board to settle the provisions of a collective agreement if

- (a) at least 60 days have elapsed since the strike or lockout commenced;
- (b) the parties have attempted to conclude a new collective agreement with the assistance of a conciliation officer or mediator for at least 30 days during the period of the strike or lockout; and
- (c) the parties have not concluded a new collective agreement.

Notice

87.1(2) The board shall promptly notify the parties when it receives an application.

Board to determine if good faith bargaining

87.1(3) On receiving an application, the board shall inquire into negotiations between the parties and determine

(a) whether or not they are bargaining in good faith in accordance with subsection 63(1); and

(b) whether or not they are likely to conclude a collective agreement within 30 days if they continue bargaining.

Discretion of board

87.1(4) The board may delay making a determination under subsection (3) until it is satisfied that the party making the application has bargained sufficiently and seriously with respect to those provisions of the collective agreement that are in dispute between the parties.

No settlement if good faith bargaining and agreement is likely

87.2(1) If the board finds under subsection 87.1(3) that the parties are bargaining in good faith and are likely to conclude a collective agreement within 30 days if they continue bargaining, it shall decline to settle the provisions of a collective agreement between them and notify them of that fact. The board may, however, appoint a board representative, or request the minister to appoint a conciliation officer, to confer with the parties to assist them in settling the provisions of a collective agreement.

New application if no agreement within further 30 days

87.2(2) If 30 days have elapsed since notice was given under subsection (1) and the parties have failed to conclude a collective agreement, either party may make a new application to the board under subsection 87.1(1).

Settlement

87.3(1) If the board finds under subsection 87.1(3) that a party is not bargaining in good faith, or that the parties are bargaining in good faith but are unlikely to conclude a collective agreement within 30 days if they continue bargaining,

(a) the employees shall immediately terminate the strike, or the employer shall immediately terminate the lockout;

(b) the employer shall reinstate the employees as provided for in subsection 87(5); and

(c) the provisions of a collective agreement between the parties shall be settled

(i) by an arbitrator, if the parties serve a notice of their wish for arbitration under subsection (2), or

(ii) by the board within 90 days of its finding, in any other case.

Arbitration

87.3(2) Within 10 days after a finding by the board that a party is not bargaining in good faith, or that the parties are bargaining in good faith but are unlikely to conclude a collective agreement through further bargaining, the employer and the bargaining agent may serve a notice on the board stating that they wish to have the collective agreement settled by arbitration. The notice must name a person who has agreed to act as arbitrator.

Arbitrator to settle collective agreement

87.3(3) The arbitrator shall settle the provisions of the collective agreement within 60 days after notice is served on the board under subsection (2).

Arbitration provisions of this Act apply

87.3(4) The provisions of this Act respecting arbitration apply, with necessary modifications, to an arbitrator acting under this section.

Term of collective agreement

87.3(5) A collective agreement settled by an arbitrator or the board under this section is effective for a period of one year following the expiry date of the previous collective agreement, or for any longer period the parties agree to.

Collective agreement binding

87.3(6) A collective agreement settled under this section is binding on the parties and on the employees in the unit as though it were a collective agreement voluntarily entered into between the parties, but the parties may nevertheless amend its provisions by a subsequent written agreement.

Subsections 87(6) and (8) apply

87.3(7) Subsections 87(6) and (8) apply, with necessary changes, to the settlement of a collective agreement under this section.

Review

87.4 The minister shall request the Manitoba Labour Management Review Committee to review the operation of sections 87.1 to 87.3 at least once in each 24-month period after those sections come into force and provide a report to the minister setting out their findings. The minister shall table the report in the Legislative Assembly as soon as possible after receiving it.

MOTION:

THAT the proposed subsection 130(1), as set out in subsection 27(1) of the Bill, be struck out and replaced with the following:

Referral of grievance to board

130(1) When an employee in a unit bound by a collective agreement, or the bargaining agent, initiates a grievance under the agreement, the bargaining agent may refer the grievance, including any question about its arbitrability, to the board to be dealt with in accordance with this section.

All of which is respectfully submitted,

Mr. Daryl Reid, Chairperson