Second Session — Thirty-Third Legislature

of the

Legislative Assembly of Manitoba

STANDING COMMITTEE

on

INDUSTRIAL RELATIONS

36 Elizabeth II

Chairman
Mr. H. Smith
Constituency of Ellice

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Thirty-Third Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS

Tuesday, 23 June, 1987

TIME - 8:00 p.m.

LOCATION - Winnipeg, Manitoba

CHAIRMAN - Mr. H. Smith (Ellice)

ATTENDANCE — QUORUM - 6

Members of the committee present:

Hon. Messrs. Cowan, Doer, Harapiak (The Pas), Lecuyer and Mackling

Messrs. Ashton, Connery, Kovnats, McCrae, Mrs. Oleson, Mr. Smith (Ellice)

APPEARING: Messrs. Orchard and Mercier

WITNESSES: Bill 32:

Mr. Bruce Hall, Canadian Federation of Independent Grocers

Rev. Don James, East Kildonan Pastors' Fellowship

Bill 61:

Mr. Sidney Green, Manitoba Progressive Party

Mr. Marvin Samphir, City of Winnipeg, Law Department

Mr. Jeff Rose, Canadian Union of Public Employees

Mr. Paul Moist, Canadian Union of Public Employees

Mr. Ed. Blackman, Canadian Union of Public Employees

Mr. Douglas Machan, Manitoba Health Organizations Inc.

Professor Neil Tudiver, University of Manitoba Faculty Association

Mr. Wilfred Hudson, Manitoba Federation of Labour

Mrs. Vera Chernecki, President, Manitoba Organization of Nurses Association

Mr. John Lang, Confederation of Canadian Unions

Ms. Leslie Spillett, International Ladies' Garment Workers Union

Mr. Len Stevens, United Steel Workers Union

Mr. Bruno Zimmer, Union of Food and Commercial Workers

MATTERS UNDER DISCUSSION:

Bill 32 - The Retail Businesses Holiday Closing Act; Loi sur les jours fériés dans le commerce de detail.

Bill 61 - An Act to amend The Labour Relations Act; Loi modifiant la Loi sur les relations du travail.

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MR. CHAIRMAN: Committee is now called to order. It's about time I've heard from someone, but we had a few minutes for people who could come late.

I would like to read out the names of people making presentations. If you are not on this list and would like to make a presentation, please see the Clerk.

First of all, I have a written submission from the Manitoba Association for Rights and Liberties. Then we have Reverend Don James, East Kildonan Pastors' Fellowship; then we have Bruce Hall, Canadian Federation of Independent Grocers.

We have also the following list for the other bill: Sidney Green, Manitoba Progressive Party; Marvin Samphir, City of Winnipeg, Law Department; Jeff Rose, Paul Moist, Ed Blackman, Canadian Union of Public Employees; Douglas Machan, Manitoba Health Organizations Inc.; Professor Neil Tudiver, University of Manitoba Faculty Association; Mr. Ron Wally, Manitoba Association of Health Care Professionals; Mr. Wilfred Hudson, Manitoba Federation of Labour; Vera Chernecki, Manitoba Organization of Nurses Association; Mr. John Lang and Pat McIvoy, Confederation of Canadian Unions; Mr. Robert Ages, Machinists Local 484; Leslie Spillett, International Ladies Garment Workers Union; Daniel Quesnel, Private Citizen; Mr. Lorne Robson, The Communist Party; Len Stevens, United Steel Workers Union; Wayne Hurlbert, Winnipeg Chamber of Commerce; Howard Raper, Communication Electrical Workers of Canada; and Bruno Zimmer, Union of Food and Commercial Workers.

If anyone is not on the list who wishes to speak, please see the Clerk.

Calling, first of all - can you hear back there?

I'd like to have the representatives of the Manitoba Association for Rights and Liberties to make their presentation. They have a written submission. Would the members like it? -(Interjection)- Oh, they are not appearing? Okay, we'll distribute the written submission.

Reverend Don James, East Kildonan Pastors' Fellowship, is he here? Is the Reverend Don James here?

BILL NO. 32 - THE RETAIL BUSINESSES HOLIDAY CLOSING ACT

MR. CHAIRMAN: Bruce Hull, Canadian Federation of Independent Grocers. Will you come forward, please, and make a presentation?

MR. B. HULL: I am representing the Canadian Federation of Independent Grocers, the small grocers of Manitoba.

The Chairman of the provincial committee, Jim Gaynor, was unable to make it tonight so I am filling in for him, and I am a grocer not a speaker, so you will have to bear with me.

We feel the proposed legislation for Sundays, as a whole, is good. It offers a balance of choice for people, the people who want to do some shopping can do some and the people who want to keep the day free can do that as well. The only section in the act that we feel you should take a look at again would be the section dealing with four employees, specifically specifying contract employees should be excluded there. We think that the act should read four employees only including contract employees. The larger stores now are using contract employees, security people. In one store that I was in on Sunday, there were as many as three of them. These are people who are not used on a regular basis on regular days, and we don't see what the necessity is to use them on the additional seventh day.

That's really the only comment we have on the legislation. As a whole, we support it.

MR. CHAIRMAN: Mr. Mackling.

HON. A. MACKLING: Thank you very much, Mr. Chairman. I just want to let you all know that we've received representations in respect to that, and there will be an amendment coming forward to deal with that concern.

MR. B. HULL: Thank you.

MR. CHAIRMAN: Mr. Connery.

MR. E. CONNERY: If we didn't have this legislation and the large stores were open on Sunday and it eliminated a lot of the smaller stores, would this have a detrimental effect on those people in some areas, that the small stores had to close, so the seniors and others would have to travel a long distance to shop?

MR. B. HULL: Oh, there's no question. The small grocers of Manitoba mostly service small pockets and small communities, and we service a lot of the elderly and senior citizens.

MR. E. CONNERY: Has your group done a study or have any idea what would happen, I guess maybe looking back at Saskatchewan and when they had Sunday opening, the Town of Moose Jaw really dried up because everybody went to Regina. If this happened in Winnipeg, if we had Sunday opening for the large stores in towns like Selkirk, Steinbach, Portage, the ones that are close to Winnipeg, would there be an effect on those small towns?

MR. B. HULL: Well, we definitely feel that the comparison is possibly even greater in Manitoba. The small communities as a whole aren't doing all that well now. The larger units no longer simply sell food. They become like the West Edmonton Mall; they become a little bit of a place to go or a vacation spot. Having something like that available on Sundays, it's just like a magnet that draws people completely out of areas as great as 100 miles from the radius of the city. I would say the effect would be devastating.

MR. CHAIRMAN: Any further questions?

Thank you very much, Mr. Hull.

BILL NO. 61 - THE LABOUR RELATIONS ACT

MR. CHAIRMAN: Sidney Green, Manitoba Progressive Party.

MR. S. GREEN: Mr. Chairman, my name is Sidney Green. I'm appearing here for the Manitoba Progressive Party. I'd like to indicate that the Manitoba Progressive Party was formed in 1980 and one of the principles upon which it was formed and one of the principles on which it has continued to exist is its belief and commitment to the free collective bargaining process.

The Manitoba Progressive Party, in 1981, was the only political group that came out with a direct commitment to try to preserve the free collective bargaining process and, in 1986, in the last election, we were the only party that again dealt with free collective bargaining as one of our principles.

In particular, we were opposed to the government legislation and were the only group that was opposed to the government legislation, which said that rather than wages being determined by the collective bargaining processes between the representatives of the employer and the representatives of the employees, that certain wages, based on sex, would be determined by academics - who likely have never done any other work in their lives - sitting behind computers, trying to calculate what other people should get paid. We were the only party that opposed that legislation.

Now, some may say, well, what the hell have you got to brag about, you didn't do very well? I think that's true. I think that the position that we were taking was one which did not obtain the approval of a large number of Manitobans, but we think that it is a sound principle and we think that somebody has to speak up for this process. Eventually we are of the opinion that "right makes might" as distinct from the opposite of that phrase, and eventually, whether it be the Manitoba Progressives or any other group, what we are saying will commend itself to the people of this province and the people of this country.

In saying this, Mr. Chairman and members of the committee, I'm not doing something new in my life. I was once a member of a political party that nobody said would succeed, that did very badly -(inaudible)- a number of people elected, but that it was standing for something that eventually would commend itself to a large number of people, fought on that basis and achieved a certain amount of success.

So the fact of temporary political failure is not something which is unique to myself. Indeed, I would think that the Premier of the Province of Manitoba fought and lost as many elections as I did, and certainly the Attorney-General fought and lost as many elections as I did. So one must not measure the ultimate success of a particular position by an election defeat.

What makes me more than certain about the validity of the position that I am taking is that it is the same position that commended itself to most of the people who I was associated with in the New Democratic Party from the years 1962 to 1966. In 1961, the present Minister of Labour and the Premier of the province were quite outspoken about the danger that they saw in the formation of the New Democratic Party, in that

they said it would link itself too closely to the organized labour movement, and they took a position against it. I didn't happen to agree with them at that time and I didn't take that position.

But between 1962 and 1969, just so that there is no mistake about where I am coming from, I represented most of the major trade unions in the Province of Manitoba. I represented that union which is here in great numbers today. I represented the Manitoba Steel Workers; I represented the Garment Workers Union; I represented the packing house workers; I represented the Federation itself. I represented them, expounding with their approval and with their support, the same principles of free collective bargaining that I expound today.

Indeed I can say that I was an honourable member of the Opposition; I was an honourable member of the government. I then became an honourable member of the Opposition again, and finally I became an "honourable nobody." But what is true of myself, in all of the positions in which I was alleged to be honourable, is that I said the same thing, particularly about free collective bargaining and the rights of organized labour and the rights, in particular, of employees.

Just for your information, I've put on your desks a pamphlet which contains a speech which I made in 1976, I believe, to a seminar of the NDP. It's a seminar which was visited by the then President of the Canadian Labour Congress, Mr. Dennis McDermot, who said at the time that we have to clean out the NDP and those people who make its labour policy. In particular, he said we have to get rid of the eggheads who make labour policy for the NDP, and they did do that and they replaced them with dunderheads and blockheads. And I can prove that, Mr. Chairman. What I say, I do not say lightly.

I believe that Mr. Vander Zalm of the Province of B.C. should be very interested in this legislation. In looking at this legislation, he should realize that he has made a very big mistake with the NDP-labelled fascist legislation, which he has introduced in the Province of British Columbia because, after all, what is this great fascist legislation that Mr. Vander Zalm has introduced?

According to the NDP, that's their word, "fascist." It says that it will prohibit the right to strike. It says that it will impose a collective agreement by a third party state-appointed agency, and it says that it will abrogate the rights of employees to free collective bargaining. Those are the principles that are being fought by the trade union movement in the Province of British Columbia. Those are the principles that were fought by the trade union movement against wage and price controls during the late 1970's, and those are the principles which were enacted and enshrined by the New Democratic Party in the first contract legislation which they passed in this province, all of which principles and the departure from those principles, they have labelled "fascist" legislation.

Now Mr. Vander Zalm can take a leaf out of the legislation that is being passed by the Province of Manitoba, or which is sought to be passed by the Province of Manitoba through this bill. It inhibits the free collective bargaining process by saying that it doesn't work properly and that, unless there is a gun behind - and I'll be generous for the moment but only for the moment - unless there is a gun behind the head of the employer and behind the head of the union, they won't negotiate and therefore we'll put a gun behind the head of the employer. That's what they are saying.

Now, I said that Mr. Vander Zalm can pick up this legislation and adopt it almost word for word and get rid of the legislation that he is proposing to enact which the NDP is so much against. Why couldn't he adopt it word for word? Because it says, Mr. Chairman, that when there's a collective agreement and when we're running up to collective bargaining, either side can ask for a selected arbitrator, selected arbitration, call it what you like; either side can ask for it.

But there is a hooker in the deck - I see my friend, Mr. Stevens - although either side can ask for it - I acted for Mr. Stevens as well - there is a hooker in the deck, although either side can ask for it and Mr. Stevens is from B.C., so he can carry the bill to it and give it to Mr. Vander Zalm and then he'll fight like hell against it. If it is asked for, the employees have the right to say whether they'll do it or they won't do it, not the employer. If the employees say they'll do it, they do it and, if the employees say they won't do it, they won't do it.

This is intended to show the employees, look we've left you with a stacked deck. If you're winning the strike, you don't ask for it. If you're losing the strike, you ask for it and therefore, you can't lose. There is no way in which you can, in any way, be hurt.

The last time I was here, but I think it's worth repeating, I compared this situation to Big Julie rolling dice against Nathan Detroit in Guys and Dolls. He wants to roll dice with Nathan Detroit but he says: "We use my dice and we roll them in my hat," and then Nathan notices that there are no spots on the dice and Big Julie says: "They're rubbed off but I remember where they are." So he bets Nathan Detroit $1,000.00. He rolls the dice into the hat and he says, seven, and Nathan Detroit pays him $1,000. Then he rolls another 1,000 and he's looking into the hat and Detroit says: "Can I please look at them"? He says, "Go ahead," and he looks and there's no spots on them, but he says: "There's eleven, I can see it - six and five as clear as day." And he keeps on betting $1,000.00. Then he says: "Now we're going to bet a dollar." Julie says: "We're going to bet a dollar." He puts a dollar in, Detroit puts a dollar in. He throws the dice in the hat. Craps! "You win! It's your dollar."

This is the kind of set-up that is being made. But even then, Mr. Vander Zalm has got something to desire in this bill because he says, during the existence of a collective agreement, I can ask the employees whether they will take selected arbitration and go on strike. Surely, if I can ask them that, I can propagandize. This is the first opportunity that any government has given me the right to deal directly with the employees over the head of the collective bargaining agent.

So I will go to my employees and I will say to them, here is what your union is asking, we think it's wrong, here is what we think should exist. We think it's right and we're going to ask you to vote for selected arbitration. I don't know whether he will succeed. I'm inclined to think he won't. I'm inclined to think that the legislation is so unfairly drawn that he would have to put in - and I don't see how anybody could avoid it - that either side has a right to ask for selected arbitration because that's the way the thesis originally came about.

It's only this Minister of Labour who has dared to blatantly say that we're going to put it to the employer and we're going to say, heads you win to the employees and tails the employer loses. He's the only one who has said that he is going to do that. You may be able to get away with it, although I am very appreciative of seeing what John Diefenbaker said, that it's a long lane that has no ashcans. Suddenly people in the trade union movement are starting to see that these infringements by the NDP on the collective bargaining process being whittled away, whittled away, whittled away, ultimately is the destruction of the trade union movement; or in the alternative, it's a creation of business unions with trade union bosses who will exploit the employees worse than employer bosses will, because they will be beholden to the business agents rather than to their employers because the business agents will have the ear and control of the government.

It's no accident that this legislation is so worded and is being enacted now in order to deal with a strike that the Minister, apparently, feels that the employees have no heart with and have no support for, because the legislation as it's worded, I would think, would apply to the Westfair strike. By the way, I think that the business agents and the representatives of the employees, that's all they've got left to deal with their employees. They continue to say to them, don't worry, we've got the government in our pocket, they're going to pass legislation. Westfair won't be able to beat you. We'll have selective arbitration, and we know who the selector will be, because that's the key to this legislation.

When Vander Zalm passes the legislation, even if he passes it as it now reads, he says, yes, the Labour Board will choose a selector. The Labour Board is chosen by the government. The Labour Board, as a matter of fact, half of them are contributors to the government party and our selector will be - let me think, who would be a good selector to deal with the strike that's taking place in Mr. Stevens' constituency in the Province of British Columbia? Young Bill Bennett, he's a good selector. He'll say whether he's going to take the employers' proposition or the employees' proposition. And if it's not Bill Bennett, it's Gaglardi and, if it's not Gaglardi, it's Smith, Jones or anybody else who the government has the confidence will do the right thing by the employer and the wrong thing by the workers.

Who will the selector be, Mr. Chairman, when the employees at Westfair vote that they, having no public support - and I'm not really saying they haven't but I feel that they are saying it by asking for this type of legislation - who will the selector be? The Minister doesn't say that the selector will be appointed by the Chief Justice of the Court of Queen's Bench. He says that the selector will be appointed by the Labour Board, and I appoint the Labour Board.

And if we look at who they select we'll see - and I heard it on television or radio the other day - that Laurie Cherniack has been appointed to 40 arbitration boards for expedited arbitration. And if it's not Laurie Cherniack, it's some other friend of the NDP, whoever, and I don't blame them. Who would they appoint and why wouldn't they? They are doing this for the purpose, they say, of trying to help the worker who is unable to make his way through free collective bargaining. They're not going to appoint somebody who will not be sympathetic and oversympathetic to the employees' position.

Now let's judge this government by what itself will do. I challenge the Minister of Labour to say that the medical profession in the Province of Manitoba will have the last proposal, selected arbitration, but with an appointee of a selector by the Chief Justice of the Court of Appeal of the Province of Manitoba.

Now we know that Larry Desjardins - the Honourable Larry Desjardins, excuse me - won't agree to arbitrate if he could appoint the arbitrator. Will he agree to last offer selection by a selector for the doctors of the Province of Manitoba, appointed by the Chief Justice of the Province of Manitoba? Will the Minister change his bill - and it won't make it any more favourable to me because I still believe in free collective bargaining - but will he change his bill so that the selector is going to decide on terms and conditions of employees for an employer? And he won't have to put up the money, that's the worst irony of all.

A selector can say, these people are entitled to a 10 percent raise. If you don't have to pay it, you could say 20 percent, it doesn't matter. The selector doesn't have a penny out of his pocket to do it or, as Bill Bennett would say, the selector could order a 10 percent reduction in wages. He doesn't have to work for it. So he can say you can live on less and that's the only difference. The Minister says he'll appoint someone who says you'll pay more and Bill Bennett with Mr. Vander Zalm, with the same legislation would say, he'll take a selector who'll tell the employees they should work for less. That's the only difference.

But irony of ironies, Mr. Chairman, not only does the selector not have to pay the wages, he gets paid for imposing the wages, because there's a section in the act which says each side will pay their own fees for the presentation of argument, etc., but both sides will pay the selector. The government has got so little faith in this proposition as a means of establishing industrial peace which should be done by society that they say the employer will pay for his own undoing to the selector. That's in the act, Mr. Chairman, that's in the act.

The Minister had an opportunity to show how he believes that people should arbitrate their differences on last offer selection. He can still do it because, if you appoint the arbitrator, the selection is not a problem for you. But when he had an opportunity of appointing an arbitrator to deal with the professional engineers of the Province of Manitoba, who wanted arbitration and who were on strike - and the Minister is so anxious to avoid people going out on strike and losing money - he's so anxious that he's found a solution. Nobody in the world has ever found it, but he's found it.

Australia has had compulsory arbitration for years. I had occasion to be in Australia for the month of February of this year when I was convalescing, and there were more strikes in Australia than there were in Manitoba. They ceased to even prosecute them anymore because there's no point in it. They have to get the parties together and they have to agree to work.

Because there's one thing that the selector cannot do and they are the two sides of the collective bargaining equation. He cannot keep the business going and paying the wages. If he imposes something that the employer cannot accept, it won't result in an agreement. Do you not have that experience with

Eaton's in Brandon? There was a first contract. It was imposed. The company said they're going to close and they negotiated an agreement with the employees and now there's no first contract there, that's right.

So the selector cannot run the business, unless - as was done interestingly enough - the first request for a first contract didn't come from the union, it came from the Seven Oaks Hospital. The employees in the Seven Oaks Hospital went on strike. The employer said we want a first contract. Did the Department of Labour have the guts to impose a First Contract? No, they went to Seven Oaks and said, we'll give you the money, pay them. So why was this first contract not used? Will the employer pay the increase in wages which is chosen by the selector, who sits there and doesn't have to pay anything and gets paid or, worse still, because that's where it's going and that's why I'm here.

Ultimately, Mr. Chairman, as sure as night follows day, if this becomes the regime, then it's going to be the employer who will get the benefit of it and the selector will impose terms and conditions on employees which they don't want and which they will be prevented from striking on.

Mr. Chairman, it is my respectful submission that there are only two things that preserve the integrity of the workingman, of the employee, in any society. One is the right to get together with his fellow worker and say, we won't work. That is taken away by this legislation because, if the majority decide that they want a final arbitrator selector, then the others cannot strike. They cannot say that we will not work until we get what we want.

The only other thing they've got is the right to go to the public and say, support us, don't support the employers, which is what the Westfair people are doing. They are saying, don't support this employer, don't buy from this employer until he pays us a fair wage or until he gives us reasonable working conditions. Both of these things are taken away by this legislation.

I just want to deal with some of the interesting features that you have to get to when you start having the state being the arbitrator and the imposer of terms and conditions of employment. Are the members aware - I suppose it's been discussed in the House - that the Labour Board can say who votes? They can reduce the constituency or expand the constituency. If we took an example, if we "supposed" that out of 1,600 people on strike, 1,000 went back; the Labour Board could say only 600 will vote - the 600 who are still on strike, the 1,000 can't vote. That's right in the act that the Labour Board can increase or reduce the constituency.

Well, I'm telling you, Mr. Chairman, that it is there. The Labour Board can decide who is to vote and who, in its opinion, has a continuing interest in the outcome of the strike or lockout. "Where, in the opinion of the Board, there are compelling reasons to expand or reduce the voting constituency referred to in subsection 9, the Board may expand or reduce the voting constituency accordingly." So not only do we have the dice being loaded and you cannot see them but, if you don't like the numbers that you can't see, you can change them to numbers that you do like and that is right in the legislation.

Mr. Chairman, the key to this legislation is the fact that employees - and I put it both, it's not the one or the other - that this legislation is an interference with the right of employees and employers to negotiate their agreement. It is a throwback to what we had before 1966 and there was a problem. In 1966, the dice were loaded for the employer, and I blamed the Chamber of Commerce and I blamed the Employers' Organization for fighting and asking for that kind of legislation, the kind of legislation that had perpetual conciliation, that prohibited strikes, that permitted injunctions against strikes. All of those things were removed by 1977.

Although the changes were fought against when they were enacted, they were fought against by the Tory legislation. The proof of the legislation and the validity of setting a framework fair to both sides of free collective bargaining was that from 1977 to 1981, despite numerous requests by the Chamber and others, the Conservatives saw the validity of the legislation and did not materially change it.

Now, Mr. Chairman, I am here saying the same things that I said when I was supported,- when the things that I said were the principles of the party to which I then belonged. When that party abandoned those principles, I continued to fight for them. They said they were going to abandon them in peculiar ways. You know one of the things that the NDP, the bureaucracy and the staff, many of whom are now or some of whom are now Cabinet Ministers, they raised hell about the Griffin Steel strike. At that time, the Minister of custodial care, the Honourable Muriel Smith, the Honourable Wilson Parasiuk, they marched outside this building picketing to the tune of one, two, three; one, two, three; we've been screwed by the NDP. That's how they became Cabinet Ministers.

That's what they did and they said that we should pass a law that prohibited an employer and employees from having an agreement respecting overtime. They came into government, they've been there for eight years, seven years, and they've never passed such a law. They picketed outside this Legislature for such a law. They never passed it.

They said that there is going to have to be a law that said that, when the hospitals go on strike or anybody else, the police, the fire or anybody, because it doesn't matter, the employer shall be prohibited from hiring an employee during that strike.

They promised the MFL such a law. They never passed it; it's interesting. I opposed it. They elected 31 members; we elected nobody. We got more power electing nobody than they got electing 31 members. They never passed the law. But in order to avoid passing the law they did crazy things, and I can tell you that it is only insanity in the field of industrial relations that can lead to the passing of such laws, and this one is the worst yet.

Mr. Chairman, all of those years I spoke for the working people of the Province of Manitoba, I said what I am saying now. I am still speaking for the working people of the Province of Manitoba.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Are there any questions of Mr. Green? Mr. McCrae.

MR. J. McCRAE: Yes. In your comments, you didn't deal with the fact that this legislation has a five-year sunset clause to it.

Could you let us have the benefit of your wisdom with respect to that?

MR. S. GREEN: Mr. Chairman, it doesn't mean anything. What is the meaning of a five-year sunset clause? It means that, if it is not re-enacted, not put before the Legislature again and passed, that it will automatically fade out of existence. If the legislation is the godsend that the Minister of Labour says it is, why is he permitting it to pass out of existence? Surely that's a palliative, surely that's a sweetener, an attempt to say, well, we know it's no good but it's going to go away in five years. If you know it's no good, why pass it? Why have it for five years?

My problem is not that this legislation won't work. My great fear is that this legislation will work, that we will bring about industrial slavery in the Province of Manitoba and in this country through this kind of statism, that this is - and I'm only going to use their language now. Now it's not as if I don't know the language, but people will say, well Sid Green was vituperative, so I'm going to use nice language; I'm going to use NDP language.

The NDP says it's fascist legislation. That's what they said about the same legislation embodying the same principles. I stopped thinking long ago -(Interjection)- that freedom . . .

SOME HONOURABLE MEMBERS: Oh, oh!

MR. S. GREEN: Mr. Chairman, that's one of the blockheads who is now making his comment, who are now responsible for this idiocy, which is what they call it when it is done by other people, but which they want for themselves because, and I'll repeat it. If it makes somebody laugh, then I'll have had the pleasure of making somebody feel happy today.

I stopped thinking long ago that we are on the way to greater and greater freedom. It was said by people who understood the subject much better than I that freedom never lasts, that it has to be fought for in each generation. Each generation has to win it again.

What we are seeing is the path to serfdom, the path to - and I repeat what the NDP calls it - this is fascist legislation.

MR. CHAIRMAN: Yes, Mr. McCrae, another question?

MR. J. McCRAE: Yes, Mr. Chairman.

Mr. Green, it has been suggested this legislation is brought in at this time for a particular reason. In your experience with labour relations, what is the effect of a change in the rules of the game in the middle of a dispute? I'm thinking, in this particular case, of the Westfair dispute where this legislation may well indeed come into play.

MR. S. GREEN: The legislation cannot be tolerated by people who wish to invest money and do business in the Province of Manitoba. If a person is seeking to make that kind of decision now, he will not make it. A person who has already made that decision will leave.-(Interjection)- I'm not doing badly, Mr. Chairman; I'm doing much better than I used to do. That's right.

I'm suggesting that this kind of legislation will result in untold and uncalculable problems for the investment climate in the Province of Manitoba. The Manitoba Government will not invest in the Province of Manitoba on this basis.

If you had a government that says that we are against free trade, we are against foreign investment, and then says we're going to complain to the United States State Department that they are preventing a United States company coming in and bailing out Versatile, you know why they won't operate Versatile? Because they can't live with this labour legislation. Nobody can. And that's why they are unable and will be unable to do anything on a public basis. So all they can do and all they have done in the past years, Mr. Chairman, it's interesting the change that has taken place with respect to the NDP.

In 1970, we were going to enact legislation that lowered the Medicare premiums and increased the income tax - and I can tell this story now, and the people who were there know it. That Christmas, we received a call from the Investors Group. They said we want to know - and we were in Cabinet - they said we want to know if you are going to do this because. if you do, we're going to Prince Edward Island. We sat there, and I remember it as if it were today.

I said we're not deciding now whether we're increasing the income tax or reducing the premiums. There are two meetings taking place in the Province of Manitoba, two board meetings: one at Investors Syndicate, one here. What we're deciding is where is the government in the Province of Manitoba, in that meeting or in this meeting?

Contrast that with what Mr. Eugene Kostyra said when Richardson Greenshields said that they're going to leave the province. He said, I approached them. I asked them: Are there any laws you would like me to change to make you stay here? Because the NDP government is powerless to do anything on their own. They cannot operate anything. They cannot operate Flyer. Why? They can't live with these labour laws.

MR. CHAIRMAN: Our next presentation is Mr. Jeff Rose. Oh, sorry.

Marvin Samphir, the City of Winnipeg Law Department.

MR. M. SAMPHIR: Thank you, Mr. Chairman, members of this committee, Mr. Green.

I find it strange - I'll just make this comment before I start to add some levity for tonight - it's strange that I find myself saying some of the same things Mr. Green says. It's not very often.

Anyway, I'm here on behalf of the City of Winnipeg, that is the Council of the City of Winnipeg, that has definite concerns with respect to this government passing this legislation.

The Council of the City of Winnipeg makes the request that the government not proceed with this legislation because of some very strong concerns it has both with respect to the effect that this legislation will have on collective bargaining, in particular, collective bargaining in the public sector as it affects the City of Winnipeg, and collective bargaining as a whole both in the City of Winnipeg and in the province.

As well, it must add that it has some concern with respect to the effect that this legislation can have on

the business climate of Manitoba. That is the adverse effect it could have on investment both within the province itself and, in particular, the City of Winnipeg, that investment being new businesses locating within Winnipeg and businesses here seeking reasons to leave Winnipeg.

More importantly, and specifically to the labour relations climate within the City of Winnipeg itself, as it deals with its employee groups, we don't have a problem. The City of Winnipeg employs approximately 11,372 employees who are represented by nine different bargaining groups. Over the years, the city has had good relations, good labour relations, with those bargaining groups.

Since the formation of Unicity in 1972, there's been but one strike. That strike, I am told, is as a result of really factors outside of the control of the City of Winnipeg and the bargaining group in question. It really had to do with federal legislation, the anti-inflation legislation of the time. In all situations since 1919 but that one, the City of Winnipeg has been able to enter into a collective arrangement with its employees without the need of a strike.

As well, I might add that, where it's been appropriate, the city has been able to enter into arrangements with certain of its bargaining groups to resolve differences that have arisen through collective bargaining by compulsory arbitration.

Let's turn to the bill itself, Mr. Chairman. It's the city's position that the bill itself will not promote better collective bargaining between bargaining groups and employers. Bill 61 is not fair legislation and, in fact, it has the potential for promoting an atmosphere where meaningful negotiations will not occur at times during the collective bargaining process.

The reasons for these are many. I'll just summarize a few of them for you: meeting the full negotiations prior to the termination or expiry of the collective agreement could be jeopardized by the very process provided for Bill 61, that is, that 60- to 30-day window provided for prior to the termination of the collective agreement. Secondly, Bill 61 will not in fact encourage the early resolution of strikes. Thirdly, the legislation itself is unfair.

Why is it unfair? The provisions which provide for the final decision for implementing the first offer selection process lies entirely in the hands of one group. In the end, that in itself cannot promote good labour relations between bargaining groups and their employers. So the very solution that the legislation is trying to impose for very, very unusual circumstances will defeat what I suppose is the ultimate purpose of the legislation.

Lastly, as a public service employer, the city finds that Bill 61 is unacceptable. The bill gives to a third party the right to impose contract settlements upon the citizens, upon the City of Winnipeg, settlements which increase and no doubt will have a substantial effect on our economy and taxes, but that third party is unaccountable to anyone. Unlike the elected representatives, the third party doesn't have to answer to an electorate; he answers to no one.

In conclusion, our message is a very short one. We would like to see that the government not find it necessary and would encourage the Province of Manitoba to reconsider its position and not proceed with the passage of the bill.

As an alternative, if the government is not inclined to abandon the process, then it should be fair and consistent with promoting good labour relations. We suggest that the provisions allow for both employees and employers to make the final decision as to whether the final offer selection process is to be implemented. That amendment should be put into place by the government if it chooses to proceed with this type of legislation.

Those are the comments respectfully submitted to this committee on behalf of the City of Winnipeg.

MR. CHAIRMAN: Are there any questions?

Thank you, Mr. Samphir.

MR. M. SAMPHIR: Thank you.

MR. CHAIRMAN: We had a Mr. James down, a Rev. Don James of the East Kildonan Pastors' Fellowship, to speak on Bill 32, but he was directed to the wrong committee room.

So I'm going to call on Rev. James now, unless there are any objections to make a presentation.

BILL NO. 32 - THE RETAIL BUSINESSES HOLIDAY CLOSING ACT

MR. CHAIRMAN: Rev. Don James.

REV. D. JAMES: Thank you.

I have a written brief here that I'll pass around. It's a fairly brief brief. Is that appropriate?

MR. CHAIRMAN: Yes, that's fine.

REV. D. JAMES: I feel a bit under the gun, interrupting the proceedings, but in a sense my concern is one that is related to labour concerns as well. That's the direction from which our East Kildonan Pastors' Fellowship would like to approach the Sunday retailing question.

I represent a group of a dozen pastors in East Kildonan, and brought along a petition of about 2,000 names from about 20 of the churches in East Kildonan. I don't know whether there's someone here who wants to receive that. Is there? Okay, thank you.

Let me begin by asking you to consider my colleagues and I as a public interest group in this matter, rather than as a private interest group. It would be very natural for you to think that we are here to defend the privileges of the Christian churches where Sunday is relatively closed. Christians certainly do enjoy great convenience for worship and other activities, where Sundays are free of retailing and other industry.

However, we are not here to defend our privileges as Sunday worshippers, nor to impose our faith on others. We are here to speak of a basic human need for a day of rest, and of a basic community need for a common day of rest. These needs are common to Christian and Jew, agnostic and atheist, Hindu and Moslem. So the first point I'd like to make is considering the importance of a day of rest. There is no controversy on this point. Regular rest is a basic human need. All religions make provision for regular rest, and non-religious people acknowledge this need as well. A weekly Sabbath, which is Hebrew for rest, is important for

physical, mental and spiritual renewal. We believe, as Christians, that weekly rest is part of the Creator's design for his creation.

The second point is the crucial one, the importance of a common day of rest. What is fundamentally at issue in the retail closing controversy is the importance of a common day of rest. We would ensure the right, certainly, of every citizen to at least one day off a week, but do we see the value of all citizens, or as many as possible, having their day off in common?

The Canadian Conference of Catholic Bishops put it this way in their September, 1986 paper, "While it is necessary in the first place to be able to enjoy a day of rest, it is equally important to hold this day in common. As social beings, we need the community of others to grow and develop in our lives. A common day of rest helps us to maintain these relationships and to strengthen interpersonal communication.

"This opportunity to experience and build community is especially important for families. Sunday has come to be the only day of the week on which family members and friends can be certain of being together. If days off are scattered throughout the week, working mothers and fathers, especially in the retail business, will not be able to be together with children on the weekend."

My third point and second last is, why Sunday as a common day of rest? As Christian leaders, we are not interested in imposing our holy day on the community at large. At its best, the Christian faith is only interested in free and voluntary allegiance.

But practically speaking, in Western culture, Sunday is a common pause day by virtue of past tradition. To choose another day would not solve the problem of fairness to all faith groups and would entail considerable disruption to firmly entrenched habits. To quote the Catholic bishops again, "Sundays off are a part of our culture, a culture that Christians have shaped in the past. We should be able to devise laws that will not penalize people with different beliefs as long as these laws protect the shared experience of leisure and rest for the majority."

My last point concerns freedom. What about freedom? Why should the government restrict the freedom of business people to do as they please on Sunday and the freedom of citizens to shop if they so desire? No doubt, many people find it recreational, even restful, to go shopping. I'm struck by the number of licence plate frames that say, "Born to Shop," these days, and I'm not trying to cramp the style of such people. Some entrepreneurs can enhance their profits on Sunday. But freedom for these two categories of people means bondage to a third category, workers, including management. Our overriding concern is that one person's freedom to shop or to do business is another person's bondage to work.

No doubt, there will be some workers who are willing to work on Sundays. To quote a Lutheran paper on this subject, "The majority of those working on Sundays will be women, young people and those most desperate for employment." Sunday employees will often be part-timers receiving substandard wages and fewer benefits. We would argue, as a group of pastors, that to encourage the breakdown of personal, family, and community health in a very vulnerable group of citizens is not a progressive step for our society and so we applaud the legislation that has been put before the House.

Let us not sacrifice the physical, mental and spiritual well-being of vulnerable people and of citizens in general, if Sunday work becomes more widespread, on the altar of profit and business growth for a few or even on the altar of freedom for a fairly substantial group of potential shoppers.

And finally, let us not limit our attention to the retail shopping arena alone. We urge the government to explore creative ways of regaining lost ground in other industries as well. Every encouragement you give to a common pause day for our community will pay significant dividends in personal, family, and societal health and well-being.

Thank you very much.

MR. CHAIRMAN: Are there any questions for Reverend James?

Thank you Reverend James.

BILL NO. 61 (Cont'd)

MR. CHAIRMAN: Reverting back now to Bill No. 61, I'd like to call Mr. Jeff Rose of the Canadian Union of Public Employees. Could we hold the applause? It's getting a bit much. Let's just hold it a little bit.

Mr. Connery, are you objecting in some fashion or other?

Mr. Rose.

MR. J. ROSE: Mr. Smith, Mr. Mackling, members of the committee, ladies and gentlemen, sisters and brothers, my name is Jeff Rose. I am the national president of CUPE. I'm here with a written submission for your consideration that we'll distribute in a few minutes. I'm joined by Ed Blackman, president of CUPE Local 500, the Winnipeg Civic Employees, who is also a vice-president of our Manitoba division, and by Paul Moist, who is a national representative of CUPE. Both of them will be joining me at this podium to make our three-part presentation to you.

We are here because Bill 61 and the suggestions that it contains about labour relations and about the way labour relations should evolve in this province have national implications that give us serious concerns. Not only that, in the Manitoba context, we feel that Bill 61 is detrimental.

Ladies and gentlemen, any change in legislation touching the freedom of people to manage their own arrangements, to effect a contract, to have an influence over their own destiny, any such change in legislation should be approached with caution. In any event, any such change in legislation should be consistent with sound democratic principles, should be workable and sensible and should be necessary, not gratuitous. The written submission that we'll be giving you analyzes Bill 61 according to these precepts. I would like to summarize the arguments that it contains.

We will argue that Bill 61 is not necessary. Manitoba is blessed with an excellent labour relations record and climate. Work stoppages are rare. We refer to Manitoba privately as a quiet jurisdiction where there's a great deal of labour relations maturity. Labour relations are generally working well in this province. What needed to be solved? What justification was there to introduce instability into an otherwise stable context. We say, none.

Bill 61 is gratuitous. It says that its aim is to assist management and unions to reach agreement at the bargaining table. At first blush, this is somewhat puzzling. Implying on the one hand, an effort to help people reach agreement but doing so through the mechanism of an imposition. Binding arbitration is what Bill 61 is.

On analysis, one realizes what FOS is really all about. With its total winner and total loser approach - and that's whether you're talking about a total package FOS or a clause-by-clause FOS - it is so bad that the theory is that people will strive to avoid it. In other words, it's attractive, supposedly, because it's so hideous that there's an incentive to settle at any cost.

This is a very unsound approach to civil law. It is dumb for government, ever, to pass a law that does something worse than the parties ought to do themselves if they do not do of their own volition what they seek to achieve. It is also patronizing, as if the parties in collective bargaining are children, as if there's not already in collective bargaining a great deal of responsibility, as if the parties to collective bargaining are somehow unreasonable. It also seems to assume that strike and lockout, the present dramatic ways to put pressure on people to get compromise, are somehow not serious. Bill 61 is gratuitous and comtemptuous of precollective bargaining. Furthermore, there has been no particular outcry from the public for such a bill. Labour? Labour is divided. Some unions want it; some don't. Management doesn't. Ladies and gentlemen, that also is a very unsound basis for interfering in freedom at any time, much less when things are going pretty well.

We make the argument in our written submission that Bill 61 is not workable, not practical, even dangerous. Academics who have studied FOS are divided, but they generally acknowledge that FOS can be very dangerous and very damaging in all but a limited number of situations. How is one to guarantee that those are the situations that will go forward to binding arbitration under Bill 61's provisions?

Furthermore, it is known that FOS can work in a particularly harsh way. If cruel demands are mixed in with reasonable demands and if a package has to be chosen in its entirety or even if that applies to particular clauses, the result can be disaster.

In short, FOS is a very poor form of arbitration - some people argue, the poorest. I don't believe in arbitration. I think it has a chilling effect on bargaining, but that is especially true of FOS and it is generally acknowledged to be the worst form of arbitration.

FOS is not sensible. In the context of Manitoba labour relations, it will create more strife where it is used and indeed when it is used. Given the complexity of collective agreement, it has the potential to create situations where people may not accept fundamental conditions of employment that will be imposed upon them by the bizarre nature, the totalistic nature, of the choice that the selector has to make.

Most important of all is the third point. Labour relations law is very delicate. It has to be consistent with sound democratic principles and it has to respect the parties. Free collective bargaining trusts people. There is ample reason to do so in Manitoba on the basis of the statistics. Free collective bargaining works in this province. It puts plenty of pressure on people to compromise. The fear of strike or lockout is very strong, not just that it might be visited upon you by others but indeed, for a worker, the idea of going on strike is a very, very difficult thing to consider.

Here, the basic equation of free collective bargaining, with the exception of strike breaking, we in CUPE say, is good. Any step towards undermining it in Manitoba is a mistake.

Then you add to that the fact that this bill is not fair; it is weighted in favour of the union. Now, that may be good for us in some situations, but that's a very short-sighted approach for anyone to take to his own self-interest. It effectively eliminates the employer's right to lock out. That is very short-sighted. That may bail the union out in specific instances, but it's not fair. It alters the equation. It's the beginning of a slippery slope that we know we have a great deal to lose if the same argument were ever made in reverse with respect to the right to strike.

If you add to that the bill is not fair to unions, it interferes with unions by allowing management to call for membership votes, our conclusion is a very simple one. We'll take our risks with free collective bargaining in Manitoba. The right to strike and the right to lock out are the best guarantees of serious bargaining. Labour relations works best when both sides are left free to bargain with each other on the basis of fair and consistent rules, and then are required to live by the consequences of their own decisions.

We say that if the bill is not necessary, gratuitous, not practical, even dangerous, lacking in common sense and undemocratic, then what public purpose could possibly be served by enacting it into law? None. And it threatens to damage the delicate balance of labour relations that Manitobans are justly proud of.

We say to the government, withdraw the bill. It is not too late to see sense. Don't tamper with free collective bargaining in Manitoba. Don't introduce the instability that I spoke of before. Don't start down that slippery slope. We're prepared to take our chances with free collective bargaining, as I said before because, like democracy, it's the worst system ever devised except for all the alternatives.

One final point before I introduce Paul Moist with some details of our critique of FOS. May I say something to our friends in the government? You are watching the creation among your friends of deep and lasting splits as a result of this action. You have divided us as management has never been able to do. My friends, you should not have done that. It is both sad and unforgivable.

Ladies and gentlemen, Paul Moist will now speak to you for about five minutes on details of our critique of FOS and then Ed Blackman will summarize before we will be pleased to answer any questions you may have.

Thank you very much.

MR. CHAIRMAN: Mr. Paul Moist.

MR. P. MOIST: Mr. Chairman, members of the committee, our brief will be distributed when we conclude our remarks.

Just to further embellish what Mr. Rose has said to the committee, our brief will look at final offer selection and Bill 61 from a number of perspectives, and we first look at it in theory.

In theory, the authors tell us - and the authors come from the United States, the west coast of the United States, the inventors of final offer selection - it's rooted as a replacement for conventional binding interest arbitration. It's most attractive feature, as Mr. Rose has said, is that it's such a bad form of arbitration that parties will try to avoid it. It's important for the committee to remember and it's important for the members making this decision to remember that, in theory, this form of dispute settlement was designed not to fix free collective bargaining but to fix fettered collective bargaining, binding interest arbitration. The jury is out on that and we provide some indication of authors who have not been able to come to a conclusion.

That doesn't make it bad, Mr. Chairman, but the next step we go to is to look at where it's in practice. We tell you, Mr. Chairman, to the best of our knowledge, it does not exist anywhere in North America or Europe in the format proposed in Bill 61. It does not exist in legislation anywhere in North America or Europe in legislation applicable to the private and public sector. That doesn't make it bad; that makes us look closer. So we've looked closer and we found it in a few voluntary relationships usually for monetary matters only. Right here in our province, the University of Manitoba Faculty Association had it for monetary matters and conventional bargaining for non-monetary matters, and it's since been dropped by the parties in bargaining.

It also exists in legislation in certain states south of the border, and it's coincident with the strike weapon having been removed by the employer. Public sector employees have that as a method of settling disputes and we detail it in our brief where that exists. Without exception, it's in areas where the right to strike is gone.

Our brief details the 1984 model, Mr. Chairman, that was introduced in the White Paper by the Honourable Mary Beth Dolin, former Minister of Labour. In that White Paper that never made it to the legislative table, the concept was first introduced in Manitoba. There were a few changes but, in concept, it was the same as the 1987 model. There was a provision or a suggestion that the membership could vote at any time, that their right to vote would not be continued beyond 12 months but, in concept, it was the same. We have a number of concerns with the concept, which is the first place we have to look at it, because we don't have the benefit of analyzing it in practice anywhere in this format.

We look at, as Mr. Rose said, the strike-lockout equation. I don't pretend for a moment that it's in balance and I don't argue before this committee that it's a fair relationship that we have in terms of power between management and labour. But we ask the question: Is the redistribution of power in the labour-management relationship rooted in Bill 61? If it's designed to even up the unfair disadvantage being experienced by unions today, we say, with respect, it won't. It accepts a fundamental equation as Mr. Rose just outlined. That equation has either party, of their own decision, able to take industrial action at specified times, management in terms of locking out and unions in terms of striking.

CUPE believes that the strike-lockout equation, while not in perfect balance, ought not to be tampered with in the interest of redistributing power in the labour-management relationship. Other legislative forms exist to accomplish such a redistribution. There is precedent and far more consensus in the labour community for these alternatives.

Management's right to secure a vote - that was touched on briefly a moment ago, and one more comment on that - this is an entirely new concept. Our current system of labour relations would see such a request from management as interference in the affairs of the bargaining unit and an unfair labour practice.

The proponents of FOS argue you can beat that vote down, and you can. I have no doubt that you can. It gives management though - and they won't argue that before the committee - but it gives management something they've never had before. It gives them a clearer snapshot of the feelings of the bargaining unit prior to bargaining starting if the request is in the first window. Under current legislation, they could not gain such a snapshot. CUPE is strongly opposed to any deviation from the current system.

Thirdly, Mr. Chairman, it's our contention that this legislation separates the membership from the union. One of the more insidious suggestions contained within Bill 61 is that there exists three parties in collective bargaining: management, the union and the membership. The members are the union and, insofar as we are concerned, the members elect the negotiating committee, the members determine bargaining proposals - bargaining priorities - and ultimately the members vote whether to take strike action or not.

The Manitoba Labour Relations Act up until this date has not treated unions, membership and management as three entities. Exclusively, the act refers to employees in the union as the bargaining agent, as one. Bill 61 enunciates a new perspective; that being that unions and employees are separate bodies. Such a notion, coupled with the view of certain FOS advocates that Bill 61 will allow employees and not union leaders to decide bargaining issues and strategies, reveals an attitude that we had hoped long ago vanished.

Bill 61 seems to imply that union staff are separate and distinct from the rank and file membership. CUPE has long heard such arguments from employers, especially during organizing drives, and from certain political quarters. We reject categorically any inference that FOS and membership votes will return the decision-making process to the members, for in our union all decision-making processes are permanently housed within the general membership.

Fourthly, Mr. Chairman, FOS breeds winners and losers, and it could be the union as the winner and it could be management as the winner but, if you end up in the award system, you end up with a winner and a loser. We're worried about employers' buying rights clauses, rights clauses that currently we would price with withdrawing our labour.

We detail an example of a strike by 3,000 of our members in New Brunswick in a school board division, 99.5 percent in favour of strike action. Three weeks into the strike, the government of that province legislated them back to work, instituted a system of final offer selection, and it ended up being the selector putting the price on the rights issue that caused the strike in the first place. We reserve the right to price our rights and not to have them priced by a third party.

There's a section in our brief which I won't go into, Mr. Chairman, that deals with free collective bargaining and some of our sad experiences across the country where our rights have been taken away.

Finally, Mr. Chairman, we do not believe that Manitoba's strike lockout equation is in perfect balance and we make no such suggestion. Management though, in our view, currently enjoys a situation whereby they may behave unreasonably, demand significant concessions, and go so far as to provoke strikes. Then they can continue to operate thereby avoiding economic injury, the same injury they're so callously inflicting on employees.

Time and time again, employers seek court injunctions to limit or abolish picketing. Employers are quick to call upon government to supply police assistance to allow scabs to take workers' jobs. Such activities on the part of management are legal in most areas of Canada, and they are a prescription for violence and unrest as we are all witnessing in the present round of Canada Post negotiations.

The relationship between labour and management not only lacks balance; it demonstrates its unfairness, a weakness in our society's unwillingness to recognize and attach value to a worker's human investment in his job. That investment ought not to be unprotected or ignored simply because that worker has democratically chosen to legally say no to management.

The imbalance and the unfairness of the current situation ought to be corrected. It should be corrected without adjustment to the strike lockout equation. Anti-scab legislation, which prevents the legal use of replacement workers during a legal strike or lockout, evens up that labour-management relationship which is so seriously out of kilter today. It does so by inflicting an economic penalty on employers equal to that inflicted today on employees. It corrects the imbalance without altering the union's or management's right to declare a strike or a lockout.

The other attractive feature of anti-scab is that there exists precedent both within and outside of Canada. It exists in the Province of Quebec, and we detailed some comments on that. Its other obvious benefit is that the likelihood of violence on picket lines is reduced considerably by laws which prevent the theft of workers' jobs. Anti-scab laws reduce the frequency of strikes and, when strikes do occur, they are, as stated earlier, generally more peaceful and shorter in duration.

The case for anti-scab legislation has been documented many times for successive NDP Governments. There exists unanimous consensus in both the labour movement and the New Democratic Party where, for the last few conventions, there has not been a trace of negative debate on this resolution for such legislation.

In CUPE's view, and with respect, Bill 61 is not an alternative which redistributes power to employees. We ask, and we ask sincerely, for consideration for a real solution to the imbalance.

Mr. Chairman, I'll call on Mr. Ed Blackman to summarize our . . .

MR. CHAIRMAN: Mr. Blackman.

MR. E. BLACKMAN: Mr. Chairman, to conclude, as stated at the outset we appear before this committee not only on behalf of the 16,000 members of CUPE in Manitoba, but also on behalf of our entire Canadian membership of 341,000.

We deal with governments as employers on a daily basis. However, we often find ourselves speaking out against legislative attacks upon our membership. Attached to our brief, in Table 1 at the end of the brief, you will find an outline that says about the small sampling of the legislative attack waged upon the public sector workers during a short 18-month period.

We view Bill 61 as not being in the interest of our membership. We accept that the government is well intentioned, although we submit, with respect, that you have been ill-advised.

Bill 61 and certain of its advocates suggest that FOS will prompt the parties involved in collective bargaining to be more reasonable in their proposals and demands. The unstated premise behind such commentary is that the parties have previously been unreasonable in their proposals and demands.

CUPE rejects such a notion on two counts. Firstly, it is our opinion that the majority of work stoppages in Canada in the 1980's have been defensive in nature. Unions have been battling to hold onto previously negotiated provisions. For the most part, strikes have occurred in reply to concessionary demands, and union members have not been unreasonable in any way, shape or form.

Secondly, CUPE is made up of some 341,000 members in over 2,200 local unions, and as we speak to you this evening, fewer than 1,000 of our members are on strike. This does not mean we are a weak union, or that we may not find ourselves in large-scale walkouts in the future. But we feel qualified to state that our members have been reasonable in securing peaceful settlements in the thousands of negotiations we partake in year after year.

In any legislative endeavour, government must consider the effects upon and concerns of the participants to be directly affected by its introduction. As well, government must also consider the view and perspective of the general public.

We submit that application of such a test to Bill 61 reveals a public which has not expressed dissatisfaction with the current state of labour relations in the province.

Within the directly affected constituencies, the labour movement has no consensus on FOS. Within the management ranks, there is general disapproval. The only point of consensus would seem to be that there are strongly held views on both sides of the issue.

For the reasons outlined herein, CUPE respectfully suggests that the Government of Manitoba reconsider Bill 61 and that it not be proceeded with at this time.

Respectfully submitted to you, Mr. Chairman, by the Manitoba Division of the Canadian Union of Public employees.

Thank you, Mr. Chairman.

Mr. Chairman, at this time, we have copies of the brief that go into more detail, and we'll make them available to the committee. Thank.

MR. CHAIRMAN: Are you prepared to answer questions, Mr. Blackman? Any questions, please.

Thank you very much, Mr. Blackman.

Mr. Douglas Machan, Manitoba Health Organization.

MR. D. MACHAN: Mr. Chairman, committee member, my name's Douglas Machan, and I represent Manitoba Health Organizations. Specifically, I'm the Director of Personnel Services, the division of Manitoba Health Organization charged with negotiating collective agreements for in excess of 150 health care facilities in the Province of Manitoba. Our membership totals over 150 employers who employ over 23,000 employees. The vast majority of the employees are unionized and over 200 collective agreements are currently in effect. Our unionized members are covered by the Labour Relations Act of this province.

The purpose of this submission is to address our concerns regarding the provisions of Bill 61. The manner in which this bill was introduced is a particular concern to the Manitoba Health Organizations.

The issue of final offer selection was formally raised by the Minister of Labour in April of 1984. The final offer selection was referred to as the centerpiece of the white paper which preceded Bill 22. Following the controversy surrounding this issue, the matter of final offer selection was withdrawn from Bill 22 and, in December of 1985, the Minister referred final offer selection to the Manitoba Labour Management Review Committee for further study.

For nearly 25 years, the Manitoba Labour Management Review Committee has, at the request of the Provincial Government, been charged with the specific responsibility of reviewing labour legislation and providing guidance to government on amendments to legislation.

MHO has representatives on the Manitoba Labour Management Review Committee and on its subcommittee which was specifically established to deal with the issue of final offer selection. Though the committee was very close to issuing its report to the Minister, this had not been done at the time that Bill 61 was introduced. Furthermore, the Minister had given no indication to the employer representatives of the committee that legislation was under active consideration or that there was any particular urgency in the completion of the committee's review.

A substantial amount of time and effort has been expended by both labour and management in researching the issue of final offer selection. These efforts have been at the Minister's request to give him guidance on a particularly controversial issue. The apparent hasty introduction of legislation without consideration of the views of labour and management speaks poorly for the so-called "consultative approach" which we were lead to believe would be followed.

Insofar as the concept of this legislation is concerned, Manitoba Health Organization believes that it is well intended. As representatives of the providers of health care in this province, we have been directed by our members to pursue alternatives to work stoppages which disrupt the delivery of health care.

We're acutely aware of the fact that Manitoba labour legislation currently makes no distinction between a health care facility and a manufacturing plant. It's one of the few jurisdictions in Canada that does not make that distinction. In work stoppages in the health care industry, the impact is not an economic one felt by labour and management but rather one of depriving the public of a vital service.

It is somewhat ironic to note that many health care employers and their unions have been wrestling with the issue of maintaining essential services during a labour dispute. Clearly this is an area of concern to labour, management and, above all, to the public. If this legislation is intended to reduce work stoppages, then in our view those work stoppages which most threaten the lives or the safety of the public ought to be its primary focus. From this perspective, we would welcome legislation which acknowledged the potentially life-threatening dangers which are faced by patients during a health care work stoppage. Unfortunately, in our view, Bill 61 does not do this.

Through the media, we learn that the unions representing the vast majority of health care workers: CUPE, the Manitoba Association of Health Care Professionals, and the Manitoba Organization of Nursing Associations also oppose the introduction of this particular legislation. Those unions that I've just named represent some 20,000 of the 23,000 employees in health care.

To be specific, several provisions of the legislation cause MHO serious concern. The legislation provides for a labour veto of management's request for final offer selection but makes no provision for corresponding management veto. The Minister has acknowledged this imbalance but has stated that it is intended to correct an existing imbalance which favours employers.

The stereotypical view of a large, powerful employer dominating a small, powerless group of employees is simply not true of MHO's membership. The vast majority of our members are small employers. Ninety percent of them do not have a labour relations department or evern a personnel officer. These employers must deal with large, well-organized, well-financed, national or international unions who employ experts in labour relations. To the administrator of one of our typical health care facilities, the present balance of power between labour and management favours labour, and the single-sided veto provision of bill 61 will intensify that imbalance.

This aspect of one-party veto may also cause the opposite to the intended effect by increasing strikes. Currently, a decision to strike or lock out must be made in the full knowledge that, once a work stoppage commences, there may be no way of ensuring that it will ever be settled or the workers will ever return to their jobs.

Bill 61, however, provides for an escape hatch. If an ill-considered work stoppage occurs because labour would be guaranteed to be able to return to work and receive a reasonable collective agreement, this insurance might well result in a worker voting in favour of a strike in a situation where he might otherwise not support a strike. Quite simply, the stakes are no longer as high to labour. The risk to the public, however, may be increased.

For these reasons, MHO submits that the single-party veto provision of this bill be amended to provide for the FOS process to be utilized where both labour and management agree to this method of dispute resolution. If this bill were to be amended in this manner, MHO would consider it to be a five-year experiment worth trying in the absence of any other legislation which recognizes the potentially disastrous impact to the public of a health care work stoppage. Indeed, MHO and the IUOE utilize final offer selection on a voluntary

basis to resolve a number of issues remaining in dispute following their most recent negotiations. In our view, this clearly demonstrates both labour and managment's regard for the public's unique interest in health care labour disputes.

Thank you very much.

MR. J. McCRAE: You take issue with the single-party veto provision of the legislation. If both parties were given a veto, would we not have a situation which would allow for FOS without legislation?

MR. D. MACHAN: It would make it voluntary, I guess, and that's the experience that we currently enjoy, prior to introduction of this bill.

MR. J. McCRAE: So the type of amendment that you speak of would really render the bill meaningless in terms of what we have already. In other words, if the two sides would like to get together and ask for final offer selection, that is available now, is it not?

MR. D. MACHAN: That's correct.

MR. DEPUTY CHAIRMAN, S. Ashton: Mr. Doer.

HON. G. DOER: Mr. Chairman, just by way of information, I understand seven or eight urban hospitals, large hospitals, have negotiated essential services agreement with the major unions. What is the status of that situation with the MHO and the employee groups?

MR. D. MACHAN: At the current time MHO and those eight facilities are involved with the Manitoba Council of Health Care Unions trying to negotiate and resolve some problems in the voluntary essential services agreement. We're preparing another position paper that we'll be presenting to the appropriate Ministers on that, shortly.

We're having a great deal of difficulty trying to address the concerns of the employers in that umbrella agreement, which I believe you're referring to. The biggest problem we have with that Voluntary Essential Services Agreement is that it's voluntary. It doesn't matter how good it is; it's still voluntary.

HON. G. DOER: Am I to understand - I understood there was a resolution on the books years ago from MHO. Has this voluntary negotiated essential services provision been negotiated at many of the MHO facilities outside the City of Winnipeg which your organization represents?

MR. D. MACHAN: There are four that I'm aware of. The majority of health care facilities in rural Manitoba don't feel they need essential services because, in the event of a work stoppage, they have enough voluntary help to get them through, to care for the patients.

HON. G. DOER: So basically, most of your facilities are opposed to the model that has been developed, or don't see it as essential.

MR. D. MACHAN: Most of the facilities do not feel that it's a workable solution in their facilities.

HON. G. DOER: Thank you.

MR. J. McCRAE: Sir, you made reference to the Manitoba Labour Management Review Committee and its deliberations on FOS. On page 2 of your brief, you tell us that the committee was very close to issuing its report to the Minister.

MR. D. MACHAN: That's correct.

MR. J. McCRAE: Although that hadn't been done when this legislation was introduced.

I understand that the night previous to the introduction of this legislation, the Minister did call some members of the Manitoba Labour Relations . . .

MR. D. MACHAN: Labour Management Review Committee.

MR. J. McCRAE: . . . Labour Management Review Committee on the night before the introduction to let them know that he was doing this.

What reason did the Minister give that he did not wait for the report of the Labour Management Review Committee?

MR. D. MACHAN: I was on vacation at the time, Mr. McCrae. I didn't attend the meeting.

MR. DEPUTY CHAIRMAN: Being no further questions, thank you, Mr. Machan.

The next presentation is from Professor Neil Tudiver from the University of Manitoba Faculty Association.

DR. N. TUDIVER: Thank you, Mr. Chairman.

My name is Neil Tudiver and I'm here representing the University of Manitoba Faculty Association. I'm the president of the association. I have brought with me a written brief which I'll make available to the committee at the conclusion of my presentation.

I, first, before addressing the substance of the bill itself and our concerns about it, do want to comment on the process that's been engaged in for these hearings. I don't know if our experience is typical, but it was not until last night that we were informed that committee hearings might be either tonight, Thursday night, or perhaps next Tuesday. It wasn't until about five o'clock this afternoon that we finally were informed that the hearings would be this evening and our presentation would be accepted, and our presentation would be made this evening. We find this a rather distressing state of affairs, to be rushed in this matter to make a presentation on a piece of legislation which is so important.

I do ask a question of the committee: Why the extreme rush? With legislation which is so significant, legislation as important as this, why the extreme rush to pressure people to present in such a short time possible?

MR. DEPUTY CHAIRMAN: I can indicate, Mr. Tudiver, that is the normal procedure. It is often difficult to predict when a particular item of legislation will be passed by the Legislature. We are actually, I think, one of the only provinces which does have the public

hearings component. I think the basic notice for legislation is basically seen as when it's introduced for Second Reading, rather than when it's passed. Obviously, there has been some time since the introduction on Second Reading.

It's unfortunate that we couldn't give greater notice. Sometimes we do have an extra day or two in terms of notice, but I can assure you that it's unfortunate, I guess, the by-products or the fact that things are rather unpredictable in terms of the Legislature itself.

DR. N. TUDIVER: Thank you for your response.

To proceed to our brief, The University of Manitoba Faculty Association is the certified bargaining agent for some 1,150 full-time academic staff at the University of Manitoba. We do, despite the rushed time, welcome this opportunity to present our views regarding Bill 61.

The University of Manitoba Faculty Association has been party to a final offer selection process for six of the past eight years. The agreement to use final offer selection was a voluntary one, which was first negotiated between the association and the administration of the university in 1979. The three-year agreement to use final offer selection was renewed in 1982.

Final offer selection was proposed in order to speed up the collective bargaining process. If the parties could not reach agreement, then an arbitrator's decision on the monetary articles would create pressure to settle the remaining outstanding articles.

We wish to emphasize that the final offer selection agreement was restricted to outstanding monetary articles of the collective agreement. Both parties to the negotiations were firmly opposed to third-party decisions on any other issues.

The Faculty Association and the administration of the university have used final offer selection twice during those six years that we had agreement on them. In 1979, both parties reached agreement on 20 of the 23 outstanding articles prior to the expiry of bargaining, with the remaining three monetary articles submitted to arbitration for selection. In 1985, we signed off 18 articles before final offer selection took place. The remaining 10 open articles were signed off after the monetary articles were referred to an arbitrator for selection.

Our experience with the process has been positive, but I must emphasize that it is limited to the selection of the single issue of monetary items. For these reasons, we maintain that the association is in a fairly unique position to comment on the process of final offer selection.

The method of resolving labour disputes known as final offer selection - or we understand to have been developed - to facilitate collective bargaining by putting pressure on each party to provide reasonable contract proposals or risk losing all of their positions to the other side. For this reason, the process is best suited to single-issue proposals. The inclusion of a variety of issues does not allow for clear decision making, since the arbitrator must weigh each party's position on each issue to arrive at a final selection.

It has also been argued that final offer selection may protect small or weak bargaining units in the case of strong employers who have refused to bargain even after a strike has occurred and replacement workers have been used to weaken union positions. In those cases, final offer selection may offer an alternative to the strike or lockout. It requires both parties to reach a resolution. However, we think that a better legislated solution to these problems would be to prohibit the use of replacement workers during strikes.

The Faculty Association does not support the extension of the final offer selection process beyond single issues. Fundamental protections of a collective agreement, which union members and management have struggled over, could be lost in one round of final offer selection. A selector may not be familiar with the reasoning behind an existing contract provision. One party's entire package may not be selected because of one high-profile issue. I refer to presentations that have preceded mine suggesting that there are cases of where high monetary offers from from employers could, in fact, gut significant other provisions of a collective agreement. We maintain that it is inappropriate for a third party to make binding decisions on entire packages of outstanding issus such as job security, seniority, layoff, and others.

I want to proceed to a few specific comments on Bill 61.

Section 82.1(1) states that either party may apply in writing to the board for a vote to determine whether the dispute shall be resolved by the process of final offer selection. This provision allows the employer to request an election by members of the bargaining unit. If the Labour Board orders a vote, then the union is required to hold one. We are concerned that one party to negotiations would have the right to precipitate an election by the other side.

Employees under the legislation have no right to canvass the management or directors of the company. There should be no reciprocal right for management to require a canvass of the union members. We see a clear advantage here being given to management in being able to, in fact, precipitate an election of a party they're negotiating with where the same right in fact is not given to the union.

Under section 82.1(1) as well, an application for final offer selection can be made "not more than 60 days before the expiry of the collective agreement and not less than 30 days before the expiry of the term of or preceding the termination of a collective agreement." The section goes on further to present the other window of opportunity that's been referred to between 60 and 70 days into a strike or lockout.

The first 30-day period is a rather arbitrary one. To us, it seems quite early. Collective bargaining often does not begin until two to four months prior to the expiry of a collective agreement. This pre-expiry provision would provide only one or two months of free bargaining before the early provision would take place. The positions of both sides may not be clear enough for the members of a bargaining unit to form their opinions on a vote for final offer selection.

Such constraints on the timing of collective bargaining do not serve the union or the employer well. In fact, this provision reduces the amount of time available for free collective bargaining and then the provision evaporates until 60 to 70 days into a strike or lockout. Such time limits should not be necessary.

To conclude then, final offer selection can be a helpful tool to settle single-issue disputes in labour relations.

In our own experience, it's been restricted to monetary items and we would not suggest any other single issue other than monetary items. If certain protections are not built into the process through legislation, final offer selection may have the effect of destabilizing unions and weakening the collective bargaining process. These protections would include the limitation of the final offer selection process to single issues only by agreement of both parties involved, the elimination of the right of employers to call for a vote on final offer selection amongst the members of the bargaining unit and some alteration of the proposed time frame to reflect more adequately, the realities of free collective bargaining.

Thank you. I do have written copies of the submission which I can circulate.

MR. DEPUTY CHAIRMAN: Thank you, Mr. Tudiver.

Mr. Doer.

HON. G. DOER: Thank you, Mr. Chairman.

I believe the last opportunity that the Faculty Association had to use final offer selection was in 1985.

DR. N. TUDIVER: That's correct.

HON. G. DOER: I also believe, in that same year, that the support staff, the clerical staff primarily at the university, the AESES staff, were unsuccessful in getting a strike vote, and receive a zero percent settlement in that same year, at the same time the Faculty Association, I believe, received a 2 percent settlement with final offer selection. Is that correct?

DR. N. TUDIVER: That's close. I don't recall the exact percentage, I'm afraid, but, yes, we did receive a small percentage increase, and AESES did not.

HON. G. DOER: I also believe, Mr. Chairman, at the same time, that the food service staff at the university also negotiated, as opposed to going for a strike vote, zero in the first year of a three-year contract, the same year that the professors, I think, received 2 percent in final offer selection. Is that correct? I'm just trying to go by memory.

DR. N. TUDIVER: I'm sorry, I can't answer by memory. I don't know what . . .

A MEMBER: I can answer to that. It was 2 percent, and 3 percent, 3 percent, and 3 percent.

HON. G. DOER: Mr. Chairman, I also believe the last time the university went to - again, I'm operating from memory - final offer selection, there was an employer proposal to tamper with the university proposal, to tamper with the structure of the increments, which was rejected by the selector, if I'm not mistaken.

DR. N. TUDIVER: You're referring to the package proposed by the administration?

HON. G. DOER: Yes.

DR. N. TUDIVER: There were different components of each package. One component of the administration's package was to alter the salary structure, yes.

HON. G. DOER: Thank you.

MR. DEPUTY CHAIRMAN: Any further questions? No further questions.

Thank you for your presentation.

The next presentation is Mr. Ron Wally from the Manitoba Association of Health Care Professionals. Mr. Wally.

Since Mr. Wally is not here, the next presentation is from Mr. Wilf Hudson from the Manitoba Federation of Labour.

Mr. Hudson.

MR. W. HUDSON: Thank you, Mr. Chairman.

First of all, I would like to introduce the people who are with us here tonight from the labour movement, from the Manitoba Federation of Labour.

The Vice-President of the Manitoba Federation of Labour, John E. Pullen is here. The Treasurer of the Manitoba Federation of Labour, Dennis Atkinson, is here. Also, we have Peter Olfert, the President of the Manitoba Government Employees Association; Al Cerilli of the Canadian Brotherhood of Railway and Transport and General Workers, the Regional Vice-President; Wayne Cutting from the United Steelworkers of America, Vice-President of the Manitoba Federation of Labour; Bob Imrie, from the United Steelworkers from Flin Flon, Vice-President of the Manitoba Federal of Labour also; Horst Sommerfeld, from the United Steelworkers, Southeast Manitoba, Labour Council; also Bernard Christophe, the President of the Manitoba Food and Commercial Workers Union, Local 832; Bruce Prozyk, from the Retail, Wholesale, and Department Store Union; and Sandy Trowsky from the International Association of Machinists. Also, we have Barrie Farrow from the Canadian Autoworkers; and Bruno Zimmer, the President of Local 111 of the United Food and Commercial Workers. Bill Haiko, unfortunately, another Vice-President from the Amalgamated Clothing and Textile Workers, is away at an international convention.

First of all, we congratulate the Government of Manitoba for the innovative spirit which underlies the introduction of Bill 61. It is a time when new solutions must be found to old problems and old remedies must be applied in new and creative ways.

The Manitoba Federation of Labour represents approximately 80,000 union members and their families in this province, and is the largest labour organization in Manitoba. At our last constitutional convention in 1985, we debated the issue of final offer selection, commonly known as FOS, at great length. In the end the delegates voted to support final offer selection by a two to one majority. We are making this presentation as a united group representing the Manitoba Federation of Labour. Many of our affiliates are present in this hall this evening, as I've already mentioned.

The collective bargaining environment in Manitoba, collective bargaining works as a means of resolving labour-management disputes only when both parties negotiate in good faith. In some instances, it takes the threat of a strike to force the employer to bargain seriously but, in the vast majority of cases, the parties eventually get down to good faith bargaining and a settlement is reached. There are all too many examples, however, of employers who are determined from the

outset to hold the line at all costs, to turn back the clock, or even break the union. There is no shortage of strikes that have been lost, bargaining units that have been destroyed, and working people who have lost their jobs, all because the employer waged a war of attrition to drive the union out of the workplace. Present labour legislation allows them to do that. It is not unknown for employers to take advantage of the situation and return collective bargaining to the law of the jungle.

Final offer selection is an alternative which may be used by either of the negotiating parties. There are many individual workers who could benefit from the protection of union representation but who are afraid of the prospect of being forced out on strike. They would welcome the news that, in the final analysis, a strike is not the only option and that there are methods of settling disputes without resort to extreme measures.

In this regard, Bill 61 is also consistent with the present Labour Relations Act which encourages collective bargaining and unionization of employees as a basic human right. Too often collective bargaining energies are wasted in fighting each other, rather than seeking the common ground on which the parties will eventually settle. Sometimes it is necessary to fight and we strongly support the right to strike, but sometimes a strike is wasteful and unproductive. We believe that FOS improves the prospect for productive negotiations for both parties at the negotiating table. However, we must point out that final offer selection, while valuable in its own right, is by no means a solution to the inequities of the bargaining system.

The tremendous powers and legal rights of management must be counterbalanced by an equivalent strength on the part of the union. If meaningful negotiations are ever to take place, in the final analysis, the only source of bargaining power available to the union is the ability to withdraw their labour and bring the operation to a halt. If management enjoys the right to give away jobs of striking workers to scabs, that balance of bargaining power is lost. In addition, as the current postal dispute attests, when working people witness the theft of their jobs by scabs, they are inclined to protect those jobs vigorously. Violence can often result.

Hence we continue to take the position that anti-scab legislation is not dispensible. Final offer selection is but a valuable alternative and a useful option in the collective bargaining arena.

The reason we support FOS over conventional arbitration is precisely because it creates pressures on both parties to negotiate in good faith. Unlike conventional arbitration which creates incentives for the parties to drive their demands further apart, FOS creates an incentive to come closer together. As such, it complements the collective bargaining process, and can contribute to productive negotiations which make it unnecessary to invoke FOS procedures. In fact, the success of final offer selection may be measured by the infrequency of its use.

We can support Bill 61 because it provides another option for union and management negotiators in the collective bargaining process. But we must point out that we support it only in that context. It can only be an option which cannot be forced on the members or their negotiators. The final decision must rest with the employees. They are the ones who must live with the consequences. Besides, it accords with the democratic practices of the union movement to submit all significant options to a vote of the membership.

There are certain features of Bill 61 that we would consider crucial and essential for the success of final offer selection. First and foremost, as mentioned above, is the fact that the workforce may decide not to use the provisions of Bill 61, and will never be forced to go to the final offer selection route. Secondly, it facilitates to continuation of negotiations, and encourages the parties to reach a settlement before selection occurs. Thirdly, it contains a safety provision, whereby issues which are already settled and "off the table" are not subject to the selection process. Fourth, the sunset clause option provides a means of testing the effectiveness of the legislation. Though we firmly believe the legislation to be sound, we are protected by the sunset clause from the long-term effects of any unforseen problems. We trust that these items will remain in the legislation.

We are not afraid of final offer selection. As experienced union negotiators, we trust that our members will make a wise and informed decision when the issue of FOS arises.

We believe that the Government of Manitoba has made a wise choice with the introduction of Bill 61 at this time. It improves the balance of forces at the bargaining table while at the same time expanding, not restricting, the options available to the negotiating process. When negotiations break down we need a more civilized alternative to achieve fair settlements without unnecessary confrontation.

The Manitoba Federation of Labour feels that this is good legislation, and will assist in the bargaining process. We urge you to proceed.

MR. CHAIRMAN: Are there any questions? Mr. McCrae?

MR. J. McCRAE: Mr. Hudson, you made the point near the end of your presentation that you felt that - well, you firmly believed that this was sound legislation, but went on to defend the five-year sunset clause in the legislation. I have to ask the same question about previous legislation brought in by the present government. There were no sunset clauses on some of those other provisions, I take it you were firmly in support of those provisions too. Now, why at that time, did your federation not move or push for a sunset clause in some of those other areas of legislation which we debate quite regularly in this House?

MR. W. HUDSON: Well first of all, let me say that, in our presentation to the Manitoba Government, we didn't ask for a sunset clause. We've made presentations - now we cheer for the last three or four years - asking for final offer selection. We know though that this is a new and innovative clause which we think will assist in the options. We're not afraid of the dark. We think that it's innovative and we're not afraid of any boogeymen in it. We think it's good, sound legislation but, at the same time, it hasn't been tested in legislation in this format so, to some extent I suppose, it's experimental. So we're not opposed to the idea of a

sunset clause because, if it's found to be not as good as we think it will be because maybe it hasn't stood the test of time yet, it would then be dropped.

MR. J. McCRAE: I want to ask you, Mr. Hudson, about changing the rules of industrial relations in our province. As a union representative or leader, if you were in a situation where you had a dispute with an employer, what would be your position on changing the rules of that labour relations atmosphere in the middle of that dispute, in other words, bringing in a new regime which could be used or brought to bear upon that dispute? What would be your opinion of that?

MR. W. HUDSON: Well, I guess any legislation has to be proclaimed at some time and nearly it's always that there is some sort of negotiations going on, and who knows what stage it may be at when that's proclaimed?

MR. J. McCRAE: In the past, legislation has been brought in to bring an end to strike action in the transportation industry - that springs to mind - and in other areas of vital importance to the public. I take it that the union movement would not have been in favour of such an action by the legislatures or by the Parliament of Canada. Knowing as we do now that the legislation before us could be used in the very important labour dispute going on in Manitoba right now, are we not looking at the same kind of thing, a legislated end to a present dispute?

MR. W. HUDSON: Well, you're talking about two altogether different things. You're talking about where you have a dispute and the government decides, for whatever their wisdom is, that they need to end that strike so they force the people back to work. This isn't what we're proposing. That's the situation where the government forces them back to work and usually forces arbitration upon them which is altogether different, not altogether but somewhat different than final offer selection. We're suggesting here that it's another tool in the tool kit, if you will, that you can use at the bargaining table. It's nothing being forced on you to end the strike.

MR. J. McCRAE: Well, in view of the no-veto power on the part of the employers, would you not be suggesting that the government make this legislation not apply to any pending disputes at the present time? Would you not suggest that the rules be the same as they have been, the rules that were there when strategies were set and plans made? Would you not be suggesting to the government that the legislation not affect pending disputes?

MR. W. HUDSON: Well, it can't stop the letter carriers, that's out of scope.

MR. J. McCRAE: That's not the one I'm referring to.

MR. W. HUDSON: Okay, let's be more specific.

MR. J. McCRAE: You know which dispute we're talking about, Mr. Hudson.

MR. W. HUDSON: Okay. No, well let me try to answer you question hypothetically then, if it's a hypothetical question.

MR. J. McCRAE: It's not hypothetical, Mr. Hudson. I'll make it very plain for you. We have a dispute going on between Westfair Foods and the Manitoba Food and Commercial Workers Union in this province, a very important dispute in the province. In the midst of that dispute, the NDP Government of Manitoba is bringing forward legislation, the potential of which is to end strikes, and that strike perhaps in particular. What is your position on the government intervening at this time?

MR. W. HUDSON: Well, our position is that we started asking for this in 1984. We didn't know that there was going to be a strike in 1987, so we've asked for this to come forward at this point of time, and I don't know how long that strike may last. If the strike goes on for the next three years, I don't want to wait three years to introduce the legislation.

MR. J. McCRAE: Mr. Hudson, were you not one of the members of the employee subcommittee of the - I can never get this one - Labour Management Review Committee, along with another employee representative? Have you been a member of the subcommittee studying FOS?

MR. W. HUDSON: Yes.

MR. J. McCRAE: Who was the other member, Mr. Hudson?

MR. W. HUDSON: Bernard Christophe and Neil Tudiver.

MR. J. McCRAE: Have you reported to the Minister on your feelings on the matter?

MR. W. HUDSON: We have never reported to the Minister on anything that goes on in the Labour Management Review Committee. That's not the process.

MR. J. McCRAE: Alright, maybe you can explain to me the process because some people on the subcommittee -(Interjection)- sorry, Mr. Chairman, because some people have expressed some displeasure that the subcommittee and the Labour Management Review Committee never had an opportunity to report to the government before this legislation came in. In other words, the Minister didn't apply the pressure to the committee to say, "hey, we want to move on this and we'd like to hear from you." What part did you and Mr. Christophe play in the subcommittee?

MR. W. HUDSON: Well, Mr. Christophe and I played the part of being labour's representative on that subcommittee. When we started out as a subcommittee, we agreed with the management representative at the table being Wint Newman, Dennis Sutton, Doug Machan. I can't think of the names of others right at the moment. We agreed at the outset that we may not be able to find common ground on this issue.

In any event, we agreed we would reach a conclusion in December of 1986. In December of 1986, we had not reached a conclusion but, in January 1987, we each submitted a report to one another - written report, our

written submission. I think it was January 26, I'm not sure. That was to be our report.

It was mentioned at that time, but no firm commitment was made at that time. But later on, it was suggested that we should have a further meeting about it to discuss this - to critique, so we could critique each other's reports. That meeting, Bernard Christophe, the other member of the committee was away for the month of February, and it just slipped to the backburner and that meeting was never held. That was really a meeting that was subsequent to the written reports being given.

MR. J. McCRAE: Mr. Hudson would . . .

MR. CHAIRMAN: The presentation that he has made to clarify - could you ask questions to clarify the presentation, rather than go ahead and explore other fields?

MR. J. McCRAE: Mr. Chairman, with all due respect, when other presenters to this committee made comments about how the Labour Management Review Committee conducts its affairs, you didn't get involved then, and I suggest you allow me to carry on with my question.

MR. CHAIRMAN: I was being relieved, but I just don't want us to go into all the world affairs when I think that you should be asking questions that deal with the presentation itself.

MR. J. McCRAE: Well thank you for your advice, Mr. Chairman.

Mr. Hudson, in any event, regardless of the position taken by your federation or the position taken by anyone else on whether Bill 61 is good labour law for this province or any other place in this whole wide world, maybe you could tell me today whether you would agree and suggest to the government that any pending labour disputes should not form or be governed by the provisions of this bill. Would you be making that submission to the government?

MR. W. HUDSON: No, that wasn't part of our submission.

MR. J. McCRAE: No. I'm asking you to reconsider that part of it, Mr. Hudson. It sounds to me like you haven't thought about it in those terms. Perhaps maybe it's an important matter to think about.

MR. W. HUDSON: Yes.

MR. CHAIRMAN: I would ask that perhaps the member consider your comments. I realize that we're fairly open-ended here, but I don't think it's appropriate for members, when they don't get an answer they like, to get engaged with presenters. I think we're hear to listen to the presentations and ask questions for clarification resulting from that group. I wish the Member for Brandon West would follow by the rules.- (Interjection)- a valid point. I think you should be questioning the presentation and not going ahead and debating and, in effect, getting your point of view across. You should be asking questions to clarify the presentation that was made to this committee.

MR. J. McCRAE: Thank you, once again, Mr. Chairman, for your advice. I think that's about the third time you've got involved to give advice to one of the members of this committee.

Mr. Hudson, in your presentation, I believe you were silent about the submission made by CUPE, that this legislation allows employers to by-pass the unions and go directly to workers. Would you address that now please?

MR. W. HUDSON: Well I think it's been addressed in my brief. I don't think I was silent on that. We have said all along, when the discussion first started in 1984, that the employer would have the right to seek final offer selection and that the final offer selection process could only be utilized with the consent of a majority vote of the membership. I'm sorry, I don't understand your question other than that. I think we've addressed that.

MR. CHAIRMAN: Thank you, Mr. Hudson.

Mr. Johnston.

MR. F. JOHNSTON: Mr. Hudson -(inaudible)- because you represent the Manitoba Labour Board. I ask you this question because Mr. Ross represents a very large union. You represent the Manitoba Labour Federation.- (Interjection)- Mr. Rose, thank you.

In his presentation he said, "I say to our friends, you have divided us as management has not been able to do, and you should not do that." Do you feel this legislation has divided the union movement in Canada or the labourers in Canada or the workers that he mentions? Why would he make that statement?

MR. W. HUDSON: First of all, let me answer your last question. I don't know why he asked that question. He didn't consult me before he asked the question. Secondly, we have a process, in our organization, where we reach conclusions. We had a convention which we hold every two years, in Winnipeg, with over 600 leadership delegates which are leadership from the known local unions represented and, as our brief says, we made a decision.

If we had have made that decision by 51 percent, it would have been a majority and that would have been the decision of that group, but we made that decision by 2 to 1. The only reason I say that, it was a more overwhelming majority than that.

So that is the position and that resolution is owned by the members of the affiliates of the Federation of Labour across this province. They don't belong to me; they don't belong to -(inaudible)- as a single affiliate, they belong to the Federation of Labour. They belong to the people who are representative of that convention.

MR. F. JOHNSTON: Mr. Hudson, you're telling me what your Federation did at convention. My question to you is: Does your group not feel the same as Mr. Rose does that this government is dividing us, as he says, "divides us as management has not been able to do"? Do you believe this government is doing that?

MR. W. HUDSON: I don't believe the government divided us.

MR. F. JOHNSTON: The government's not divided.

MR. W. HUDSON: I said, I don't believe the government divided us.

MR. F. JOHNSTON: Fine.

MR. CHAIRMAN: Any further questions?
Mr. Mercier.

MR. G. MERCIER: Mr. Hudson, can you tell the committee how many members of your executive have resigned over the position that you're taking here tonight?

MR. W. HUDSON: Two.

MR. G. MERCIER: Can you tell us why the Winnipeg Labour and District Council are not here making a presentation tonight?

MR. W. HUDSON: I can't tell you that, no. I can tell you a little bit about the rules of the labour movement, which we follow quite closely. The Canadian Labour Congress represents the workers of Canada, who are affiliated with Canadian Labour Congress, and represent us at the Federal Government level. Each province has a Federation of Labour. Each Federation of Labour represents the workers, as instructed by convention or executive between convention, to represent them at the provincial level. Labour councils would be at Winnipeg, Brandon, Thompson, or wherever. Responsibility is to represent those workers at the municipal level. So I would expect that the reason the Winnipeg Labour Council isn't here is because, if they were here, they would be out of their jurisdiction.

MR. G. MERCIER: Mr. Hudson, does your federal organization have a general position on final offer selection?

MR. W. HUDSON: Do you mean the Canadian Labour Congress?

MR. G. MERCIER: Yes.

MR. W. HUDSON: I don't ever recall it being discussed at a CLC convention, no. I've missed one or two, but I've been to a lot of them. I don't remember. I'm quite sure they don't have, but the Manitoba Federation of Labour has autonomy to deal with legislation in the provinces.

MR. G. MERCIER: Mr. Hudson, how many NDP caucus meetings have you attended this year?

MR. W. HUDSON: None.

MR. G. MERCIER: None whatsoever?

MR. W. HUDSON: No.

MR. G. MERCIER: How about any other members of your organization attending NDP caucus meetings?

MR. W. HUDSON: I don't know, I really don't know. I can only answer for myself.

MR. CHAIRMAN: How is that relevant to the bill?

MR. W. HUDSON: I never delegated any others to go.

MR. CHAIRMAN: Could we have some order here? I would believe that the presentation being made by the person, you should be questioning on that presentation to make it clearer, and that's the boundaries that we're operating under.

MR. J. McCRAE: What rule is that?

MR. CHAIRMAN: That's the rule, I believe, of the relevancy. Otherwise you can talk about how many dogs you have, Mr. McCrae.

MR. J. McCRAE: Which rule are you referring to, Mr. Chairman?

MR. CHAIRMAN: Rules of order. Could we have some - look we could be here until three o'clock in the morning, if you want to discuss your whole life. Let us stick to the presentation made and ask questions to clarify it.
Mr. Mercier.

MR. G. MERCIER: Mr. Hudson, why should just one party have a veto and not the other parties?

MR. W. HUDSON: In what respect are you asking the question?

MR. G. MERCIER: As I understand it, the employees can turn down final offer selection, but management side could not turn it down, if it was requested.

MR. W. HUDSON: We are of the opinion that it's the members, as we said, who will be directly affected by the results of that decision of the final offer selection. We also know that the employees can't decide how many employees that employer is going to hire, how long that employer is going to employ people in a certain location. We have no control over that.

We think, we believe this, that it balances the scales a little bit more. It gives the union movement one more little leg up at the bargaining table. We think it assists the process.

MR. G. MERCIER: Do you not think, Mr. Hudson, that management would be directly affected by a decision on final offer selection?

MR. W. HUDSON: Of course I would hope they would be affected, because they would be bound by the decision.

MR. G. MERCIER: Right. So when both parties are significantly affected, as I think you've indicated, why should it be binding on one party and not on the other?

MR. W. HUDSON: Well I thought I had answered that question by saying that the employer already has an

awful lot more ways of influencing the workers' right to their jobs or the right to have a job or not have a job; the right whether or not the plant closes down; the right, in some cases, where there are a lot of places where I spend most of my life in Northern Manitoba where companies had the right to decide whether or not you kept your house or not, or whether your house became valueless, whether or not your whole biggest thing a working person mostly does during their life is buy a house. I've seen friends of mine - an old friend of mine - who've had to walk away from houses they've invested their life in, while the mining company had mined out the ore body and had taken their profits and went away and said, thank you very much to the workers. Now your houses are useless, you can leave too.

MR. G. MERCIER: So what you're saying in this process then is that the remedy of the employer, in the event of final offer selection goes against the employer, will be to shut the plant or fire employees. That's their remedy.

MR. W. HUDSON: I'm not saying that. I think what we said at the outset - let me just reemphasize what we said. We said that the best test of FOS is the less it's used. We think that, first of all, it will make both sides reasonable. They will try to come together with reasonable proposals before they go to the selector. If they go to the selector and they have reasonable proposals, as I understand the legislation, and they find they're close together, they don't have to let the selector make the decision. We think that the best way of parties working out an agreement is by the two parties sitting down and having meaningful collective bargaining.

MR. E. CONNERY: Well, Mr. Hudson, I think the reason that we're here tonight is to discuss and deal with what's in the best interests of the workers of Manitoba, and I hope that is what the unions are here for, although I have some concern. Mr. Christophe, we have some 40,000 Manitobans who are -(Interjection)- Mr. Hudson, we have 40,000 Manitobans who are unemployed in Manitoba.

A MEMBER: You have what?

MR. E. CONNERY: Forty thousand Manitobans who are unemployed in Manitoba, the highest number that we've ever had in the modern era. So this is a concern as to how we put these people to work. Now if we didn't have labour unions, we would see management abusing labour and we did see this in the past and that was not proper. But when we see some legislation that drives employers away from Manitoba or discourages them from coming into Manitoba, then I think that this is not good for the workers of Manitoba.

Do you not think that this legislation has gone that one little step too far that is going to discourage that investment that we need, the Pratt and Whitney with their tremendous payroll and all the other companies that have gone away from Manitoba? Do you not think that this legislation just might create a little more unemployment or just prevent some of those unemployed from achieving a job?

MR. W. HUDSON: Let me just say this. I think that if my statistics - correct me if I'm wrong - but in Manitoba I think we have either the lowest or second-lowest unemployment in Canada.

I remember in 1984 people saying we were going to have a dark cloud over Manitoba. We were going to have terrible times in Manitoba. The fact of the matter is that the times have improved in Manitoba and the rate of employment has decreased. Now here we have again people preaching doom and gloom. I don't think there's doom and gloom here. I think if the people want to use this in the proper process, like we tried to say at the outset, the proper process and properly used, it will assist, not discourage, good collective bargaining, good labour relations.

MR. E. CONNERY: Mr. Hudson - and we can go up and down the exact numbers that we've lost in the manufacturing sector. It's anywhere between 8,000-10,000 jobs in the last five years. We see a $1.6 billion deficit in foreign trade on finished products. We see these areas where the negative factors are there. Why are we not displacing this import product? Why are we losing all of these jobs? This is a real concern to the labourers of Manitoba. This is our main concern. Put people to work because if we have people working -(Interjection)- would you shut up airhead, for once in your life?

MR. CHAIRMAN: Mr. Connery, I think you are going beyond. If you will check Rule 64.2, 30, 39, they all specify clearly, the rules pertaining to this committee. You should be asking questions to clarify his information.

MR. E. CONNERY: I am.

MR. S. ASHTON: Mr. Chairperson, on a point of order.

I must say that I object, when I am tempted to raise a point of order to ask that the rules of this committee be followed, that I have to put up with the abuse from the Member for Portage. I really resent the fact that he is attempting to abuse the rules. We have the opportunity as MLA's to debate in that Chamber. In this committee, we're here to hear presentations from members of the public and ask questions about those presentations. I followed the rules. Other members of this Legislature followed the rules. I would hope that this same member, the Member for Portage, would follow the rules as well instead of abusing the procedure here.

MR. CHAIRMAN: I think there is a problem. Let us keep cool heads. Let's, in effect, go along with the rules and proceed, okay?

A MEMBER: Airhead, take you outside and blow you away.

MR. CHAIRMAN: Mr. McCrae.

Mr. McCrae, I'm recognizing you at this point.

MR. J. McCRAE: Sure, Mr. Chairman. Mr. Connery had the floor. He wasn't finished.

MR. E. CONNERY: No, I'll pass. If the Member for Thompson can't stand the heat, well we'll let him off the back burner.

MR. S. ASHTON: . . . can't follow the rules, Mr. Chairperson. I do not believe it's proper for other members to abuse the rules as this member is continuing to do here once again. I think every member of this committee should have the right to raise points of order without putting up with that kind of abuse. It's not a question of not standing the heat. I will take this member on in debate in the Chamber any day and I've done it before. This is for members of the public, however, Mr. Chairman, not for a debate.

MR. CHAIRMAN: Let us not go ahead and get into a big discussion. Let's proceed.

Mr. McCrae, please.

MR. J. McCRAE: Thank you, Mr. Chairman.

I don't wish to talk about doom and gloom, Mr. Chairman, as the Honourable Member for Thompson so much fears, but I do think it's unfortunate that we have to talk about state-run industrial relations in this province.

I do want to ask Mr. Hudson a question about the CUPE presentation. One of their main concerns is that Bill 61 would afford management the right to request a membership vote. They say that that's an interference in the affairs of the bargaining unit and would, therefore, be an unfair labour practice.

Now, Mr. Hudson, you said a little while ago you don't have that same problem or you don't see it that way. You disagree with CUPE on that issue but yet, when it comes to union drives, I take it your position would be quite different. You don't want management interfering in any way with their employees. You don't want them discussing the union drive with their employees. There's quite an inconsistency, and maybe you could explain that for me.

MR. W. HUDSON: Well, I don't mind entering into debate with you about certification and all that because I know a little bit about that too, but I think that one thing I would just like to say is that we're not talking about that tonight.

But let me say this. I have been an active trade unionist since 1951. I have never been afraid of going to my membership and letting them make the decision after I gave them what I thought was the right decision to make. Sometimes, on occasion, they have voted the other way. I'm not afraid of that either.

MR. J. McCRAE: The point of my question, though, which you missed somehow, Mr. Hudson, that is that management has access to the membership under this legislation, but you don't want management to have access at the time of certification, and I can't understand that inconsistency.

MR. W. HUDSON: First of all, that's blatantly untrue, because the Labour Relations Board can require a vote where there is a certification if there isn't more than 55 percent. In this case, the Labour Relations Board can cause another vote, so I don't see where one is different than the other. We aren't saying that the management has a right to interfere. We're saying the management has the right to call for a vote. The Labour Relations Board has the right to call for a vote in the certification.

MR. J. McCRAE: Mr. Hudson, it will be some comfort to the workers at Springhill and the workers at Sooter's to know that you have no objection to votes.

MR. E. CONNERY: Mr. Hudson, you said you had the ability to speak to the workers and explain the reasons why such an action should take place, and you think that's right and just. Yet, management cannot speak to the employees to tell them that, if they take a certain direction, what could happen because, if the management cannot afford the direction that the employees might take in a situation, then employees make a wrong decision and companies close. We see this. We see Canada Packers. The numbers are innumerable. The facts are they're gone, and those jobs are gone.

MR. CHAIRMAN: Order please.

Did you ask a question?

MR. E. CONNERY: Yes, I did. Do you think it's fair that the unions can talk to the employees and tell them what they think is best for them, but still refuse management to explain to the employees the ramifications of what might take place if they follow that direction?

MR. W. HUDSON: First of all, under the laws of the land, certification gives us the right to represent those workers. It doesn't give management the right to represent those workers. Therefore, we have the right, by the laws that were put in place before I can remember - and that's quite a while - that the union had the sole and exclusive right to represent those workers, not the management.

MR. E. CONNERY: Management is not representing the labour; they are explaining to labour the ramifications of what might take place. So I think it's very important for labour to understand . . .

MR. CHAIRMAN: Do you have a question, Mr. Connery?

MR. E. CONNERY: . . . when they make a decision, that they understand what could happen . . .

MR. CHAIRMAN: Mr. Connery.

MR. E. CONNERY: . . . and are you saying that is fair, that . . .

MR. CHAIRMAN: Order please.

MR. E. CONNERY: I'm asking a question now. Be patient.

MR. CHAIRMAN: You are making a speech. I want a question. I do not want a speech, nor a harangue, please.

MR. E. CONNERY: How deep is the water?

MR. CHAIRMAN: Do you want to test it?

MR. E. CONNERY: Give me an answer. How deep is the water, Harvey?

MR. CHAIRMAN: Would you please proceed?

MR. E. CONNERY: Mr. Hudson, we are concerned about the labourers in Manitoba and the lack of jobs for the labourers in Manitoba. If you have legislation that is not fair to both sides, we do not have people coming in and creating employment in this province. That is part of the problem we have. We are working under a bubble of government-financed jobs. The private sector is not doing well. The manufacturing sector, which is one of the key ones, the agricultural sector and the primary sector are down.

Now, do you think this is giving . . .

MR. CHAIRMAN: Just a minute, Mr. Connery.

HON. A. MACKLING: I have a point of order, Mr. Chairman. I think that honourable members should appreciate the fact that we have a number of people here who want to make presentations to the committee.

A MEMBER: It's your bill.

HON. A. MACKLING: It's our bill, and we're proud of it.

The purpose of committee hearings is to facilitate those in the public who have indicated they want to make their views known in respect to the legislation that is before this committee. The purpose of these committee meetings is to facilitate the presentation of submissions to it in respect to those who want to come forward.

Certainly we have a right to ask questions in respect to the submissions that have been made, but it is a disadvantage to all those who are waiting if we spend time arguing with a presenter. We may disagree, and we'll have to reserve on those disagreements. But I ask the cooperation of the committee to respect that this committee process is for the public to present its views, and we'll get along much more quickly if we hear the presenter, ask any questions for clarification, and leave it at that.

MR. CHAIRMAN: I accept that. Are there any further questions?

Thank you very much, Mr. Hudson.

Vera Chernecki, Manitoba Organization of Nurses' Association.

MS. V. CHERNECKI: Thank you, Mr. Chairman, members of the Industrial Relations Committee. I am accompanied to make this presentation today by Irene Giesbrecht, Executive Director of MONA, here.

At the outset, I want to say that our brief opposes Bill 61. Our presentation is based on beliefs of the Manitoba Organization of Nurses' Association regarding free collective bargaining and the right to strike, and concerns we have about final offer selection. The brief is short. I will read the presentation, and we have copies to leave with the committee members.

The Manitoba Organization of Nurses' Association, MONA, is an independent labour organization established in 1975. MONA represents 89 bargaining units, MONA locals, that are certified under The Labour Relations Act of Manitoba. Total membership approximates 10,000 at this point in time, and includes a majority of the unionized registered nurses and licensed practical nurses in the province. Included, as well, are some registered psychiatric nurses and operating room technicians employed in four hospitals. Graduate nurses, non-registered, and graduate pending licence practical nurses are also included in the bargaining units.

MONA acknowledges that Manitoba has an enviable record as far as harmony in labour relations is concerned. We believe it is fostered to a great extent by the labour law amendments made in 1985. However, today we are gravely concerned that proposed legislation now before us threatens to do much more to demage labour relations than to improve them.

MONA is strongly opposed to final offer selection as a disputes resolution mechanism. We oppose Bill 61 because we firmly believe in free collective bargaining and that the best possible mechanism for resolving disputes is strike and lockout. The existence of the unfettered right to strike ensures that the collective bargaining process involves true negotiations. We are convinced that the introduction of final offer selection represents a restriction on free collective bargaining and is the beginning of the erosion of our right to withdraw our services.

MONA's position on the impasse resolution: The suggestion of a voluntary commitment to binding arbitration, standard or modified, previous to commencement of negotiations, as well as a system of imposed deadlines during negotiations, has been soundly rejected.

The belief is that the right to strike, and lockouts, should be retained. For effective collective bargaining, employees must be free to invoke economic sanctions in support of their bargaining.

The strike and lockout are necessary counterparts to free collective bargaining. Our belief in the right to strike or lockout does not preclude the search for alternatives, or prevent the parties in collective bargaining from agreeing to voluntary binding arbitration when it is deemed to be a preferred alternative.

Strike is not a weapon we want to use. It is one we must hold in defence, guaranteeing that when we go to the bargaining table, management will take us seriously and negotiate in good faith. We too must bargain in good faith, for the objective of the bargaining process is settlement - mutually satisfactory, not confrontation.

Nurses are a largely self-disciplined group and this self-discipline has been applied in a commitment in the form of statement and policy to the effect that all reasonable, available methods of settlement will be exhausted before resorting to strike and, in the best interests of consumers of health care, advance notice of strike action will be given and essential emergency-type nursing services will be provided.

In 1983, in keeping with this commitment, MONA, along with other health care unions, signed a Memorandum of Agreement with eight major urban health care facilities regarding the provision of essential services in the event of a work stoppage. Since that time, we've also signed an Essential Services Agreement at two regional, rural hospitals.

Our issues and concerns about final offer selection: There do not appear to be models of FOS similar to

that contemplated by Bill 61, in concert with the unfettered right to strike. It was originally designed as a substitute for the public employees' right to strike.

FOS most predominantly exists in certain American municipal and state jurisdictions where strikes are virtually illegal. In Canada, its use has hardly become generalized. One would think, if FOS was a good way of settling disputes, many parties would have agreed to it voluntarily. Final offer selection is not in use very much because it's not a good idea.

Collective bargaining, under the threat of FOS, would lead to negotiators striving to impress the selector rather than working toward an agreement acceptable to all parties. It ties the parties' hands and commits them to accept provisions which at least one side is likely to find intolerable. In fact, only a few parties have voluntarily agreed to FOS, such as a number of universities and their faculty associations.

As far as legislation is concerned, there are few example, one being the Ontario School Boards' and Teachers' Collective Negotiations Act. However, in this case, the process only applies where the parties have agreed to refer all matters remaining in dispute to a selector.

Final offer selection is, in our opinion, the worst form of arbitration. It encourages gamesmanship, with the parties placing more emphasis on reading the arbitrator's mind than resolving the issues. The process has been called "Russian roulette" arbitration.

It should also be recognized that final offer selection provides a solution where one party could clearly win and the other party has lost. It seems almost inevitable that the losing party will resent the decision and the collective agreement which it produces. Such a situation is hardly conducive to harmonious relations. In this way, the system may create more strife than it resolves.

Another concern with FOS is that any innovative proposals are likely to be seen as excessive. Who will suffer most from this? It is our view that women, minorities and low-paid service personnel will be the most disadvantaged. Contract clauses referring to day care, affirmative action, technological change and retraining, and professional responsibility are not common and therefore dangerous if presented to a selector.

Final offer selection is not designed to solve the great majority of labour disputes in which many issues are on the table. It is an overly simplistic approach to a very complex problem. FOS assumes that two packages can be compared. Where numerous issues are involved, this may not be possible. For example, is an improvement in a seniority clause applicable to promotion more reasonable than a lengthening of the notice to be provided prior to a layoff? We are concerned that important union rights clauses may be lost when the selector is faced with having to choose between two vast and complicated packages. An employer may put more money in his final offer to make his package more attractive to the selector, and thus be able to "buy" the concessions he wants.

Concerns regarding the proposed Manitoba model: Our first concern is that a final offer selection system, which allows the union membership the option to agree or reject a management or union executive recommendation to use final offer selection effectively gives the union the right to remove management's legal right to lockout. This will upset the traditional strike-lockout equation wherein, in theory at least, both parties have equal rights to stop work during specified periods in the collective bargaining process. Giving the union membership the right to take away management's right to lockout may prompt a future government to even up the equation by granting an employer the right to remove a union strike option.

Under ordinary conditions, government attempts to remove the right to strike would be seen as a blatant attack on working people. With FOS in place, a future government could achieve the same end, all in the name of fairness and equality; that is, giving management the same rights as labour. Final offer selection constitutes a serious threat to free collective bargaining, both in the present and in the future.

The second area of concern is that the proposed model allows management two opportunities to request a membership vote. This is an entirely new concept in that, under the current system, any such request would constitute interference in the affairs of the bargaining unit, and thus would be an unfair labour practice.

The mere fact that management can request such a vote gives them a built-in mechanism to view the feelings or militancy of the membership. A close vote against a management request to use final offer selection will be a useful bit of information which will, no doubt, shape management's actions once bargaining commences. As a fundamental principle, we have always fought management obtaining a right to interfere with our membership.

MONA's experience in collective bargaining: As stated previously, MONA's belief is that the right to strike must be retained. It is a fundamental right no less important than the freedom of speech or the freedom of press. It is a vital part of the collective bargaining process. The only thing we have to bargain is our time and labour. Denied the right to withhold that labour, we become powerless.

The many negotiations in which nurses of this province have been involved since 1965 have resulted in two strikes, each involving one local and each being of short duration. In July of 1977, a strike by nurses against Thompson General Hospital lasted five days; in April of 1986, a strike by nurses at Hillcrest Nursing Home in Brandon lasted two days.

In all other negotiations over the years, settlement has occurred without strike action. The negotiations were often difficult, but it was the right to strike or the possibility of strike that ensured the collective bargaining process involved true negotiation and compromise between the union and the employer.

One key example is the 1975 collective bargaining experience. Manitoba nurses were determined to stand together to achieve a salary that would finally recognize the importance of their work. Negotiations were difficult and strike votes were overwhelmingly positive. A strike which was called for 0700 hours March 17 was averted when settlement came in the 11th-hour negotiations on March 16.

The nurses had achieved an approximate 42 percent increase in wages. This finally allowed Manitoba health care facilities to maintain a competitive position by retaining nurses in the province and allowing quality health care to be maintained.

It is our view that the past experience in negotiating nurses' contracts over the years has provided

acceptable contracts to both parties with almost no disruption in services.

In conclusion, we urge that Bill 61 be withdrawn in its entirety. We suggest, if unions and employers wish to take the final offer selection route for their future impasse resolution, they should negotiate such clauses in their contracts and not subject others to such legislation. All forms of arbitration are poor substitutes for free collective bargaining with the strike-lockout option of settling disputes.

Thank you.

MR. CHAIRMAN: Are there any questions? Thank you very much then, Mrs. Chernecki.

Mr. John Lang and Pat McEvoy.

MR. G. MERCIER: Mr. Chairman, the hour is now 11 o'clock. Could I suggest the committee rise? It's called for Thursday night. We can continue hearing the presentations on Thursday night.

MR. P. McEVOY: If I may, brother Chairman, we have John Lang from Toronto from the CCU who's flown all the way out here to deal with this brief, along with myself. Ours is very, very short, by the way. I would certainly hope that you'd be prepared to entertain it tonight.

MR. CHAIRMAN: What does the committee wish?

MR. S. ASHTON: I think certainly we should deal with the out-of-town briefs, but I'm just wondering what the difficulty would be in completing at this time. I think we're well over half-way in the presentations. I wouldn't have any objections to sitting here a bit longer. I think it would be less inconvenient for even in-town people to come back.

MR. CHAIRMAN: Mr. Kovnats.

MR. A. KOVNATS: Mr. Chairman, might I just make a remark further to what the honourable member has just stated, that we are about halfway through, which has taken us from eight to eleven o'clock, which is three hours. If you're expecting us to go to two o'clock in the morning to complete this - and it still wouldn't be completed - I think it would be wrong. I would suggest that, after this brief, committee rise.

MR. CHAIRMAN: You may proceed.

MR. J. LANG: Thank you, Mr. Chairman.

My name is John Lang. I'm the secretary-treasurer of the Confederation of Canadian Unions. We are pleased to have this opportunity to present our views on Bill 61, the amendments to The Manitoba Labour Relations Act, which introduce procedures for final offer selection. I have left copies of our brief with the Clerk and they will be distributed to you.

The CCU is a national labour centre with 35,000 members in 17 national and regional unions. Our members are employed from coast to coast in every sector of the economy. About 3,000 CCU members live and work in Manitoba, the majority of whom are represented by the Canadian Association of Industrial, Mechanical and Allied Workers, CAIMAW, with whom we are jointly submitting this brief. With me tonight is Pat McEvoy who is the regional vice-president of CAIMAW, Susan Spratt and Cecile Cassata (phonetic), who are both staff reps with CAIMAW.

Our primary opposition to Bill 61 is based on fundamental principles. Final offer selection introduces a crapshoot mentality into collective bargaining, which will encourage both parties to move away from negotiations based on their relative strengths and gamble on a win or take all fling with the selector.

In our view, final offer selection will interfere in free collective bargaining by giving absolute power to a selector who will choose the conditions under which workers will earn their living. Final offer selection will exacerbate the already serious problem of the penetration that arbitrators and other experts have made into every aspect of industrial relations, with the legalism and bureaucratization that accompany these developments.

It's important to note that final offer selection does not have widespread support among unionists in Manitoba, or the country as a whole. Employers' organizations have not been lobbying for this legislation either.

In our view, final offer selection is the brainchild of academics and bureaucrats who lack the knowledge that is derived from every day experience in negotiations, and it smacks of the type of simplistic social engineering that has, over the years, earned a bad name for social democratic governments.

Employers' organizations have criticized Bill 61 on the grounds that it is blatantly one-sided, and that it shifts the balance towards labour in collective bargaining. We do not share these criticisms. In our view, Bill 61 does not give unions or workers any new rights or privileges. This bill is not analagous to gaining the right in law to refuse unsafe work, or winning the right to strike during the life of a collective agreement. If you want to talk about real rights, let's talk about things like that.

It certainly doesn't compare to winning a provision in the act that would prevent employers from hiring scabs during a strike. I don't need to remind this committee that final offer selection was presented as an apparent trade-off instead of anti-scab legislation in 1984, and it was clearly rejected by the labour movement at that time.

Bill 61 does not shift the balance towards labour. At best, it introduces a new process into the dispute-settlement mechanism, but this process is riddled with contradictions and will worsen some of the major problems facing workers in industrial relations.

The process itself is extraordinarily cumbersome. Two Labour Board hearings must be held: one to set up the vote, and a second one to appoint the selector. Then the selector holds two hearings: one for determining the issues in dispute, and a second to hear evidence on the final offers from the parties. The process practically guarantees lengthy delays.

It may be of interest to this committee that the most common complaint among workers active in union affairs are the delays and the costs associated with arbitrations. It is reasonable to assume, given the importance of the matters at hand, that the selectors appointed under Bill 61 will be from the ranks of the

most experienced arbitrators in the province. Final offer selection will, in our view, aggravate an already unhealthy situation.

The final offer selection process also appears to have been drafted by a committee of reluctant brides. At every step, the parties have the option to drop out and settle the issues directly. It is claimed that this will "encourage the parties to engage in serious and meaningful bargaining throughout the process." We doubt that it will have this effect because, once you have opted for final offer selection, all the power rests in the hands of the selector. The impetus for negotiations will not be based on a realistic assessment of one's relative strengths, but on trying to second guess which way the selector is leaning. Both union and management committees will be scrutinizing the comments, facial expressions and the general demeanour of the selector to decide whether to bail out or to hang in to the end. In our view, the process that Bill 61 establishes will almost certainly detract from meaningful collective bargaining.

One must also consider the impact that a decision of a selector will have on future labour-management relations, should the process be followed to its conclusion. This legislation will have created a situation where there is a definite winner and a definite loser. Such a condition is diametrically opposed to the give and take that collective bargaining is supposed to encourage.

Final offer selection will not be conducive to building a long-term stable labour relations climate between employers and unions. The Confederation of Canadian Unions views the provisions of section 82.1(1) as a serious intrusion into union affairs. This section gives an employer the right to cause a vote to be taken among union members.

In our opinion, this section contradicts the principle laid out in section 6 of The Labour Relations Act, which prevents an employer from interfering in the administration of a union. We are concerned that, if employers are given the right to demand votes among union members within the context of final offer selection, they will seek to have this right extended to other areas.

We point out that, in 1980, the Conservative Government of Ontario gave employers the right to demand, once during negotiations or a strike, that their latest offer be put to a vote of the union membership. This ability to impose themselves in the decision-making process of unions has given employers in Ontario a potent option that, whether or not it is formally invoked, weighs heavily on unions, especially in the midst of difficult strikes. By establishing a right for employers to demand that union members vote on an issue, which may only be on the employer's agenda, Bill 61 sets a dangerous precedent.

Similarly, we want to raise our concerns about the increase in discretionary powers that are given to the Labour Board in Bill 61. It appears to us that practically every amendment to labour legislation around the country increases the discretionary powers of these boards. For example, section 82.1(9)(b) gives the board the discretion to allow scabs the right to vote; under 82.1(10) the board can expand or reduce the voting constituency.

We admit that these provisions are not a departure from similar discretion that the board already holds. But, as a warning to progressive legislators, we point out that long before Bill 19, the Socred Government in British Columbia had, through its appointments to the Labour Board, turned the labour legislation of the NDP inside out, and they did this with very few actual changes to the Labour Code which Professor Weiler had drafted and shepherded through its early years.

We are more seriously concerned about section 82.3(8)(e) which lists as one of the factors the selector may consider, in making his or her choice, "the employer's ability to pay." In our view, this poses particular problems in the public sector where the employer can directly determine its ability to pay through taxation and other fiscal policies.

Final offer selection gives nothing of substance to unions or workers. It has not come about because of widespread demands from the labour movement. In the view of the CCU, it is a process that will appeal to those labour leaders who are prepared to gamble with the livelihood of their members, rather than accept the more difficult responsibility of building unions based on the strength of an informed and united membership.

Bill 61 will encourage the myth that workers can place their trust in an impartial third party as if our law schools, from which most selectors will undoubtedly have emerged, had an equal component of labour input into their course development, faculty appointments, or their student bodies.

While giving workers nothing of substance, Bill 61 sets dangerous new precedents on which employers in Manitoba will be trying to build, by increasing their opportunities to manipulate internal union procedures. Bill 61 continues the process of legalism and bureaucratization, with its corresponding delays and costs, and it takes a giant step along the path of further removing collective bargaining from shop floor considerations and rank and file control.

The Confederation of Canadian Unions and our affiliate, the Canadian Association of Industrial, Mechanical and Allied Workers, believes that Bill 61 is ill-conceived, unnecessary and unwanted legislation. We ask the Government to Manitoba to withdraw this legislation. If it does not, we hope that the committee recommends that Bill 61 be defeated.

Thank you.

MR. CHAIRMAN: Are there any questions of Mr. Lang? Thank you, Mr. Lang.

Yes?

HON. J. COWAN: May I make a suggestion? We have one other out-of-town presenter.- (Interjection)- Probably for more than a couple of days, however, I don't know if that is a possibility. May I suggest that we have that presenter and any other presenter who cannot be here on Thursday evening and who have waited all this evening to make their presentation have the opportunity to do so tonight?

Once we have gone through those presenters who are either from out of town or who cannot be here on Thursday evening, we would then entertain a motion to adjourn the committee's work. (Agreed)

Maybe we could have some indication of those who would like to present tonight out of the presenters?

MR. CHAIRMAN: Mr. Len Stevens. Is there someone else? Ms. Leslie Spillett?

MS. L. SPILLETT: I won't be able to make it on Thursday night.

MR. CHAIRMAN: She cannot make it on Thursday, so we'll hear you tonight Leslie.

Proceed, Ms. Spillet.

MS. L. SPILLETT: Mr. Chairperson, committee members, my name is Leslie Spillet and I'm the Manager of the Western Canadian Region District Council International Ladies' Garment Workers Union.

I am pleased to have the opportunity tonight to present our views on Bill 61. The International Ladies' Garment Workers Union, Locals 286 and 288, represents roughly 1,200 members in the City of Winnipeg who are employed in the apparel manufacturing industry.

The ILGWU wants to make it clear from the start that we are strongly opposed to Bill 61, final offer selection, and we urge this New Democratic Party Government to withdraw this contentious legislation and replace it with legislation which prohibits the use of strikebreakers during a legal strike.

Only with anti-scab legislation will Manitoba garment workers and Manitoba workers in general have any real opportunity to bargain for wages, job security clauses and benefits to our collective agreements that reflect the standards of unionized workers in Manitoba.

The vast majority of our members are new Canadians and female, many of whom are unable to communicate effectively in English and are skilled only in jobs related to the garment industry, including sewing machine operators, cutters, knitters. Combined, these factors have resulted in the superexploitation of workers in this industry for as long as it has existed here. Very few of our members have the resources to continue to exist, even in a marginal way, to win improvement through strike action, but in spite of this disadvantage they have done so.

The immense economic advantage employers have over our members is witnessed in both past struggles waged by garment workers and in more recent ones. In 1981, the garment workers led two strikes. Both were over the issue of base or guaranteed wages for our members, who either work on hourly rates or piecework.

On one picket line, the employer did not hire scabs, and this dispute was settled within a relatively short time period. There was no violence on this picket line. The second strike lasted 19 days. Not only did this employer replace our members with scabs, other manufacturers black-listed our members who sought employment elsewhere. As the days passed, workers expressed their fear, their outrage, their anger, disbelief and cynicism as the Winnipeg Police Department escorted scabs through our picket lines. False arrests were made by the police to further intimidate our members.

The employer also solicited scab workers through welfare and manpower offices, which pitted immigrant Canadian workers against indigenous Canadian women, who are normally very rarely employed in this industry.

The unemployed most often become the scab recruits of union-busting, strike-busting employers. Violence erupted on several occasions as outraged men and women experienced the array of forces stacked against them.

I am relating this experience to give the committee members some idea of how people are affected during a strike, and submit that anti-scab legislation and not final offer selection is what garment workers and all workers need to decrease the overwhelming power employer groups have over workers.

Anti-scab legislation was passed unanimously at several MFL conventions. It is a demand that does not divide the trade union movement and has precedent both in Canada and in other countries.

The International Ladies' Garment Workers Union believes that there is no alternative to strikes, only alternatives to strike-breaking. Today, the issues that are left on the bargaining table are largely those dealing with job security clauses and wages. Employers across Canada, and Manitoba is no exception, are now demanding as concessions those very gains that many workers fought and won on picket lines. We are again being forced on picket lines to defend them.

Final offer selection in its current atmosphere of collective bargaining may well mean that unions will be forced to include concessions in their final package in an attempt to tailor it for a selector responsible for choosing one side or the other. As many of the previous presenters tonight have told you, it is the worst form of arbitration. If the outstanding unresolved issues do go before a selector, management will divert its tremendous resources to putting forward a final offer which will be presented by a platoon of lawyers and likely tailored in such a way as to undermine job security clauses and perhaps concede to union wage demands. Employers can afford to purchase job security clauses and other important clauses that affect workers.

Workers have seldom come out ahead in imposed contracts because selectors or arbitrators have very little or no affinity for workers or the problems that confront them daily on the shop floor. The legislation is designed to turn labour relations over to the hands of labour and management lawyers and out of the hands of business and workers' representatives. Lawyers will once again be the ones to get richer from Bill 61. Final offer selection is simply another name for compulsory arbitration, long rejected by the trade union movement.

Management's right to call for final offer selection and the unprecedented recognition that there are three parties involved in collective bargaining - unions, management and employees - are both repugnant to trade unions who have long advocated against management interference in matters concerning our membership, and that unions and its members are one and the same. The most frightening and the most dangerous aspect of final offer selection is that it leaves Manitoba workers and even possibly Canadian workers wide open to a revision or implementation under another government. Just to make it fairer to both parties, one does not require much foresight to realize that what is at stake here is a right to strike itself.

One has to wonder why, if Manitoba has the best labour relations record in Manitoba, this government is proceeding so quickly and resolutely to pass this legislation. If the answer to this is that final offer selection is a result of a compromised solution for this government lacking the political will to bring in anti-scab legislation then, for the record, we must say loud

and clear that Bill 61 will never be seen by workers who are forced onto picket lines across this country by their employers demanding concessions as a solution, because it is not.

We join with other trade unionists in asking your government to withdraw Bill 61, and we further ask that you replace Bill 61 and bring in legislation prohibiting the use of strikebreakers and strikes.

Thank you very much.

MR. CHAIRMAN: Any questions?

Thank you, Ms. Spillett, no questions.

We have three other people who will not be able to be here on Thursday. The first one is Mr. Len Stevens.

MR. L. STEVENS: Thank you, Mr. Chairman, the honourable members of the government and honourable members of the Opposition, and the delegates, who have seen sufficient to stay here. It has seemed sufficient to stay here and listen to what is going on, and I want to thank my colleagues of the federation.

I want to just clear up a few facts for some of the new members who are sitting around this commission. I had the opportunity of hearing my old friend, Sid Green, make some remarks and, when I walked in, he noticed that I was part of the congregation sitting in here. I thought maybe I was a Cabinet Minister. He couldn't say enough nice things about me, and I appreciate him very much.

I was Sid Green's campaign manager for three successive campaigns and he won; then I left town and he lost. I don't know if that's the reason he got up here to appear against the union movement or not, but I don't think you should carry those personal things forward in an issue like we have today.

Let me give you a little background because he made reference about the fact that Stevens from B.C. and Vander Zalm. I'm not a Social Creditor. I want everybody to understand that right from the very beginning. My territory runs from Manitoba, Saskatchewan, Alberta and B.C. to the Yukon and Northwest Territories. I'm the only elected member of the United Steelworkers in Western Canada, and I represent something like 32,000 people, something like 172 local unions.

On top of that, I'm down here representing many of my locals in the Northern Manitoba area. We just had an extremely good settlement and I want to thank the members of the Legislature, the Opposition included, in bringing about the settlement on the Leaf Rapids Agreement with Hudson Bay Mining and Smelting which means we're going to keep that mine operating, means we're going to keep more people working in B.C. I want to thank this government and the Opposition for getting together and doing a good job together collectively. Thank you very much.

I want to also speak a little bit about my background, just for the benefit of some other people. I was born in Winnipeg, Manitoba, the same as my father. I was involved also in the political end of it. I was elected as a member of the Board of Education in the City of Winnipeg, and I also was a member of the aldermen for the City of Winnipeg.

Jeff Rose, an old friend of mine from the Congress, was here opposing this legislation. I'd like to say something. The union movement is no different to politics. We have differences of opinion, regardless whether you're all in the same party or different parties, whatever you have. That's the reason why you gentlemen know you have caucuses to get together, those people disagree to get them together. Unfortunately, Jeff Rose didn't get down there early enough. We couldn't talk to him, so he differed with us.

I just want to take you along on the Jeff Rose thing, that he said we don't need this new Bill 61, and I guess he doesn't. The City of Winnipeg hasn't had a strike since 1919. Now the 1919 strike was created and caused by an employer called Manitoba Bridge and Iron Works, formerly Dominion Bridge. CUPE Local 500 has not had a strike since 1919 and you should check your history for that. I'm surprised at you, Local 500 Civic Federation. Check your history, please do that. I'm from Vancouver and I'm teaching you your own history.

Manitoba Bridge or Dominion Bridge created a strike in 1919. My father happened to be one of the strikers who went to jail. When he came back and there was no organization going at all, we elected then a labour council in the City of Winnipeg, and one of the gentlemen there was a fellow by the name of Jack Blumberg and the Mayor was John McQueen. From that day on, if you look at your history, we've had repeatedly labour representatives from the union organization or people who believed in the labour organization repeatedly elected year after year after year on the city council. Sometime we controlled, sometime not by control.

Therefore when CUPE went in for negotiations, it's like myself going into a private manager with half the members belonging to me as a board of directors, a wonderful set-up; you can't get away from it. Let me suggest to you that the City of Winnipeg, when they come here, and CUPE 500 do not need 61, but I will tell you this, that when you come . . .

MR. CHAIRMAN: Could we have order here, please.

MR. L. STEVENS: When it comes to the fact of the private enterprise, it's a different situation. I say to you in all honesty that my union, the United Steelworkers Union, the largest industrial union in Western Canada, probably will never even look at this Bill 61. But I'm thinking of some other things. I'm thinking of some small groups who don't have that bargaining power, they would probably use it, and what have we got here before you? I'm not going to go in detail and go step by step about the timetable. You people are studying it day in and day out. You're asking questions in the House. I heard the questions asked tonight.

I put this to you. I discussed this with my people just last week. In Hecla Island, 122 of us from the Province of Manitoba joined together to analyze this bill. We said we are not taking away the right to strike for anybody. This bill does not do that. This bill does not say you're going to have compulsory arbitration. It does not do that. This bill gives you another option to try to find a settlement to stop the confrontation that's going on across this country. We have right-wing governments all across this damn country creating problems. Thank God, in Manitoba, even the Opposition is a small "c." They are not the type of people who

go out -(Interjection)- They are not the type of people. I am. They are not the type of people who go out and create confrontation.

But let me suggest this to you: Do we want a Gainers situation in Manitoba like you had in Alberta? Just go down and take a look. That's part of my area. I was in there; I was on the picket line in Gainers. I saw what developed. It was a damn disgrace what happened there. We don't want that in Manitoba. Do we have to go down and see what's happening out at the letter workers? It's federal, but do we want that? So what this bill is saying to me, if you can use it to the advantage to stop this conflict on that working picket line, use it.

I'm all in agreement with the last speaker when she got up here and said the question that I am in favour and we stand, my union stands, for anti-scab. That's my position. As the president of this federation for 10 solid years, that's been my position from Day One. When we had the Conservative Government here, I preached for it; when we had the NDP Government, I preached for it, but they wouldn't listen to me. I hope this group will eventually. I think we should have it; I really do. It stops that conflict and we've got to get it eventually. The Province of Quebec has it and there's no problem with it. The reason why they were leaving the building trades and all the rest of it was for other reasons. They haven't left because of labour legislation. We've got good labour legislation here. We can't say too much.

I have known every Minister of Labour who sat in this province here in this Legislature in the last 30 years. I know them personally and sometimes I had some very nice times with them, sometimes weren't so great. The last one I didn't get along too well with ended up being Premier, and he didn't get along with anybody really as far as I can recall.

But I want to say to the group here, I can say to you quite honestly, I really do believe that we do need something to take care of those small groups that cannot handle themselves. I'm not really worried about the Steelworkers who have 1,000 members in Thompson or the people in Leaf or the people in Lynn, the people in Flin Flon and the people at Dominion Bridge and Manitoba Rolling Mills. No, I'm not concerned about that.

But I heard the member from an independent union get up here and speak and said he's opposed to it. It will make lawyers rich. Well, the business agent who represents that union would probably still be working the plant. Let me name that plant to you. That plant is called L and S Electric. They went out and struck on a simple thing - not wages, not working conditions, not safety and health. They went out on strike for a thing called union security, that everybody must pay dues.

I was the area supervisor of the day and I advised that gentleman that's sitting here or was sitting here, I advised the staff member of my union, do not strike over that silly issue of union shop. If you're not doing the job and you are not worthy of your keep, then the people won't pay dues, that's tough. But they went out on strike and they kept on striking and striking over that damn issue of union shop and we lost it. The union lost the strike and also what happened? The company went out of business. The City of Winnipeg not only lost the business, the Steelworkers lost the local union. Those people went elsewhere to work. That fellow that was here, represented here by the other chap, was a shop steward of mine and he lost his job.

I say to you: Can we bring in some legislation that is going to come about and eliminate the process of eliminating companies in the City of Winnipeg or the Province of Manitoba? Are we going to bring something about that will eliminate jobs?

Let me suggest to you also something that happened, another company, and let me name the company, Quality Bed and Manufacturing down on Henry by Arlington. We had a strike there, three years. The United Steelworkers, being a very powerful strong union with lots of money behind it, took on that poor little company for three solid years and struck them and kept out, and the company went bankrupt. We lost that industry here in Manitoba. My members lost their jobs. Unfortunately, I lost two members on the picket line. They died walking that picket line and, I say to you, I remember those things.

I think probably in those two incidents, I would have probably come to somebody and said, let's have a vote somewhere down the line and see if we can get some collective togetherness and get this thing back on the road. What is wrong with that? But at times there comes an issue when you become so inflated with your own ego, that who's going to bow first, the management or the union big boss.

So we talk about the big boss not having control under Bill 61. I hear some people saying you're going over the head of the big union boss, you're going to go to the members. Well let me to suggest to you also about going over the head of the big boss and going to the union members. When I was here, the Minister of Labour under a Conservative Government happened to say Len Stevens had rigged the vote. He's taken a strike vote at two plants, it's not a straight vote, he's done all these things to the ballots, you know that things are being said.

So I went down - and let me name the company again to you for the history, for the records, Manitoba Rolling Mills, Local 5442, United Steelworkers of America in Selkirk. We called in the press, we called in the reporters from the Winnipeg Free Press, Winnipeg Tribune, we called in the T.V. stations, and said you watch and see how we conduct our ballot votes, you count the ballots, and we brought them in.

The United Steelworkers and the Manitoba Federation has never been worried or scared about an open vote and having people count their ballots. If you don't have the support of your people in that ballot box, what the hell's the sense of going on strike? Some members are saying here, you're going over the head of the union people by going to the members. What's wrong with going to the members? We do it all the time.

I heard Wilf Hudson, the president of the Federation, say if he cannot convince the people that he is right and they should vote one way, then that's tough, he's lost it. That has happened to us more than once, more than twice, several times. We're not always right and management is not always wrong, let me say that to you. I mean that Don, you and I will talk about this later. I say to you the time has to come.

And what do we do with this bill. All this bill gives, after you've been out in that line, to save some face

- yes it might be the face of Len Stevens, it might be the face of a management - but this bill says, if you want to, somebody else will come and will ask the workers, do you want to have a vote? Now I ask you, is there anything wrong with that? Is there really anything wrong with that. As an ex-alderman of the City of Winnipeg, I'm sure you couldn't disagree with that. You have to turn around and ask the people what they want. That's democracy and that's what we're saying, and democracy is that you will have split people, you will have split opinions on this situation. Damn it all, all I'm saying to you that there's nothing wrong with what we got here.

I can recite case after case after case, but I'm concerned about one thing. Can we do something here that will stop the conflict? I think there's one thing, if you people want to make amendment here, I will be in full accord with you. Change the whole thing and bring in an anti-scab situation that stops conflict. That will eliminate even what we're talking about right now, because the parties will have to come together.

But I'm saying to you now, short of that, this situation is not that bad. This situation is saying that the two people will get together, one offer from the other offer and we've got something, and you talk about management doesn't have the right.

There was a bill passed called PC-1003, Mr. Chairman, a federal law called PC-1003, passed just after the last world war in Ottawa. What the PC-1003 says, the Provincial Legislature shall have the right and control over all workers in their particular domain, meaning the provinces. That then brought in the labour movement under control of the Legislature.

My friend who spoke here first, who said he's opposed to this, I want to also tell you - and I'm sorry he left, I tried to catch him in the hall but he wouldn't stay - I said to him, Mr. Green, you've being opposed to every damn piece of legislation on anything. He said, I agree, because he believes everything should be wide open because, if you remember, he stopped thinking a long time ago - remember that. But he wants everything wide open. There should be no law preventing anything because he believes in the free exercise of the people at all times, and I said that's good.

In order to get that, you have to abolish the Bill PC-1003, do away with PC-1003 and we'll go back to what we used to do. We had a strike, everybody sat down, just sat down, that's all, no laws, nobody bothered you, no police came around. You sat down. When the management wanted to go to work, you said pay us more and we went to work. Nobody bothered us. But when PC-1003 was passed and brought in legislation and made the workers do some things by laws, we then fell under the law called "The Master and Servant Law." The Master and Servant Law, if your memory goes back in your history, says that the master is right at all times and the servant will get paid what the master wants to pay and will do exactly what he wants to be done.

All we are saying under this bill, as Wilf Hudson said to you, we want to get a little back to the servant, back against the master. Not too much ado - all we're saying is let us have the right to say yes, we want a vote; yes, let's have an offer from somebody, let's see if there's a settlement.

God bless my members from CUPE who have never had a strike since 1919, and I don't wish them to have any at all, and I hope they don't have to have any. But I notice that the manager of the City of Winnipeg, as soon as he spoke, he got up and left. Well, I hope maybe to catch him tomorrow morning before I catch my plane to Montreal. I would like to talk to him about the City of Winnipeg. The fact of the matter is that we can get together, we can work together, we can do a job in this province.

And I also have to agree with the president of the Federation. This stuff of people running around in doom and gloom, I've heard it before and, by God, all you've got to do is come down where I live once in awhile in B.C. and want to see doom and gloom. If you want to see some bad bills being passed, take a look at Bill 19. If you want to see some, take a look at Bill 20 and see what's happening to us down there. It's a damned disgrace. Take a look at what's happening in Alberta. I'm going around this whole country saying we should all be living in the Province of Manitoba because, whether you're with this government or whether you're in opposition to the government, we've got good people making the laws of this province and we're going to get along together splendidly. Cooperatively, we can do the job.

And I say to you, take the individuals away from this table, take away the label of that political party and put them in the same room, and you know what you're all doing? You're all doing the same thing that I believe in. You are all working for the betterment and the best of this province and you deserve the right to do that job. I hope you're re-elected and we can carry on and do a good job. Let's keep this province moving. Let's do the job. Let's pass 61. Let's stop confrontation in the Province of Manitoba. Let's get people working. Let's do the job and bring industry in here.

Thank you very much.

MR. CHAIRMAN: Are there any questions?

Mr. McCrae.

MR. J. McCRAE: Mr. Stevens, your comments are taken by me as coming from a person who is speaking about a lot of good will and all that type of thing, but I do have to ask you the same question I've asked other presenters tonight. That is, as a union representative of many years' experience, would you accept the change in the rules of the game in the middle of the game? I'm referring in this case to a dispute already in progress. Should this bill apply to a dispute that's already begun?

MR. L. STEVENS: My answer was part of it in what I said. Anything we can do to prevent conflict, let's get on the job and do it. If you want to carry on conflict, that's up to you, brother. I want to eliminate conflict.

MR. J. McCRAE: And fairness to either side be damned?

MR. L. STEVENS: Nobody's being damned, are they? Let's eliminate the conflict, good will to both sides.

MR. J. McCRAE: So when Provincial and Federal Governments in the past have legislated employees back to work, that ended the conflict too?

MR. L. STEVENS: That's a different thing now. You've got people requesting this to be done; the other one, it's directed to be done. That's a little different.

MR. J. McCRAE: Do you know who's asking for this legislation?

MR. L. STEVENS: Yes, the Manitoba Federation of Labour.

MR. CHAIRMAN: Mr. Orchard.

MR. D. ORCHARD: Thank you, Mr. Chairman.

Mr. Stevens, correct me if I'm wrong, but I believe during the course of your presentation tonight you indicated that in your many years of experience in the union movement that you would not have had an opportunity to use Bill 61. Can I assume from that you don't see a circumstance wherein you would use Bill 61 in the final offer selection provision?

MR. L. STEVENS: What I said, honourable member, is that I wouldn't be using it, but that doesn't prevent my members who have the right to decide if they want to use it. I think they should have that right and that's the right I want to give them.

MR. D. ORCHARD: Now, Mr. Stevens, you also indicated in your remarks that this piece of legislation does not prevent strikes. Does this piece of legislation prevent lockouts?

MR. L. STEVENS: It could if it was chosen; if it's not chosen, you'd have a lockout or you have a strike. It's just another option. It's there to be used if they want to use it.

MR. D. ORCHARD: Mr. Chairman, I don't want to belabour the point, but I think you've indicated that it does not prevent strikes, but it could prevent lockouts in that the union could request final offer selection in the event of a lockout. The membership could vote for it, and thereby it would deny the right of management in a lockout. Is that a correct assumption from your statements?

MR. L. STEVENS: No, you're wrong.

MR. D. ORCHARD: Well now, let's just get this . . .

MR. L. STEVENS: You're not correct in your assumption, let's put it that way.

MR. D. ORCHARD: Now, I'm not correct in my assumption of what you said or what the legislation provides?

MR. L. STEVENS: You're not correct in your assumption of what you said.

MR. D. ORCHARD: No, no, no. Mr. Stevens, you are very skilled. You're almost like an NDP Cabinet Minister in avoiding the question.

MR. L. STEVENS: I'm sorry.

MR. D. ORCHARD: Well, I'm sorry, Mr. Chairman, I shouldn't have said that. That's such an intemperate remark.

Mr. Stevens, you indicated that this legislation does not prevent strikes. I posed the question: Does it prevent lockouts? There is a major point here. It's not what I said, it's what you say.

MR. L. STEVENS: Okay, if the members do not choose to use Bill 61, it does not change anything at all. It does not prevent strikes, it does not prevent lockouts.

MR. D. ORCHARD: But, Mr. Stevens, would you not concede that the provisions of Bill 61 in the event of a labour dispute precipitated by a lockout by management, that the membership of the union so locked out can vote for final offer selection and the management must accept that as a method of preventing the lockout? Is that not a provision of this bill?

MR. L. STEVENS: Not in preventing the lockout. I think you mean by eliminating the lockout.

MR. D. ORCHARD: Okay.

MR. L. STEVENS: Yes, that's what it would do.

MR. D. ORCHARD: So that, in effect, this does not prevent strikes, but it can prevent lockouts. Is that a fair assumption from this bill?

MR. L. STEVENS: Run that by me once more, because you and I are both getting mixed up here.

MR. D. ORCHARD: Oh, no, I'm not getting mixed up, Mr. Stevens. This bill, as you have indicated earlier in your presentation, does not prevent strikes.

MR. L. STEVENS: That's right.

MR. D. ORCHARD: But this bill, through its provisions, can prevent lockouts. Is that correct?

MR. L. STEVENS: If it's used, it can prevent both; and if it's not used, the same thing will carry on.

HON. A. MACKLING: Read the bill.

MR. D. ORCHARD: Mr. Stevens, you know one of the problems we've got is a discredited Minister of Labour who's saying to me, read the bill. He should read the bill. Now, Mr. Chairman . . .

MR. CHAIRMAN: Mr. Orchard, ask questions of Mr. Stevens . . .

MR. D. ORCHARD: Mr. Chairman, I'd be glad to ask the question if you would keep the Minister of Labour quiet.

MR. CHAIRMAN: I will.

MR. D. ORCHARD: Thank you, use the gavel on him.

Now, Mr. Stevens, it's your words, not mine, that this bill will not prevent strikes, but clearly this bill can prevent lockouts because the membership of the union have the ability to vote on whether they wish - and I will quote from the direct clause . . .

MR. L. STEVENS: Mr. Orchard, can I just . . .

MR. D. ORCHARD: "Do you wish to resolve this labour dispute by the final offer selection?" That is a question that can be put to the membership of the union, thereby eliminating a lockout by management. So you have indicated that this bill eliminates strikes, will not prevent strikes, but it can prevent lockout. Is that correct?

MR. L. STEVENS: It can prevent lockout and prevent strikes, if it's used, only if it's used.

MR. D. ORCHARD: But, Mr. Stevens, you did indicate earlier on that this bill will not prevent strikes. My simple question is: Will it prevent lockouts?

MR. L. STEVENS: It will not prevent strikes if it's not used; if it's used, it will prevent strikes, yes. I said it does not change any playing field if it's not utilized, and all this is is another option in order to endeavour to stop conflict, eliminate conflict.

I'm saying to you, please, I'm saying to you as a union member, as a labour leader, boss, or whatever you want to call me, I'm saying to you in your good office, part of this Legislature, should you not be trying to work towards the ends of eliminating conflict in this province? You say, yes. You nod your head. Do you mean yes? - I'm with you on that.

MR. D. ORCHARD: Okay. Can I ask Mr. Stevens a hypothetical question . . .

MR. CHAIRMAN: Yes, you can.

MR. D. ORCHARD: . . . which Madam Speaker would disallow, but I know you, Mr. Chairman, will allow.

MR. CHAIRMAN: Being the pleasant person I am, I will allow it.

MR. D. ORCHARD: Mr. Chairman, I'd like to ask Mr. Stevens, if there is a strike in progress and the membership of the union is put the question, do you wish to resolve this labour dispute by final offer selection process, and the membership of the union by majority vote says no, the strike then continues? Is that correct?

MR. L. STEVENS: Yes.

MR. D. ORCHARD: If the same question is put to the membership of the union in the event of a lockout and the membership of that union by majority of vote, 50 percent plus one, says yes, does that end the lockout?

MR. L. STEVENS: Yes.

MR. D. ORCHARD: Then is not the advantage in this legislation that union can continue strikes and prevent lockouts?

MR. L. STEVENS: No.

MR. D. ORCHARD: Why not?

MR. L. STEVENS: The thing is that you have a conflict. This will come to you eventually.

MR. D. ORCHARD: I hope so.

SOME HONOURABLE MEMBERS: Oh, oh!

MR. L. STEVENS: You have a conflict. Now this is very serious.

MR. D. ORCHARD: This is very serious.

MR. L. STEVENS: You have a conflict and what I said in my part, I had a prepared text and I thought I'd better go off it and shorten it down because we're running late. But I'm saying to you in all honesty that we have another option to use, if you so decide. I'm really talking about Local 500 CUPE. I'm a very close friend of them. I was with them from Day One. I know where they're coming from.

I'm saying that it does not eliminate their right to have a strike if they so decide; it's another option. So all I'm saying to you, it brings another option to the people, to the bargaining table, to eliminate strikes. That's what I'm saying and I really mean that. I'm saying to people around this committee, are you really saying you don't want to go along with the thought, the idea, let's eliminate conflict if it's possible? I'm sure you agree with me on that. Then you should be agreeing with Bill 61. What is wrong with that?

MR. D. ORCHARD: Mr. Chairman, this is an interesting discussion we're having with Mr. Stevens here. Correct me, if I'm wrong. We've established that a union on strike, by vote, can continue the strike.

MR. L. STEVENS: And should have the right to change their mind.

MR. D. ORCHARD: But the basic question in this legislation is that the union, by vote, can continue the strike and refuse final offer selection, right?

MR. L. STEVENS: Right.

MR. D. ORCHARD: The union, by vote, 50 percent plus one, can vote to go to final offer selection, thereby within a definitive period of time eliminate a lockout. Is that not correct?

MR. L. STEVENS: Are you speaking before they are on strike?

MR. D. ORCHARD: Well, this bill applies both ways. Before a contract is even up, they can go to final offer selection.

MR. L. STEVENS: What period of time are you speaking about, before or after?

MR. D. ORCHARD: Mr. Chairman, let us establish . . .

MR. L. STEVENS: What comes first, a strike or a lockout? You've got me. Do you want me to help you?

MR. D. ORCHARD: I'm trying to understand Mr. Steven's position.

MR. L. STEVENS: Are you speaking that a strike or lockout is before or after?

MR. D. ORCHARD: We've already established a strike can be stopped by a simple percent vote. Okay? Now, we've got . . .

MR. L. STEVENS: But is the strike on?

MR. D. ORCHARD: Presumably it is not a strike, it is a lockout.

MR. L. STEVENS: The lockout is on?

MR. D. ORCHARD: The lockout is on.

MR. L. STEVENS: The management has locked out the members?

MR. D. ORCHARD: That is correct.

MR. L. STEVENS: Okay and, if members did not choose to go 61, final offer selection, prior to lockout?

MR. D. ORCHARD: No, no. There is a lockout in progress and the union suggests, as is provided in Bill 61, that by majority vote they go to final offer selection and they, by majority - 50 percent plus 1 vote . . .

MR. L. STEVENS: Excuse me. You know, help me by a little bit. Did you say the union?

MR. D. ORCHARD: Yes.

MR. L. STEVENS: It's going to the employees, is it not - the workers?

MR. D. ORCHARD: Yes.

MR. L. STEVENS: It's not going to the union? - (Interjection)- Okay. Now if the members so decide, under our democracy and the trade union movement, yes, that can happen.

MR. D. ORCHARD: And by vote, the union can end the lockout. That's correct?

MR. L. STEVENS: Not the union.

MR. D. ORCHARD: The membership of the union. I'm presuming that the members of the union are part of the union.

MR. L. STEVENS: If I understand that bill - I understand what the members are and I understand they are part of the union - that bill doesn't say "union." That's one of the complaints you got from one of the members appearing here who said you're going over the head of the union.

I think what you want to say, if they go to the workers and the workers so vote, yes, they have that right to do so and that's what will happen.

MR. D. ORCHARD: Thank you.

Now, Mr. Chairman, we have established that the union membership . . .

MR. L. STEVENS: And I think the president of the Federation said he agreed with that.

MR. D. ORCHARD: Mr. Chairman, to Mr. Stevens, the union membership can, by this legislation, vote to continue a strike if they so desire and, in the event of a lockout, which is the other side of a labour dispute, the membership of the union can vote to end it. Is that correct?

MR. L. STEVENS: Right.

MR. D. ORCHARD: Now, Mr. Chairman, given that the union has the opportunity under the circumstance of a strike to continue or discontinue and, in the case of a lockout, to discontinue by a majority vote, that is, as the NDP constantly tell us, an example of fair and equitable labour relations in the province, and that right should be granted?

MR. L. STEVENS: But why would any - you know, good management in any company, why would they want to carry on a lockout? You don't want to help them carry on a lockout.

MR. D. ORCHARD: You're right. No one wants to carry on a lockout.

MR. L. STEVENS: That's what this thing is all about. Let's get rid of the lockout.

MR. D. ORCHARD: This is very interesting, Mr. Chairman.

So you're saying that, in effect, what you wish is the union, the right to carry on the strike or to break a lockout, you want it both ways?

MR. L. STEVENS: To eliminate the lockout, not break it . . .

MR. D. ORCHARD: Yes. Well, eliminate and break . . .

MR. L. STEVENS: . . . and go back to earn a living and pay taxes, do those things, pay the bloody wages that it draws from those taxations.

MR. D. ORCHARD: But this legislation does provide the ability to either carry on the strike or to stop the lockout. Right?

MR. L. STEVENS: I'm sorry - yes.

MR. D. ORCHARD: Thank you.

We took a long time to get there, but we finally got there, Mr. Chairman. Now, Mr. Chairman, I've just got one final question for Mr. Stevens.

Mr. Stevens, you indicated that Sid Green stopped thinking a long time ago. Was that at the point in time when you ran three successive winning campaigns for him that he stopped thinking?

MR. L. STEVENS: It was after his loss, he stopped thinking.

MR. D. ORCHARD: Ah! So you weren't part of the law of not thinking by Sid Green? I'm glad we have that clarified.

MR. L. STEVENS: He was thinking when I was with him.

MR. CHAIRMAN: Are there any further questions?

Thank you, Mr. Stevens.

MR. L. STEVENS: Really, I've enjoyed this and I really do thank the members around here. I agree with you and thank you very much.

I'll end up with one thing. I really do ask you, on behalf of this organization, the Federation and my union: Let's work together, let's put this thing together and let's stop conflict. I don't want to see it happen. I was on that picket line in Alberta. I saw the Gainers strike; I was there. We don't want that in Manitoba. We just don't want it, and let's pull together and eliminate it.

Thank you very much.

MR. CHAIRMAN: Thank you.

We have two other people who cannot be here on Thursday. The first is Mr. Lorne Robson of the Communist Party.- (Interjection)- Okay, he's gone. Thank you.

The next one is Mr. Bruno Zimmer.

MR. B. ZIMMER: Mr. Chairman, members of the committee, I'm here representing United Food and Commercial Workers, Local 111, specifically. We represent 4,000 workers in this province, and I'm here to speak in support of the FOS legislation.

A union which often faces difficult negotiating conditions with employers who seem more determined to undermine the position of the union than they are to reach a just settlement with their workers, I am proud to say that we are in the forefront in organizing the unorganized workers in the Province of Manitoba.

Our experience has often been bitter. Management has often seemed intent to - and I quote - "break the power of the union" at all costs. On a number of occasions, they have forces out on strike in hopes of holding us on the picket line until our bargaining unit falls apart.

I want to go back a little bit in history and tell you some examples what has happened to our union, to a big powerful union, and I go back as far as 1982 and'83 when they had a strike at Export Packers, a unit that was certified for many years. We were forced on strike by the employer for refusing to bargain in good faith. We were forced out on strike and we unfortunately had lost the strike. We were forced out and the end result was that the workers lost their jobs and lost the right to be represented by a union. That was the beginning in 1982-83.

I have a few more examples - units we organized just within the last couple of years - Kent Flour Mills in Virden; Supreme Racquet Courts; Smitty's Pancake House, where we, after one year of being the bargaining agent, were forced out. By unreasonable demands of the employers, we were forced out on the picket line, and the end result was that we had lost the strike and people lost the right to be represented by the union. These are just a few examples.

Going back another couple of years is, for instance, the Schneider's strike - and I'm sure you'll remember all that dispute we had with Schneider's in 1982 and'83 - which was a more prominent strike, and the Burns strike in 1984, a 13-week strike, and I believe both of these conflicts could have been prevented had final offer selection been in place.

In 1982, Schneider's took an unreasonable position in not being willing to follow the meat-packing industry settlement. In order to get a competitive edge over its competitors on the backs of the workers, Schneider's refused to follow the industry settlement and forced the workers out on strike. Had we had final offer selection at that time, I think we could have prevented that strike and we would have reached a settlement in final offer selection.

In 1984, Mr. Child (phonetic), who owns Burns, forced us out on strike by demanding major concessions from its workers. An employer like Mr. Child wanted to show the meat-packing industry of Canada how it is done, to get a $2.00 an hour wage concession from its workers, a very unreasonable demand, a demand which was totally unjustified. Again we were on strike for 13 weeks. We had violence on the picket line, totally unnecessary if you would have had a proper person in final offer selection looking at the industry as a whole and come down with a decision in order to settle the dispute.

We have a few more coming up, a few good ones, and that's Springhill Farms and Sooter Photo. But we would like to go into bargaining, and because of employers and other interferences they're not able to get to the bargaining table. These are some examples of unproductive negotiations where we fight each other instead of seeking solutions to our disagreements.

Unorganized workers are aware of the futility of unproductive confrontations. They may be afraid to consider union membership because they do not want to be forced out on strike. This creates obstacles in the way of organizing and makes it more difficult for working people to gain the benefits of union representation. We believe that final offer selection presents a reasonable alternative to this kind of unproductive confrontation.

While there are circumstances in which confrontation is necessary and productive and leads to good contracts, there are other times when they accomplish little but mutual hostility and some alternative has to be found. This is the function of final offer selection. It is an option, an option only, available to both sides in a dispute which may encourage them to bargain in good faith and seek a solution, or else the selector will be called in to settle the dispute.

As long as the final decision as to whether to use final offer selection remains in the hands of the membership, in the hands of the workers, to a democratic vote, and as long as the right to strike

remains intact, final offer selection can be useful to our members to find a solution to a bargaining impasse.

I could go on a lot longer and quote a lot more examples. We are in a private sector; we are not in a public sector. The private sector, when we lose strikes, we lose them and the workers lose the right to be represented by a union. That is important. Therefore, for all these reasons, we are in support, my local is in support of final offer selection.

Thank you, Mr. Chairman.

MR. J. McCRAE: Mr. Zimmer, near the end of your presentation, you said that final offer selection was available to both sides in a dispute. Now we know that the act allows the workers to make that decision. But to say it's available to both sides is not quite correct, is it, when the workers have the veto in all cases?

MR. B. ZIMMER: Well, the employer can request and then the workers will decide whether they want to go that route.

MR. J. McCRAE: But if the workers decide they don't after instructions from their leaders, then it's not really fair, is it . . .

MR. B. ZIMMER: Well, Mr. McCrae, we don't give - Mr. McCrae, let me correct you. We don't give instructions.

MR. J. McCRAE: . . . to say that the final offer selection is available to both sides? Do you really think it's fair to say that . . .

MR. B. ZIMMER: Let me answer the question.

MR. J. McCRAE: Mr. Chairman, would you ask the . . .

MR. CHAIRMAN: It might be useful, Mr. McCrae, if you got recognized and then you would have an answer and . . .

MR. J. McCRAE: Mr. Chairman, on a point of order.

I had been recognized and I was interrupted by this person, and now you're telling me to be recognized?

MR. CHAIRMAN: You've got to be where you're both, in effect, having a dialogue with each other and ignoring the rest of the meeting. I really do think that, if you follow the procedure, you'll have no problem.

Mr. McCrae, proceed.

MR. J. McCRAE: Mr. Chairman, I politely sat and listened to this presenter . . .

MR. CHAIRMAN: Proceed.

MR. J. McCRAE: . . . and as I was asking a question, I was interrupted in the middle of the question, at which point you told me, Mr. Chairman, that I should be recognized.

Now where do we stand, Mr. Chairman, between you and me?

MR. CHAIRMAN: Mr. McCrae, just ask your question.

HON. A. MACKLING: On the point of order, I believe that if Mr. McCrae will recall, he'd asked a question. Mr. Zimmer was answering and then you interrupted the answer.

MR. CHAIRMAN: It will be very clear that you did not get recognized.

Mr. McCrae.

MR. J. McCRAE: Mr. Chairman, perhaps in future the presenter will let me finish my questions before he starts answering them. I'll start again.

MR. CHAIRMAN: Please do not lecture the presenter. Go ahead and ask your question, Mr. McCrae.

MR. J. McCRAE: Mr. Chairman, would you allow me to ask my question, please?

MR. CHAIRMAN: I've been asking you for the last five minutes to ask your question, Mr. McCrae.

MR. J. McCRAE: Would you like to answer the question?

MR. B. ZIMMER: Ask the question. I didn't get the question. Would you please . . .

MR. J. McCRAE: Maybe we should start over again, Mr. Chairman.

MR. CHAIRMAN: Okay, go ahead.

MR. J. McCRAE: Near the end of your presentation, you said that this final offer selection was available to both sides. Could you explain that, please, how it's available to both sides when there's a veto available to one side and not the other side?

MR. B. ZIMMER: It is available at both parties in negotiations. Either the employer or the bargaining agent can request final offer selection. The final say, the final vote on the final selection will be made by the workers, by the workers and their bargaining unit. Whether the employer requests or the bargaining agent requests, it is the worker who makes the final decision whether he wants to go for final offer selection or not.

MR. J. McCRAE: All right, bearing in mind that there are two sides in a dispute - and it has been argued tonight that there are two sides and not three - bearing that in mind, would it not be fair, if one side is going to have a veto, for the other side to have a veto too?

MR. B. ZIMMER: I don't know what you mean by a veto, Mr. McCrae, but in negotiations now, when an employer makes an offer to the workers which might be his final offer, either in wages and benefits, then it's the workers who make the decision whether they want to accept the offer or not. It's the same way, it works this way. The employer says I would like to go final offer selection, then the worker will make that decision. I will not make the decision, the employer will

not make the decision. The workers in my bargaining unit will make that decision, whether they want to go that route, because they are going to be effected in the long run. It's their livelihood at stake, not mine or not the employers.

MR. J. McCRAE: Now also, you made reference in your presentation - and this question flows from the presentation you made, Mr. Chairman - to the plants at Sooter and at Springhill, and you said that you were having trouble getting agreements because of other interferences. Could you explain what those other interferences might be?

MR. B. ZIMMER: Employers' interferences in the bargaining process, employers and other interferences, politicians, businessmen . . .

MR. J. McCRAE: Are you saying that politicians have interfered with the rights of workers?

MR. B. ZIMMER: Politicians have interfered in the certification and in the organizing process, yes.

MR. J. McCRAE: Can you identify the politicians who have interfered in that process?

MR. B. ZIMMER: I don't have to. You know who I am talking about.

MR. J. McCRAE: Are you nervous, Mr. Zimmer, about putting it on the record?

MR. B. ZIMMER: Pardon me?

MR. J. McCRAE: Are you nervous about putting on the record which politician has interfered?

MR. B. ZIMMER: Not at all.

MR. J. McCRAE: Well, go ahead and do it.

MR. B. ZIMMER: Not at all. You know who it was.

MR. J. McCRAE: Put it on the record.

MR. B. ZIMMER: Mr. McCrae.

MR. J. McCRAE: Anybody else?

MR. B. ZIMMER: So far, that's the person.

MR. J. McCRAE: That's the only one?

MR. CHAIRMAN: Any further questions?

MR. J. McCRAE: Yes, one more question, Mr. Chairman.

MR. CHAIRMAN: Yes, Mr. McCrae.

MR. J. McCRAE: I know from having been present at meetings where you have spoken to workers, Mr. Zimmer, that you make statements about being fair and about fair rules on both sides and comments like that. Would you also agree that Bill 61 should apply to disputes that are already pending?

MR. B. ZIMMER: The disputes already pending?

MR. J. McCRAE: Should this bill apply?

MR. B. ZIMMER: If the disputes are still on after legislation is passed, then the legislation should apply to the disputes that are pending.

MR. J. McCRAE: Can you give me the rationale for that kind of thinking, changing the rules in the middle of the game?

MR. B. ZIMMER: Why shouldn't it? When the law applies, it takes effect. When it's proclaimed, any disputes at that time should then fall under that law after it has been proclaimed, whether they are in process, whether they are starting, or they have started last year or maybe there is a dispute starting tomorrow.

MR. J. McCRAE: So then as a general principle, you would have no problem with governments, for instance, legislating workers back to work?

MR. B. ZIMMER: Oh, that's not the case, Mr. McCrae. When the law is passed, if it should be proclaimed, it is still up to workers in the bargaining unit to vote in favour of that particular process of final offer selection. It's not the same as government ordering back to work; it's always the workers.

You don't seem to understand the process in the collective bargaining and the process in our unions. The worker always has the final say by secret ballot vote. The worker has the final say on a collective agreement; the worker has the final say on a strike; the worker will have the final say on final offer selection. So you don't seem to realize that we have democratic organizations and the workers will make the final decision.

MR. J. McCRAE: Just flowing from your answer, Mr. Zimmer, about the workers have the final say by vote, then did the workers at Springhill and at Sooter's have the final say by a vote?

MR. B. ZIMMER: They had a say. They signed a card. They voted 55 percent in favour of a bargaining agent. They were certified by the Labour Board and they had a vote.

MR. J. McCRAE: And you see nothing wrong with the labour law in this province that would allow for the kind of confrontation that we had certainly at Springhill and also at Sooter's?

MR. B. ZIMMER: Mr. McCrae, you didn't . . .

MR. J. McCRAE: Mr. Chairman, on a point of order, I was recognized and I don't like to be interrupted when I've been recognized. You've made that ruling already.

MR. CHAIRMAN: Mr. McCrae has the floor and now he's got a point of order . . .

HON. A. MACKLING: . . . on a point of order . . .

MR. CHAIRMAN: . . . flowing from his answers.

HON. A. MACKLING: My point of order, Mr. Chairperson, is that I can appreciate that Mr. McCrae has questions he feels he'd like to put to this presenter, because the presenter had talked about the involvement of his union with disputes sometimes leading to strikes, and so on. But the particular matter Mr. McCrae wants to pursue is a matter of certification, nothing to do with the exercising of final offer selection or its process. I question its relevance to the kind of labour legislation we're talking about that is at issue before the committee. It's not certification that is before the committee. It is a change in labour legislation to provide for final offer selection where there's an ongoing dispute between parties, not certification.

MR. CHAIRMAN: Thank you, Mr. Mackling, but I would like Mr. McCrae to proceed. I can't tell where his question will lead.

Mr. McCrae.

MR. D. ORCHARD: In other words, the Minister did not have a point of order.

MR. CHAIRMAN: That's right.

Mr. McCrae.

MR. D. ORCHARD: You lost again Alvin. Why don't you close your mouth?

A MEMBER: Everybody would be better off, Don.

MR. CHAIRMAN: Could we have some order here, please?

Mr. McCrae.

MR. J. McCRAE: The point is, Mr. Chairman, this presenter has accused me of a very serious matter. He's accused me of an unfair labour practice which in The Labour Act is a very serious matter, and he's also talked about votes on the part of workers and I'd like to pursue the matter of votes.

Now whether it has to do with certification, as the Minister of Labour has mentioned, or final offer selection, the point is that the workers have the vote in final offer selection, but not in certification. This is the point that I was trying to make with Mr. Zimmer, who made his points earlier by making charges against me of unfair labour practices. I suggest that if this witness . . .

MR. CHAIRMAN: Do you have a question, Mr. McCrae?

MR. J. McCRAE: . . . wants to make those kinds of charges, he should lay a charge before the Labour Board . . .

MR. CHAIRMAN: Mr. McCrae, Mr. McCrae!

MR. J. McCRAE: . . . rather than just make them all over the province.

MR. CHAIRMAN: Mr. McCrae, do you have a question?

MR. J. McCRAE: Yes, I do. I say, Mr. Chairman, there's an inconsistency in this presenter's statements when he talks about . . .

MR. CHAIRMAN: That's not a question.

Are there any further questions?

MR. J. McCRAE: Yes, Mr. Chairman, I'm not finished.

MR. CHAIRMAN: You seem to have difficulty asking a question. If you phrase a question, fine and dandy, but go ahead. To be fishing all over, making speeches is not exactly what you're supposed to be doing here.

MR. J. McCRAE: I will always have difficulty framing questions when the Member for Thompson is nattering in the background, Mr. Chairman.

MR. CHAIRMAN: Okay, could you ask a question?

MR. J. McCRAE: Thank you.

Mr. Zimmer, do you not see the inconsistency in what you've said about votes in one scenario and not having votes in the other scenario?

MR. B. ZIMMER: Not at all.

MR. J. McCRAE: You see no inconsistencies?

MR. B. ZIMMER: Not at all, Mr. McCrae, not at all. The certification process is totally different than a vote on a contract, a vote on a final offer selection, totally different. We have laws in this province, which have been in existence for years in the certification process. Under your administration or the Conservative administration, those laws were in effect and they're still in effect. I see no inconsistency at all.

MR. J. McCRAE: You really do want to see this thing carried on, Mr. Zimmer. You make statements about votes and about previous governments. We're here to discuss Bill 61 which has to do with votes, and here you are talking about previous administrations.

MR. B. ZIMMER: Mr. McCrae, you started the debate, I didn't. You started it. You want to debate, I'll debate with you any day and any time and anywhere.

MR. D. ORCHARD: Mr. Chairman, clearly he provoked Mr. McCrae.

SOME HONOURABLE MEMBERS: Oh, oh!

MR. B. ZIMMER: Yes.

MR. J. McCRAE: The inconsistency, Mr. Zimmer, is that, where a union is being imposed on someone, it's different from when a contract is being imposed on someone. I don't understand that.

MR. B. ZIMMER: Mr. McCrae, let me answer that.

MR. CHAIRMAN: That is not a question. I don't think Mr. McCrae has any further questions.

MR. J. McCRAE: Yes, I have a question. Could you explain that inconsistency, the difference between a union being imposed on someone and a contract being imposed on someone?

MR. CHAIRMAN: Mr. McCrae, you've had ample opportunity and you haven't been able to ask a question. I can't go ahead and give you half an hour over one simple question that you can't phrase. Can you phrase a simple question instead of debating?

MR. J. McCRAE: Mr. Chairman, on a point of order, I would ask that maybe perhaps the Chair withdraw intemperate language that it uses occasionally.

MR. CHAIRMAN: Well, all I'm saying, Mr. McCrae, is you should be asking a question. Debating with the person making a presentation is not your role or any member here of the committee's role.

Are there any further questions of the presenter?

Thank you, Mr. Zimmer.

MR. B. ZIMMER: Thank you.

MR. CHAIRMAN: Now what does the committee wish to do? Do you want to proceed? Could we have a motion?

Okay, all those in favour? -(Interjection)- No, don't hear any.

Committee rise.

COMMITTE ROSE AT: 12:15 a.m.

WRITTEN SUBMISSION PRESENTED BUT NOT READ

Submission respecting Bill No. 32 by:
Manitoba Association for Right and Liberties
425 Elgin Avenue,
Winnipeg, Manitoba
R3A 1P2

June 17, 1987

Brief re: Bill 32 - The Retail Businesses Holiday Closing Act.

MARL concerns itself with the matter of closing times of retail stores only insofar as it might affect the religious freedom of Manitoba's citizens.

The Retail Businesses Holiday Closing Act represents a substantial secularization of the institution of retail stores closing hours. Nevertheless, the historical roots of this law in the Christian religion are still evident in the choice of Sunday as the standard day of rest. This bias in favour of Sunday-Sabbath observers has only been extended to include Saturday-Sabbath observers. Religious groups which have other days of rest besides Saturday or Sunday - such as Muslims, for whom Friday is a day of special religious significance - therefore do not have an equal opportunity for religious observance. Thus, while the law is intended to be secular, part of its effect is to reinforce a religious bias.

Marl suggests therefore that provision also be made for exemption from Sunday closing where a business has been closed for any 24-hour period in the immediately preceding week.

Marl also believes that no employees should face discrimination for refusing to work on their Sabbath or their equivalent of the Sabbath.