

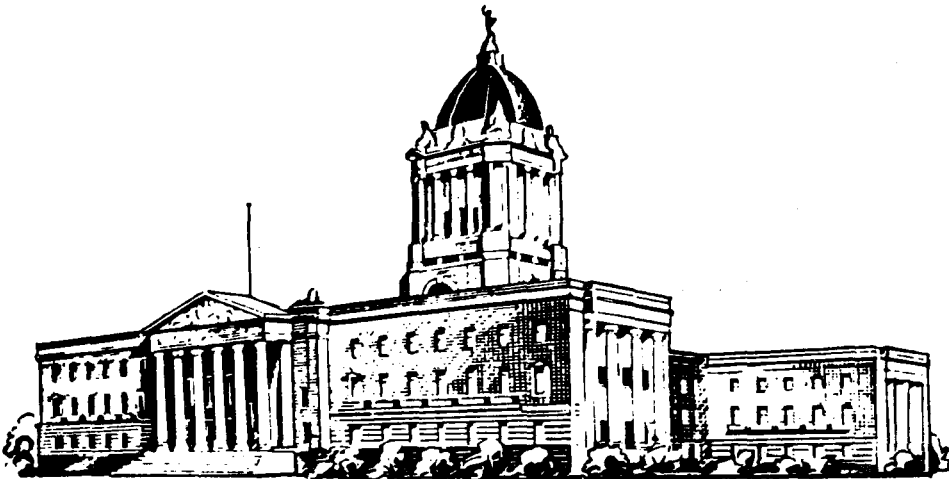


**Legislative Assembly of Manitoba**

**HEARING OF THE STANDING COMMITTEE  
ON  
INDUSTRIAL RELATIONS**

**Chairman**

**Mr. Harry Shafransky  
Constituency of Radisson**



**MONDAY, June 6, 1977, 8:00 p.m.**

**Industrial Relations  
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**ME: 8:00 p.m.**

**AIRMAN: Mr. Harry Shafransky (Radisson).**

**MR. CLERK:** May I have your attention? Mr. Jenkins, the regular chairman was taken ill today and has gone home. Mr. Shafransky has been, I understand, appointed as temporary Chairman.

**MR. CHAIRMAN:** Order please. We have a quorum, we can proceed. We have a number of people on the list to make presentations. We shall start with Mr. Dave Grant from the Mayor's office. Mr. Grant. Is Mr. Grant available? We'll go on to the next person, Mr. Tony Swann, Canadian Manufacturers Association. Mr. Swann is not present so we shall proceed to the next. Hugh Delaney, Winnipeg Chamber of Commerce.

**MR. . . .:** Mr. Chairman, Mr. Delaney is delayed for a moment. Could we proceed to another person until such time as Mr. Delaney is here?

**MR. CHAIRMAN:** Yes, all right. Canadian Association of Industrial Mechanical and Allied Workers. Mr. Fast, are you representing . . . or Mr. Pitts? . . . Yes Mr. Patrick.

**MR. PATRICK:** Mr. Chairman, I believe that there are several people from out of town and in case they don't finish tonight, have to be back in Committee tomorrow some time, would it be agreeable to the Committee to consider at least two or three people from out of town because I believe they've already made one trip, some of them.

**MR. CHAIRMAN:** Well I don't know what has been the agreement of the Committee, whether we deal with those people from out of town or take them in the order in which they have been presented.

**MR. GREEN:** But Mr Chairman, we have in the past quite frequently dealt with people who are from out of the city in order that they not have to come in twice. So I understand Mr. King is from out of the city, I don't know who else.

**MR. CHAIRMAN:** There's Mr. Hicks, Campbell Soup Company, Portage la Prairie and Ralph King, Canadian Chamber of Commerce. Would that be Morden?

**MR. GREEN:** Yes.

**MR. CHAIRMAN:** All right. Is Mr. Hicks present? Mr. King? If that is the will of the Committee that we proceed on that basis, okay, let's proceed. Mr. King.

**MR. RALPH KING:** Thank you, Mr. Chairman. As a Vice-President in the Canadian Chamber of Commerce representing Manitoba, and I also incidentally am a manufacturer in Manitoba employing 30 people. I am also a partner in a trailer company which employs 16 people. But it is as a Vice-president in the Canadian Chamber that I would like to leave these words with you today.

I think when I report to my colleagues in the other provinces later on this month, I will have to tell them that Bill 65, if it is carried through in its present form, will serve as a disadvantage to the manufacturers in Manitoba. The compulsory overtime bit; I do not claim to be an expert on it because in my past experience I have found that most businesses use voluntary overtime for a simple reason, that it is the one that works.

But the big disadvantage that I see in Bill 65 is the one and three-quarters times one for overtime versus the one and-a-half that the other provinces will have to pay. As an exporter of 90 percent of the products that I make personally, and I think most Manitoba firms have to export because the people are not here, if we have to buy labour at \$8.75 and compete against Ontario who would pay \$7.50 for that same labour, I feel that we will not be able to sell that particular item. Manufacturers are confined by the laws that you set. Unfortunately, consumers are not. And if I was able to put an item up on the stands at \$8.75, which is identical to one of \$7.50, I am quite sure that the "Made in Manitoba" label will mean very little to the consumer.

I heard certain proposals this morning which says that you can pass the cost off to the customer. Even Mr. Thiebault said that. That's quite all right if you have the customer confined here in Manitoba, but this is not so for an exporter of this product.

I would like also for the board to know that in most companies that I have been associated with, that the overtime, more than not, replaces the regular time lost. Mr. Paulley made quite an example of the fact that certain firms only average 38-½ hours and I think he talked of more than one industry in that, but Mr. Paulley forgets that we can pay overtime even when the person may work only 32 hours a week, because if a person misses on Monday and works overtime on Tuesday, Wednesday, Thursday, Friday and Saturday morning, we accumulate eight hours of overtime and four hours of premium pay. I would just like to give you some figures of which I am familiar with, and these are the four firms which I am familiar with. One of them last year had \$50,000 overtime premium pay. This is just the premium; this is not the overtime pay, this is the premium. One of my other companies had 1,647 hours of overtime, the third one had 4,973 of overtime and another one had 947 hours of overtime and this was a small factory in Miami, Manitoba. We also ran a night shift so we were not using overtime so much to create productivity as we were to correct an imbalance along an assembly line. It has been said that we could staff for the ultimate, but this is almost impossible because if you have eight people on one operation and one person stays off for that particular day, you have to keep

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that other person, all of the other seven people overtime to make up for that loss. You would have choice of hiring nine people to do eight people's work, but in that particular case, then everybody eventually would end up with less hours.

In one of our factories last year where we worked overtime on a four-month basis, the overtime was accepted on a vote. In Winnipeg I think that you will find that most unions would prefer overtime to your running a night shift against their regular staff. Even at time and-a-half, you cannot compete. The labour that you buy at time and-a-half in all competitive markets is not profitable. At time and three-quarters we feel that it would have to be avoided. Most overtime — and this I am saying to unions and to Mr. Paulley — most overtime is the more humane way of staffing. It beats overstaffing and layoffs. It is also the time and the money that employees use to go to Hawaii and other things which is outside their particular schedule.

One of the things that is forgotten by the people who are making this particular law is the fact that they're talking only of labour. But they forget that management has the responsibility to show profit. Management has that responsibility. Management has to find a way to compete. I would like to point out that in most firms we buy labour in Manitoba and then we sell it in other provinces and other countries of the world. Many of the firms which are members of the Chamber of Commerce will sell their product for two times labour. In other words if their labour is \$4 they sell that product for \$8. When you have to pay \$7 for labour and attempt to sell it for \$8 you cannot compete.

One of the other ironic things about this particular law, I did not see labour asking for time and three-quarters. I think labour realizes — and this is the massive labour — that they will suffer a low income. We will lose a balance tool that we have found very handy. We have a penalty as is, because when a person misses a day at \$5.00 an hour we have to buy that day back from them at \$7.50, and in most companies you will have more absentees than overtime. I have heard them hang their hat on the health and safety part of this particular law, but if this is valid then I would like for somebody to stop worrying about the owners and the farmers, the dairymen, the small businesses, the housewives and even the politicians.

Manitoba must export to other provinces. Bill 65 reduces our competitive position; it limits our employee income; it also limits our gross provincial product, and I see, to no one's advantage. May be one of the most important things, that it is also discouraging when the need for expansion of jobs is quite so obvious, and perhaps this explains the reason why all of the money has not been picked up for Job Creation. I would like to see the government handle compulsory overtime with empathy, in a way to satisfy both labour and the industries involved. But I would like for them to leave the one-and-a-half three-quarter times the regular pay, which is a deterrent, to leave it alone so that we would maintain our competitive level with the other provinces. That is my presentation.

**MR. CHAIRMAN:** Thank you, Mr. King. There are some questions? Mr. Green.

Before I proceed I should have made it known that there are the opportunities at this particular time for people to present their briefs on other bills beside Bill 65. There is Bill 26, An Act to amend The Apprenticeship and Tradesmen's Qualification Act; Bill 45, An Act to amend The Vacations with Pay Act; Bill 47, An Act to amend The Department of Labour Act; Bill 50, An Act to amend The Payment of Wages Act; and of course the bill that we are dealing with. So I would like people to be aware that they can make presentations on any of these bills besides the one it seems to be mostly on Bill 65. Mr. Green.

**MR. GREEN:** Mr. King, you have raised a new point which I haven't heard mentioned before, and that is with regard to overtime. You have indicated that although there could be a week of 38 hours, it may be three eight-hour days and one ten-hour day, which means that there are six hours of overtime in that week. And that could arise because a person missed the first day instead of . . .

**MR. KING:** That's right.

**MR. GREEN:** Working five eight-hour days, she didn't come in on Monday and made up the balance of the week by working three tens and an eight. I think that's what you . . .

**MR. KING:** That's right. And that occurs when somebody has an expertise that you cannot replace along your regular line.

**MR. GREEN:** Well, as a matter of fact, there would be an inducement for them to do that.

**MR. KING:** We have warned the people and we have told the union that if we had a feeling that a group of people were creating overtime, that we would make a rule that we would not replace the lost pay with their overtime, so that if they were doing that they would have to be doing it for their colleague. It is very true that if an employee stays off on Monday and they make up that extra eight hours during the week, we have to pay them for twelve.

**MR. GREEN:** I am not suggesting that this would be a change, but would it, and I know that you are not going to like it one way or the other, but would it be an amelioration if we said that time-and-three-quarters only applies after 40 hours in a week, that otherwise overtime is at time-and-a-half? Do you follow what I am saying?

**MR. KING:** I do, and in most cases we would profit by that particular arrangement, but I think . . .

**MR. GREEN:** I am not interested for the moment, although . . .

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**MR. KING:** . . . but I think you would be penalizing anybody that was honestly sick.

**MR. GREEN:** Except that that person would still get time-and-a-half. I am not suggesting that he would not get the overtime rate, but he would not get the premium of time-and-three-quarters, except for 40 hours.

**MR. KING:** One of the things that I would like to have understood, and I have tried to make that understood, that most people in business are only processors of fabrics, and all they do is to buy our from somebody in Manitoba and try to sell it at a profit. And any labour that we were going to pay time-and-three-quarters for, it wouldn't make any difference what it was, we could not make a profit on that.

**MR. GREEN:** I realize, and I am not suggesting that you would be much happier, but that would be the care of that particular problem of a person who didn't work over 40 hours, but was still getting time-and-three-quarters to make up for her own or his own lost hours which are being worked at overtime.

**MR. KING:** Naturally that would be one of the advantages that we would like to see, and we have a feeling that we cannot understand why labour would differ with us. We would like to see it left alone if it is.

**MR. GREEN:** I understand that, and you have made that perfectly clear. I merely wanted to see whether I have the substance of your other point.

I gather that you and your collective bargaining agent have, over the years, made satisfactory arrangements with regard to overtime.

**MR. KING:** It's satisfactory from a point of view that the rest of the provinces competed on the same level that we did, but would you believe it or not that one of the big questions that we have from our bargaining agents is to give them more overtime?

**MR. GREEN:** I appreciate that . . . .

**MR. KING:** So it is not agreeable . . . .

**MR. GREEN:** I appreciate that entirely and I have indicated for your information that labour would be most angry with us if we prohibited overtime.

**MR. KING:** Then we cannot see your point in going ahead with it.

**MR. GREEN:** Let me deal with the next question. You do not require the assistance of the state . . .

**MR. KING:** Of what?

**MR. GREEN:** The assistance of the government to require your employees to work overtime. You can make that arrangement with your employees on your own. I think you said at the beginning that your arrangements with our employees; the best way is to voluntarily agree with them with regard to overtime."

**MR. KING:** I would think that even in an industry, such as the printing industry where perhaps a \$10,000 machine could be shut off because somebody refused to keep it running from 4 to 5 o'clock, I could think even in that industry, that if you kept anybody on that machine that did not want to be there, it could be a deterrent. I would like to emphasize, and it is very difficult maybe in listening to everybody, that there is a great deal more empathy between employers and employees than you would be led to believe. You must have that empathy.

**MR. GREEN:** You don't have to tell me that. I believe that over 99 percent of the employers and the employees in this province have arrived at, without any government help or hurt, arrived at their own arrangements with regard to overtime.

**MR. KING:** That happens to be the same percentage that I have, too. I hated to use that 99 percent because somebody may ask me to prove it.

**MR. GREEN:** If I'm wrong, I'm wrong on the conservative side. It should probably be a higher amount.

**MR. KING:** Then, Mr. Green, why should we have this deterrent to work with?

**MR. GREEN:** Now let me ask you the next question.

**MR. KING:** Go ahead.

**MR. GREEN:** You do not need the government, and it would not be helpful from what I understood you said, for the government to have a law requiring people to work overtime.

**MR. KING:** I can see in an emergency, but I personally don't . . . .

**MR. GREEN:** Only in an emergency the bill . . . .

**MR. KING:** That's right. An emergency or a great, great loss. I can see that and I would have an idea that labour would agree to that.

**MR. GREEN:** I agree with you entirely. Therefore you as an employer and the Canadian Chamber of Commerce don't need the intervention of the state to require people to work overtime.

**MR. KING:** I cannot speak for every industry that I represent, being from Manitoba. I understand that one of the industries that started this in the first place, perhaps by virtue of a batch of steel that could be very hot at 4 o'clock or, I know that I visited a paper mill where these machines run 24 hours a day with hot water and I forget what the cost is to shut them down. I can see in a particular case, that

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even then I would see that the compulsory overtime should be shared by a group.

**MR. GREEN:** The parties can get together on it.

**MR. KING:** I think so.

**MR. GREEN:** So what I am putting to you is that you do not need a government to have a law says that an employer can require an employee to work overtime. That is something that can be arranged between the employer and the employee without any state intervention at all.

**MR. KING:** From first-hand knowledge that I have I would agree with you that we can arrange that.

**MR. GREEN:** I agree with you entirely.

**MR. CHAIRMAN:** Are there any other questions? Mr. Patrick.

**MR. PATRICK:** Mr. Chairman, . . . .

**MR. GREEN:** Then the Chamber of Commerce, and I agree on that item entirely.

**MR. PATRICK:** Mr. King, have you got any indication what the cost of overtime was last year in dollars and cents, approximately?

**MR. KING:** You mean in my firm?

**MR. PATRICK:** Yes.

**MR. KING:** Well, in my firm we had a figure, there are four firms involved here, it was around \$80,000.00.

**MR. PATRICK:** \$80,000.00. And what would it be if . . . .

**MR. KING:** Well, you can just divide that. It would be \$120,000.00. So it would be a \$40,000 additional cost. Now I know that Mr. Paulley one time asked me if I couldn't absorb things like that.

**MR. PATRICK:** Yes, that's my question.

**MR. KING:** But the manufacturers in the other provinces don't allow me to make that kind of money. We must make a profit.

**MR. PATRICK:** Would it affect all of your companies?

**MR. KING:** It certainly would. And we would have to make measures by which we could compete and it would not be paying time and three-quarters. It just couldn't be. So there would be a \$40,000 that we could just say, and we're not just talking dollar bills, we're talking isolated decisions which says if I manufacture something, I must be able to sell it. So along with making laws, I would have to have somebody — perhaps they could make a law that says Manitobans must buy Manitoba products. That would help us considerably.

**MR. PATRICK:** So you would feel that you would definitely be in a non-competitive position?

**MR. KING:** Certainly.

**MR. CHAIRMAN:** Any other questions? Thank you, Mr. King.

**MR. KING:** Thank you.

**MR. CHAIRMAN:** The Canadian Association of Industrial, Mechanical and Allied Workers. Mr. Pitt will be speaking on behalf of the Canadian Industrial, Mechanical and Allied Workers.

**MR. ALLAN PITT:** Yes, I will be presenting the brief, Mr. Chairman, and myself and Gerry Fast will answer any questions that may be asked of us after I present it.

**MR. CHAIRMAN:** Proceed.

**MR. PITT:** I appear before this Industrial Relations Committee to oppose, in the strongest possible terms, the amendments to the Employment Standards Act contained in Bill 65, which represent this government's position on the subject of the 40-hour week and compulsory overtime.

I am here representing the views of my National Union, the Canadian Association of Industrial, Mechanical and Allied Workers, and the many locals which comprise the National Union. I am especially honoured to present the views of the striking workers at the Griffin Steel Foundries plant in Transcona, who are members of CAIMAW Local 1, and who have been waging an historic and heroic battle since September 19, 1976 against a company which believes it should have the right to force workers to work overtime and to discipline and discharge any worker who refuses to do so. This company which believes in compulsory overtime.

I am also here to express the feelings and opinions of literally thousands of working people from across this country who have given financial, moral and political support to the strikers at Griffin Steel because they support this fight for the 8-hour day and voluntary overtime. This support has been unprecedented in recent years in labour struggles.

Finally, I am here to present to you petitions which call for legislation against compulsory overtime, which have been signed by over 3,700 Manitobans.

The opinion of all these people on the subject of overtime is basically very simple: overtime should be voluntary. The individual worker should have the right to refuse to work beyond the normal regular workday and workweek, and this right should be protected by law.

It is such a basic, simple and just concept that opposition to it can only be interpreted by workers in one way; those who oppose voluntary overtime believe that the employer, and not the working person, should have control over how much work a person does once the regular workday and workweek is completed. Compulsory overtime is not work with dignity; it is compulsory labour under threat of discharge.

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We oppose and condemn Bill 65 because it does not give either the organized or unorganized worker the right to refuse overtime after the regular workday and workweek is completed.

Bill 65 says that "management rights shall be deemed not to include any implied right to require employee to work overtime." In other words, management can no longer require overtime simply on the grounds that overtime falls within the parameter of management rights. Under the present law, where a collective agreement is silent on the subject of overtime, management can claim authority to require overtime as a consequence of management rights. If Bill 65 is passed, management will have to negotiate compulsory overtime in the case of an organized group of workers, or set out compulsory hours of overtime as a condition of employment for the unorganized worker.

Bill 65 will not change the essential injustice of the present legislation. This is easily recognized if you understand that it is always management and not the workers who want compulsory overtime clauses in collective agreements. No workers want to give management the right to tell them when they must work overtime. No union ever puts compulsory overtime on the bargaining table as one of its contract demands. Workers may want to negotiate for a guarantee of "X" hours of overtime per week, or they may agree to work a reasonable amount of overtime when requested to do so on a voluntary basis, but no worker wants to be in the position of being told to work whenever it is the fancy of management.

Because compulsory overtime is desired by management and not workers, it is clear that Bill 65 will change nothing in a practical sense insofar as the collective bargaining process is concerned. Under the present law, a union must negotiate a voluntary overtime clause in the contract because a contract gives management the right to require overtime. Under the proposed changes, a union will have to negotiate against a management sponsored compulsory overtime clause. The stakes of life for the union membership are the same: they must still negotiate voluntary overtime. Under Bill 65, management will continue to demand compulsory overtime clauses, which is precisely what happened at Griffin Steel under the present law.

To say that the overtime issue should be left to free collective bargaining is to obscure the essential pro-management rights nature of this bill. The bill permits management to secure overtime on a compulsory basis when workers have no interest in agreeing to give up control over their leisure hours. At the same time, management already has the right to lay workers off whenever they deem it to be desirable. In other words, you are laid off when you are not needed, and you are compelled to work longer hours when you are needed.

For almost 100 years working people throughout the industrialized world have fought for the 8-hour day in strike after strike, including our own Winnipeg General Strike in 1919, and in some cases even died during these struggles. Historic labour struggles, disputes which have created the conditions for a significant advancement of the rights and dignity of working people, are not a common event, and when they do occur they should be supported whole-heartedly by progressive and democratic people who want to see society evolve into something better than what it has been. Justice and relief from oppressive working conditions are cornerstones upon which any society which calls itself democratic must be based.

The strike at Griffin Steel is an historic struggle for justice and dignity in the workplace. The meaning of this struggle has reached the minds and hearts of countless thousands of people from all walks of life who have responded with an unprecedented degree of support. They are waiting to see if this province will support working people and pass legislation which gives workers a just measure of control over their lives. They are waiting to see if the political leadership in this province believes in and supports the 8-hour day, which has always meant a person need not work more than 8 hours per day, or whether you believe it is negotiable.

Bill 65 says the 8-hour day is negotiable. Bill 65 means to us that the political leadership in this province is turning its back on the historic struggle for the 8-hour day. Bill 65 is essentially meaningless legislation for those workers who want the right to choose to work overtime, who want to say the 8-hour day is enough, who believe they are entitled to this measure of control over their own lives.

On behalf of the strikers at Griffin Steel and their many supporters throughout the labour movement and the population at large, and on behalf of all of those who have fought for and will continue to fight for justice and dignity in the workplace, I urge you to reject Bill 65 and to replace it with an amendment to the Employment Standards Act which will have the effect of making all overtime beyond the standard hours of work voluntary.

To conclude, I want to say that all of the rationalizations we have heard recently about why the overtime issue should be left to so-called "free" collective bargaining is just so much nonsense as far as our members are concerned. The Griffin strike has shown conclusively and beyond any question that the law and the state stand squarely on the side of the employer in a dispute over a principle issue such as voluntary overtime. Free collective bargaining is a smokescreen for the sabotage of justice which has occurred at Griffin Steel.

The Griffin strike has brought home to every worker who thinks about it the hard reality that

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whenever workers try to fight a principle cause in the workplace, the employer can smash the strike by call in strikebreakers, with the full co-operation of the police, and by obtaining *ex parte* injunctions when the picket line remains effective. The fact that the employer has these instruments at disposal makes a mockery of the notion of free collective bargaining. Workers, no matter how determined and committed they may be, ultimately face defeat under these circumstances. The Griffin strikers fought the company in an economic battle on the picket line and they won. The company was forced to reopen the plant and start production. But instead of signing a collective agreement, they hired strikebreakers and got the police to bring them into work.

If free collective bargaining is supposed to mean there is some kind of balance of power negotiations, the example of Griffin Steel shows how patently false this notion is.

If you are not going to rectify the imbalance of power on the picket line by outlaw strikebreaking, then the very least you can do is outlaw compulsory overtime. Then workers would not have to go on strike to protect their freedom to choose whether to work overtime.

Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Thank you, Mr. Pitt.

**MR. PITT:** I would like to present these petitions to you.

**MR. CHAIRMAN:** Those are the petitions from . . .

**MR. PITT:** Thirty-five hundred Manitobans.

**MR. CHAIRMAN:** Are there any questions of Mr. Pitt? There are also Mr. Fast and Mr. McEwen available for questions if it is the Committee's wish. Any questions? Mr. Wilson.

**MR. WILSON:** There was a gentleman here from the Manitoba Federation of Labour this morning who was indicating, except in emergency cases, that he would like to see all overtime outlawed. Do you agree with it — prohibited? Would you agree with that position?

**MR. PITT:** No, I think we have stated it pretty clearly in our brief that, you know, you can negotiate this. There is no question about it. But we want it on a voluntary basis. No question about it — it can be done voluntarily.

**MR. CHAIRMAN:** Any other questions? Thank you, Mr. Pitt.

**MR. PITT:** Thank you very much.

**MR. CHAIRMAN:** There has been a letter sent to this Committee from the Winnipeg Economic Development Board Incorporated. There is only one copy and it is from a T. S. Durham, Industrial Commissioner, on behalf of J. D. Mundie, Chairman. It is sent to the Industrial Relations Committee. We will make a copy of this particular presentation available to all members. In the meantime, I will give the transcribers so it will be included within the transcripts of the Committee hearings.

Mr. Hinings, representing four aerospace companies.

**MR. HININGS:** Thank you, Mr. Chairman. This evening I am representing four aerospace companies named in my brief. Notice the date of the brief is May 27th. That was because it was originally sent with a letter to Mr. Paulley because we didn't know what time we were going to have to present it.

This is a brief of four Winnipeg aerospace companies regarding Bill 65. The four companies submitting this brief, Bristol Aerospace Limited, Standard Aero Engine Limited, Boeing of Canada Limited, and CAE Aircraft Limited, provide the majority of local employment opportunities in the aerospace industry. All our companies are governed by Provincial Labour Law; some of our employees belong to unions; some have chosen not to.

The work carried out by these companies includes: The overhaul of aircraft, aircraft components and engines, the manufacture of engine and aircraft components, the manufacture of rockets and related devices, the manufacture, repair and overhaul of sophisticated electronic equipment, and many other applications which, while not strictly aerospace, require a similar level of expertise.

Our activities are fairly typical of an industry that is highly labour-intensive. Commonly our products require at least double the man-hour content found in the general manufacturing industry and in the case of overhaul work, that content is much greater. As a consequence of our employment of comparatively large numbers, the financial impact of Bill 65 will be greater for us than for most other manufacturing industries.

Bill 65 of course contains two basic changes to the present situation: An increase in the rate of pay for overtime work; and the provision to make overtime voluntary except under certain circumstances.

An increase in the overtime rate: The aerospace industry is extremely competitive and the market is so because in North America the industry as a whole has shrunk over the past ten years. Only survivors exist only because they competed successfully; those that did not compete, did not survive. Any move which makes it harder to compete in such a market, decreases the ability of a company to stay in business.

The Manitoba segment of the aerospace industry already competes with two great disadvantages — distance and climate. We are a fairly small part of the aerospace industry as a Canadian industry.

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employing no more than approximately 10 percent of the total work force. However, our wage rates compare favourably with our competition in Ontario and Quebec but are quite frankly in excess of wage rates paid by some of the United States companies with which we try to compete.

Our use of overtime fluctuates, depending on our workload and the availability of suitable manpower. Generally if a company's work load is increasing, overtime will be used heavily until sufficient new employees can be hired to meet the need. Conversely, if a work load is dropping, overtime is comparatively low.

Contrary to the Minister's opinion, at least as reported by the Winnipeg Tribune, overtime is not worked in order to avoid the payment of fringe benefits. If The Tribune was accurate in its quotation, it would be extremely interested to know which companies were referred to. Quite frankly, we know of no companies that follow this practice and we consider that any that do so, must either have benefit programs that are wildly in excess of the general pattern in North American industry, or are simply mistaken in their calculations. With the usual package of benefits amounting to 20 to 30 percent of wages, it can never be cheaper to work overtime. In any case, it is not uncommon as a general practice to include overtime when calculating one of the major fringe benefits, vacation pay. Overtime is worked because a company has insufficient workers available to do the necessary work in regular time, or because of a sudden change in work load makes extra work necessary on a very short notice. A customer demand for accelerated delivery, a production problem, machine breakdown, absenteeism or any one of a host of reasons can cause that extra work. However, although the above points have to be placed on record, the reasons for working overtime are in fact completely irrelevant. The reasons in Manitoba are the same reasons for which overtime is worked in any part of the North American Aerospace Industry. Whatever the reason for overtime, it is extremely likely that the cost of overtime can be absorbed by anyone but the company. The premium portion of overtime paid becomes an extra expense of doing business. The higher cost of meeting the demands of our customers — and they can be extremely demanding — will make it more difficult to respond to those demands. It follows from this that it will be more difficult to retain those customers and thus more difficult to continue to employ

Manitobans. The result of this change therefore for which we know of no parallel in North America, will be to reduce employment rather than increase it. The same will apply to much if not all Manitoba business and industry. It will be more expensive and thus more difficult for a Manitoba company to provide a job for a Manitoba worker than it will be for a rival company to provide a job for a worker in Ontario, Quebec, Minnesota, Massachusetts or any of the myriad centres where competition exists.

**Voluntary Overtime:** We hold to the view that it is always better to ask an employee to do something than to order that employee. We also hold to the view that an employee has a responsibility to accede to the reasonable requests of his employer as regard to the working of overtime. The great majority of employees the greater part of the time are responsible and cooperative in this regard. There are inevitably occasions when employer and employee do not agree. It generally these differences are worked out without harm to either party. However, in Bill 65 the Government appears to have greatly increased the chances of conflict between employer and employee. The way this proposed legislation is written with the presumed intention of making overtime voluntary unless a company and its organized employees agree that it should be otherwise, can only lead to more Griffin situations than fewer.

One company of this group has overtime specifically stated as voluntary in its agreement and has had this used against it as a pressure tactic by its union during the life of the agreement and not in relationship to normal contract negotiations. No doubt other companies, not in the group, have had the same experience and if this legislation is passed many others will. If the withholding of voluntary overtime becomes an accepted pressure tactic, many employers will react at the negotiating table with obvious results. We consider for the sake of industrial harmony in this province, that this change would not take place. If the Legislature does decide in its wisdom to institute the change then we suggest a further change. The definition of strike in the Labour Relations Act should have another clause added. I quote: "The refusal, individually or collectively to work overtime in an attempt to force the employer to accede union or employee demands."

We regard this approach, however, as a poor second alternative and consider that the situation would be left as it is at present in which the great majority of employers and the great majority of their employees quietly work out their own mutually satisfactory approach to the problem.

Submitted this 27th day of May, and at that time it was signed by the Chief Executives of the four companies involved.

**MR. CHAIRMAN:** Thank you Mr. Hinings. We have people wishing to ask questions? Mr. Green.

**MR. GREEN:** Mr. Hinings, first of all, let me say that I consider this to be a very constructive presentation. I go to the last part of your brief where you say that the large majority of employers and employees under free contractual arrangements are able to arrive at satisfactory provisions with regard to overtime. That is the way it is at present. You do not need the state to help you require a



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person to work overtime? You can make that arrangement with your employees.

**MR. HININGS:** We do not need the state to help us. We do not need the state to tell us that it has to be voluntary.

**MR. GREEN:** So that any state section that says that it has to be compulsory you can do without it.

**MR. HININGS:** Yes, we can do without it.

**MR. GREEN:** Well, that's what the bill does. It removes a requirement that an employee work overtime and you say you can make that arrangement yourself with your employees.

**MR. HININGS:** Most of the time that works perfectly fairly, Mr. Green.

**MR. GREEN:** I am aware that you never always have agreement under any circumstances, and I know of no ideal state where this would take place.

Now you indicate what I consider to be a real problem that where there is an agreement which provides for voluntary overtime and you have such agreements within your group that there is potential abuse. There are potential management abuses as well.

**MR. HININGS:** Correct.

**MR. GREEN:** And the potential employee abuse that you've put is not a hypothetical one, that employees have a voluntary overtime provision. In the middle of a contract, they can get together and use that as a weapon to change the existing bargaining arrangement.

**MR. HININGS:** Yes, they can and it has been done.

**MR. GREEN:** That could create a real problem.

**MR. HININGS:** Yes.

**MR. GREEN:** That could mean that the next time around the negotiations the employer would want to see to it that it wouldn't happen again.

**MR. HININGS:** This has happened I believe in one situation, not in all no doubt.

**MR. GREEN:** I know of one in which it has happened.

**MR. HININGS:** Yes, so do I.

**MR. GREEN:** Now, could you not in terms of a collective bargaining arrangement put this clause that you asked us to add. In other words can't you do for yourselves much better than what the government can do for you — in labour relations I believe that that's 100 percent true — that you could arrange with your employees that although overtime is voluntary, a clause in the agreement could say that any attempt in concert to withhold overtime on the part of employees or to persuade or otherwise induce people not to work overtime shall constitute a strike and will allow grievance to the employer?

**MR. HININGS:** This could be done, Mr. Green.

**MR. GREEN:** And that would have the effect and what's more, if it were done in that way agreement between you and your employees it would have the wonderful benefit of not involving the state in your relations with your employees.

**MR. HININGS:** The state seems to have set its sights on becoming involved in the relationship between employers and employees, Mr. Green. We are suggesting an elaboration of the arrangement to clarify the arrangement that is suggested in Bill 65.

**MR. GREEN:** But, Mr. Hinings in this particular case and with regard to this particular provision and I'm not dealing with the time and three-quarters for the moment . . .

**MR. HININGS:** No.

**MR. GREEN:** . . . we're getting out, we're not getting in. The present law says . . .

**MR. HININGS:** You're getting in, Mr. Green.

**MR. GREEN:** The present law says that an employer can require an employee to work overtime something which you couldn't do without the state.

**MR. HININGS:** The present law has been interpreted that way. It does not come out and say specifically. You know, you're a lawyer. You know you can get two lawyers who'll give you two different opinions.

**MR. GREEN:** Yes, Mr. Hinings, I'm happy to hear you say that that law doesn't require overtime because I never believed it did either but some Judge says it does and therefore in the better part of wisdom would be to remove it so that the state would not be intervening in your affairs.

**MR. HININGS:** The state is intervening even more deeply in our affairs with this bill as it is presently proposed.

**MR. GREEN:** I know, but the bill as it is presently proposed with respect to overtime takes away legal assistance to the employer, I mean state assistance to the employer which you've already indicated you don't need and don't want.

**MR. HININGS:** Well, one particular company with which I'm familiar doesn't need it and does want it, but I can see situations where it could well be needed.

**MR. GREEN:** But the clause that you're talking about which you say could be put into the legislation as a second best, is something that you could arrange between yourselves and your employees by collective bargaining.

**MR. HININGS:** Conceivably it could be done.

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**MR. GREEN:** Now, Mr. Hinings, I want to turn to the time and three-quarters because you've indicated that the Minister of Labour — at least you can't believe that he said it — and that you are wondering whether he really means it when he says that time and three-quarters is now worked without being much of a premium. If an employer was making — let us say — \$7.00 an hour and those hours there were 30 percent fringe benefits that would bring him pretty close to \$10.00 an hour that is being paid for the regular time.

**MR. HININGS:** Yes.

**MR. GREEN:** Then overtime would be \$10.50 which if they only included the hourly rate in calculating overtime then your overtime hour is costing almost the same as your regular hour.

**MR. HININGS:** First of all your assuming a 30 percent fringe benefit package, which is a pretty generous one.

**MR. GREEN:** I took the best argument for myself, Mr. Hinings, but I wanted to see whether — and I know that it might not be that well — but if we took say — 30 percent is not even high enough to get \$10.00 — but I said take \$3.00 rather than 30 percent.

**MR. HININGS:** You can't assume that none of those benefits are now covered. Now wait a moment. Some employers do include overtime in the calculation of vacation pay and of overtime pay, but beyond that.

**MR. GREEN:** But the Minister has indicated that where that's included he's liable to — he's considering favourably a change — but if it's not included, are my calculations correct if we assume \$10.00 an hour and \$3.00 in fringe benefits that the overtime hour is costing 50 cents more than the regular hour?

**MR. HININGS:** No, I disagree with you.

**MR. GREEN:** Why?

**MR. HININGS:** Because you have quite a number of fringe benefits that don't depend on how many hours in a month a man works. For instance.

**MR. GREEN:** But they do constitute a cost of the employer for the employee which is not mitigated by having that employee work overtime hours.

**MR. HININGS:** They do, oh yes. But the employer will often agree to provide a certain benefit and that benefit will apply whether the employee works full number of hours a month or a short time in each month or overtime in each month.

**MR. GREEN:** I agree. That's why.

**MR. HININGS:** I'm thinking of supplementary hospital insurance plans. It doesn't matter a damn how much time the employee works, he's covered for a certain type and a certain pattern of benefits.

**MR. GREEN:** But doesn't that confirm the Minister's position, that certain hours are paid for and a cost to the employer regardless of whether overtime is worked or not and therefore working overtime does not augment the employer's costs for these hours, which is what the Minister was saying.

**MR. HININGS:** Well, the employer has to pay the same amount whatever the hours the employee works, I grant you.

**MR. GREEN:** So, it may be more or less right, but at the present time, time and a half is not as much penalty as it used to be when there were lesser fringe benefits.

**MR. HININGS:** Time and a half is only a penalty, Mr. Green, because it is wildly different from the patterns with which we compete in Manitoba. Manitoba industry has to compete against industry in other provinces and in the United States that pay time and a half for overtime. Anything that adds to that competitive disadvantage is a disadvantage to Manitoba industry.

**MR. GREEN:** Mr. Hinings, would it not be correct that 40 employees working a certain number of hours, that if you gave them all 41 hours you would be paying time and three-quarters or time and a half presently. If you hired 41 employees, it would not only not mean that you would have a higher cost but you'd have a lower cost, and therefore isn't time a premium on overtime an incentive to reduce your cost by hiring more employees.

**MR. HININGS:** No. You don't pay overtime to avoid hiring employees, Mr. Green. Or very rarely — it's put it that way — I'm not saying nobody ever does.

**MR. GREEN:** Well, you should.

**MR. HININGS:** But you work overtime, as we said in the brief, to cater to situations that keep cropping up. If we have a lathe operator turning out a particular part for a U.S. company and the U.S. company asks us to accelerate delivery of that part, there's no point in us trying to hire another lathe operator to run that machine for four hours a week or ten hours a week. We ask the regular employee to do that. That's overtime. If we come up with work for two lathes, then we hire another employee, but not just for the extra bit of work per week or per month that is caused by increasing work conditions such as the one I quoted.

**MR. GREEN:** I understand. Thank you.

**MR. CHAIRMAN:** Okay, thank you. Mr. Pauley.

**MR. PAULLEY:** Mr. Hinings, how much overtime is worked in the aerospace industry in the province of Manitoba — (Interjection) — Would you kindly listen to my question. First of all I would

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like to know how much overtime is worked in the aerospace industry in the Province of Manitoba which they would be required to pay one and three-quarter percent overtime, not taking in consideration the point that Mr. Green has indicated to you, that where fringe benefits are included arriving at the base rate, the time and a half will be applicable instead of time and three-quarters. Can you tell me against the DBS Statistics that indicate that in your particular industry, which is depressed industry at the present time, the average — and I cite average, it may be different between the different companies that you are representing here tonight — that on average it only comes about 37 work hours per week.

**MR. HININGS:** I'm trying to remember who it was once said, lies, damn lies and statistics, Mr. Paulley . . .

**MR. PAULLEY:** I'm not talking about lies I just want to know from you Mr. Hinings. . .

**MR. HININGS:** You can use statistics to demonstrate an awful lot.

**MR. PAULLEY:** Pardon?

**MR. HININGS:** You can use statistics to demonstrate quite a lot, Mr. Paulley.

**MR. PAULLEY:** That's right.

**MR. HININGS:** The DBS figures do not take into account such things as absenteeism. If I had ten employees on my books as an employer working 40 hours a week and I lose through absenteeism the equivalent of one man per week, I only get 360 hours or an average of 36 hours per employee, and can work 10 percent overtime and I still don't completely come back to the 40 hours a week. Now what I'm saying is that the overtime that is worked by the industry is not generally sufficient account for absenteeism, thus your DBS Statistics that come out with a lower figure than 40 hours per week plus the fact that those figures cover some companies that work 40 hours, some companies that work 37 1/2. I can't answer for all the companies in the group that I'm representing, but I know the company by whom I'm employed works between four and 10 percent overtime depending on whether we are building up or static or tapering off. Actually it drops down to 2 percent if we're tapering off badly. But we still don't catch up with our absenteeism. So, on average, considering the number of employees we have on our books, we probably average less than 40 hours a week.

**MR. PAULLEY:** Then isn't that a criteria that you should take into consideration when you're making representations to this committee that is considering this whole problem, — not insofar as the company that you represent, and I'm not sure which company that you do represent, I must confess — isn't this one of the factors that we have to take into consideration or should take into consideration?

**MR. HININGS:** Assuming that our absentee rate, and our reasons for working overtime are different from those with whom we compete, Mr. Paulley.

**MR. PAULLEY:** Then, Mr. Hining you would agree then that the DBS figures are reasonably accurate that in your particular industry the average work week is less than 40 hours per week which would call for punitive overtime rates.

**MR. HININGS:** I'm not quite sure what you mean by punitive overtime rates.

**MR. PAULLEY:** Okay, time and a half or time and three-quarters They're punitive rates.

**MR. HININGS:** I will agree with you that the average work week in the DBS Statistics — and that's no doubt correct — is probably less than 40 hours per week.

**MR. PAULLEY:** Okay, then what's the problem?

**MR. PAULLEY:** But it doesn't detract and it doesn't remove the fact that we work a certain amount of overtime and I said up to 10 percent overtime.

**MR. PAULLEY:** Ten percent of what?

**MR. HININGS:** Forty hours a week.

**MR. PAULLEY:** No, ten percent in total.

**MR. HININGS:** Ten percent of the hours we can normally get out of our work force.

**MR. PAULLEY:** How many hours are your normal work week input as far as . . .

**MR. HININGS:** For some of our employees 40 hours a week . . .

**MR. PAULLEY:** . . . Excuse me, just a minute. Insofar as your particular firm or your particular industry, what constitutes the total number of overtime hours worked by employees in your industry?

**MR. HININGS:** I can't answer for the industry. In my particular firm we estimate this year probably 60,000 to 80,000 hours.

**MR. PAULLEY:** On how many employees?

**MR. HININGS:** A thousand.

**MR. PAULLEY:** And you said, Mr. Hinings, just a moment ago that you can't estimate, or you can't give us precise information, but it's just an estimate.

**MR. HININGS:** That's an estimate for the particular firm that is 60,000 to 80,000 hours on 1,000 thousand employees.

**MR. PAULLEY:** But that's 60,000 to 80,000 on 1,000, that's about six hours, is it, over a year?

**MR. HININGS:** It's 60 to 80 hours over a year.

**MR. PAULLEY:** Sixty over a year which could conceivably mean one or one and a half hours per

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ask per employee. Would that be correct?

**MR. HININGS:** Yes.

**MR. PAULLEY:** And your argument is that insofar as the application of the 1 ½ to 1 ¾ percent — I'm excluding the suggestion that I have made to the Legislature that we will consider that where fringe benefits are included in the arriving at the time and a half — that it would not be necessary to apply 1 ¾, providing of course that the fringe benefits equate basically the differential between 1 ½ and 1 ¾. Now, if in your particular industry, the factor of approximately 1 ½ hours per week per employee are applicable, isn't that really insignificant in the total cost factor as far as the aerospace industry is concerned?

**MR. HININGS:** Yes, I never . . .

**MR. PAULLEY:** You agree with me then?

**MR. HININGS:** No, I don't agree with you . . .

**MR. PAULLEY:** Oh, you don't agree?

**MR. HININGS:** . . . that it's insignificant, Mr. Paulley.

**MR. PAULLEY:** Well, what would it amount to?

**MR. HININGS:** \$100,000.

**MR. PAULLEY:** Half of one percent?

**MR. HININGS:** No, maybe more than that, maybe half, maybe less than . . .

**MR. PAULLEY:** Well, let's say one percent and be generous to you.

**MR. HININGS:** But one percent in a tightly competitive industry — and it is viciously competitive, in the aerospace industry — . . .

**MR. PAULLEY:** That's right.

**MR. HININGS:** . . . one percent can make the difference between a company staying afloat and sinking under. It can make the difference between a company losing jobs that it would otherwise have gotten.

**MR. PAULLEY:** If perchance in your particular industry, that this is a uniform pattern, that the costs are increased by this one percent, which is a hypothetical figure and I think we'll agree on that . . .

**MR. HININGS:** Yes, I do.

**MR. PAULLEY:** . . . that you take on another three or four employees in the operation of your industry, would that not eliminate ?

**MR. HININGS:** No, Mr. Paulley.

**MR. PAULLEY:** It won't?

**MR. HININGS:** Because as I told Mr. Green, if a customer demands that we deliver some, or asks — and it's damned near a demand sometimes — asks that we deliver something ahead of time, then we have to have the man who is working on that particular machine or carrying out that particular operation, work a little bit of overtime this week and next week. The week after it will be a different employee, and that week after that a third one, three or four employees who can do every job in the case? No.

**MR. PAULLEY:** All right, so that lessens the impact. That lessens then the impact on the individual employee. Now I would like to ask you . . .

**MR. HININGS:** It lessens the impact on the individual, it doesn't decrease the impact on the company, this one and threequarters.

**MR. PAULLEY:** No, okay. I would like to ask you, Mr. Hinings, how many of the firms that you are representing here this evening, are subject to a collective agreement?

**MR. HININGS:** Two of us I know of.

**MR. PAULLEY:** Are there any provisions in the collective agreement that provide for a base for overtime work?

**MR. HININGS:** Yes.

**MR. PAULLEY:** What are they?

**MR. HININGS:** What I am most familiar with, it is time and a half for the first four hours, then double time. It is double time after more than 12 hours a week.

**MR. PAULLEY:** Then can you tell me, Mr. Hinings, how many hours are worked on 1 ½ times and how many hours are worked on double time, because in my mathematical mind which is quite frequently deficient, the differential between 1 ½ and twice does not equate 1 ¾.

**MR. HININGS:** The only hours that are worked on double time are very few extreme emergency hours in maintenance cases generally, Mr. Paulley. The bulk of overtime is not worked on double time. Time and a half is expensive enough as it is. Double time is far too expensive to try and sell a product. Time and three-quarters would be more expensive than time and a half.

**MR. PAULLEY:** I appreciate that, Mr. Hinings. Your observations are correct and I think that that is obvious, that if you're paying time and a half for a certain number of hours and double time for others,

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it's more punitive for your companies to pay double time. But that doesn't answer the question that I am directing to you. Your objection is, in part, to 1 3/4, now, what about the two companies that you indicate are not represented by collective agreement. How do they work?

**MR. HININGS:** They pay time and a half. I don't know if they pay double time, Mr. Paulley, or not.

**MR. PAULLEY:** They have to pay time and a half.

**MR. HININGS:** Oh, yes, sure they do.

**MR. PAULLEY:** But what about double time?

**MR. HININGS:** I don't know if they pay double time or not. But if they do . . .

**MR. PAULLEY:** So, then, I don't want to be argumentative with you, Mr. Hinings, but you do know.

**MR. HININGS:** No, I don't know.

**MR. PAULLEY:** Apparently the impact on the organizations or the companies that you are representing here tonight, the impact of the cost of overtime, but you generalize — and I'm not attempting to be critical of you, the individual — but you indicate to the committee that you are not aware of two of the four companies that you are representing as to the impact of overtime because you don't know whether or not the two companies that are not under collective agreements pay double time or otherwise; and indeed, at your own remarks you don't know the input of double time against time and a half.

**MR. HININGS:** Double time is hardly ever worked, Mr. Paulley, in comparison . . .

**MR. PAULLEY:** Have you any figures?

**MR. HININGS:** In the case of the company that I represent, maybe 5 percent of the total hours overtime are double time.

**MR. PAULLEY:** When would that occur?

**MR. HININGS:** This, as I said a few moments ago, these are maintenance cases, extreme emergencies, where you have to have somebody work beyond the time and a half level into double time.

**MR. PAULLEY:** What about work for Sundays?

**MR. HININGS:** Sunday is double time, but it is hardly ever done.

**MR. PAULLEY:** Sunday is double time in any case.

**MR. HININGS:** It is hardly ever carried out.

**MR. PAULLEY:** Could you produce for the benefit of the Committee, figures of a breakdown of those hours in order that the Committee and myself would be in a position to challenge the average statistics documented in the latest information that came on my desk, that in your particular industry, Aerospace — and I agree that it's in a depressed situation at the present time — could you . . .

**MR. HININGS:** Depressed but trying to build up . . .

**MR. PAULLEY:** Pardon?

**MR. HININGS:** Depressed, but trying to build up at the moment.

**MR. PAULLEY:** That's right, and we're trying to help you build it up. And we're also attempting to provide jobs for Manitobans as against other alternatives. I'm sure even that you will appreciate this point in time . . .

**MR. HININGS:** I don't disagree with the attempt to provide jobs, but I feel that this will work against it though, Mr. Paulley.

**MR. PAULLEY:** All right. Now then, my question then to you, Mr. Hinings is, can you provide the Committee with information insofar as the input of double time as against time and a half, because we have indicated in the Legislature that I am prepared — I'm almost dictatorial, I don't mean it that way — but I have indicated to the Legislature that where fringe benefits are included in the base rate for overtime, that we are prepared to amend the legislation so that those firms that have a collective agreement that provide for the base rate to include fringe benefits are not prejudiced against by uniform application of time and three-quarters.

**MR. HININGS:** I don't get your connection of fringe benefits with double time; but I can certainly provide for the company that I represent — I don't know about the group — the incidence of double time versus time and a half, that I can provide for the committee, compared with regular hours if necessary.

**MR. PAULLEY:** Yes. But the only thing, Mr. Hinings, is I am sure that you will appreciate or give a little credit for, that I do look at statistics from time to time that are contrary to the position that you are taking on behalf of the four companies that you are representing here tonight.

**MR. HININGS:** Not necessarily contrary, Mr. Paulley. It's just that maybe you are not aware of the factors that go into the completion of those statistics. I'm not saying that they're contrary. I do agree that they shoot down the position I've taken.

**MR. PAULLEY:** Okay. Can you tell me, Mr. Hinings, as to the total number of employees that are covered under a collective agreement as opposed to those who are not covered under collective agreements? It is my understanding, Mr. Chairman, that provision is made in collective agreements for some control or some methodology in which overtime is worked. Can you give me a breakdown

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the number of employees covered with the collective agreement and those that are not?

**MR. HININGS:** I can do that.

**MR. PAULLEY:** Would you kindly do that?

**MR. HININGS:** Certainly.

**MR. PAULLEY:** And then one further question, Mr. Chairman, . . .

**MR. HININGS:** What was the purpose of that figure though, Mr. Paulley?

**MR. PAULLEY:** Because statistics are lacking; and that is one of the reasons that in the proposed legislation that there will be a requirement for a reporting to the Manitoba Labour Board of overtime hours so that we will have statistical information for the future; because you, like I, are arguing a point here that we're really not knowledgeable about because of the lack of statistical data, and that's the provision there. So that is . . .

**MR. HININGS:** Don't you think you've jumped the gun a bit with this type of legislation if you are speaking in statistics, Mr. Paulley?

**MR. PAULLEY:** No, it is not, Mr. Hinings, because I am going in accordance with statistical information that is available to us which you dispute, and that is the statistical information provided by the Dominion Bureau of Statistics which indicate that your particular industry only works about 35.5 hours on average per week.

**MR. HININGS:** If you accept those figures as indicating that there is no overtime worked, what is the purpose of the legislation, Mr. Paulley?

**MR. PAULLEY:** Mr. Hinings, I am not going to get into an argument. All I'm saying to you is, that you are appearing before the committee tonight to dispute our suggestion that overtime is really significant to the total cost operation of your industry, and I use the only statistics that we have available to us to disprove your allegations, and those of others, who we will be hearing from, that the application of one and three-quarters for overtime will chase the industries out of the Province of Manitoba.

**MR. HININGS:** I don't dispute the statistics you have, Mr. Paulley, . . .

**MR. PAULLEY:** All right, that's all I want to know as far as that part is concerned. Now you say that 60 of your companies are organized?

**MR. HININGS:** Partly organized, I should say.

**MR. PAULLEY:** Pardon?

**MR. HININGS:** Partly organized, I should say. Partly organized.

**MR. PAULLEY:** Partly organized. Now what do you mean?

**MR. HININGS:** Not all of our employees are covered by a bargaining unit.

**MR. PAULLEY:** Okay. One last question to Mr. Hinings, Mr. Chairman. In the period of time that you have been connected with these four companies, two organized and partially, two unorganized, have you had any industrial disputes in the aerospace industry which could be attributed to provisions for overtime?

**MR. HININGS:** Not in my own company, and I don't believe in the other company that is organized, Mr. Paulley, no.

**MR. PAULLEY:** Fine, Mr. Chairman. So it hasn't been a factor insofar as negotiations in the driving at a collective agreement?

**MR. HININGS:** Not to the point of an industrial dispute' Mr. Paulley.

**MR. PAULLEY:** Thanks.

**MR. CHAIRMAN:** Mr. Sherman.

**MR. SHERMAN:** Thank you, Mr. Chairman. Mr. Hinings, has it been your experience in industry that fringe benefits, generally if not consistently, are based on gross pay?

**MR. HININGS:** It varies widely, Mr. Sherman, and not all fringe benefits can be related to pay. Vacation pay can and in some of the companies certainly it is related to gross pay. In the matter of provision of life insurance, no, it is not generally related to the number of hours a man works, or anything like that. You provide a certain amount of life insurance that is either a flat sum or based on an assumed annual rate of earnings. Provision of semi-private hospital insurance is not based on pay, and this type of thing. So some are and some aren't, but it's widely varied. You can't generalize on that one, I'm sorry.

**MR. SHERMAN:** What about the Canada Pension Plan, it's based on gross pay.

**MR. HININGS:** That's based on gross pay, yes.

**MR. SHERMAN:** What about, well vacations with pay, that's based on gross pay.

**MR. HININGS:** Sometimes it is, sometimes it isn't. It isn't required to be under Manitoba law. Some companies do pay a percentage of gross pay though.

**MR. SHERMAN:** What about Unemployment Insurance? That's based on gross pay.

**MR. HININGS:** Based on gross pay, yes.

**MR. SHERMAN:** What about Workers' Compensation? That's based on a flat levy per job.

**MR. HININGS:** Per \$100.00 a payroll. . .

**MR. SHERMAN:** Yes.

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**MR. HININGS:** . . . for regular payroll unit.

**MR. SHERMAN:** Per payroll unit, yes. So when Mr. Green — well just before I get to that — there are a substantial number of major fringe benefits that are based on gross pay. They are based on gross pay.

**MR. HININGS:** Yes.

**MR. SHERMAN:** So to take the figure, for example, that Mr. Green took of \$7.00 and 30 per cent fringe benefits which would bring that up to \$9.10, Mr. Green said \$9.00, \$10.00, well \$9.10 — even that would be something of an exaggeration, would it not, because if you're looking at 30 per cent fringe benefits, you're looking at a lot of these substantial fringe benefits we're talking about here that are based on gross pay to begin with; so do you see any benefit to the amendment that the Minister of Labour has suggested he might bring in, in terms of basing the overtime rate on the rate of pay if fringe benefits are included in the base? Do you see any particular improvement if the Minister has suggested he might improve the bill, in his view, by doing that? Would you regard that as a significant improvement?

**MR. HININGS:** It would be a bureaucratic nightmare.

**MR. SHERMAN:** Rather than being a significant improvement, it would be a bureaucratic nightmare. Not only that but it wouldn't even be an improvement, really would it, because of the number of fringe benefits that are based on gross pay to begin with?

The second point: I want to ask you about the impact of overtime. Beyond the pure mathematics that Mr. Paulley has been pursuing and that's a legitimate pursuit, but beyond that, measured not in terms of those pure mathematics but measured in terms of the psychological impact, do you see a serious psychological impact for business and industry in this province by going to the time and three-quarters overtime rate?

**MR. HININGS:** I am no psychologist, Mr. Sherman, but I think it would increase the feeling that people are working at a disadvantage in climbing uphill all the time trying to keep a private industry base going in this province. It would certainly work against the development of new industry in this province or the expansion of existing industries.

**MR. SHERMAN:** If you were working for your company at the present time, not in Winnipeg but as we say in Ontario, and you were asked, having studied the facts, to suggest where you would like to come and start up an operation for your company in western Canada and you were told that in British Columbia, Alberta, Saskatchewan — let us say all things being equal in terms of available labour force — and in British Columbia, Alberta and Saskatchewan, the overtime rate was time and one-half and in Manitoba it was time and three-quarters without going into the mathematical calculations that Mr. Paulley has put, would you find that a rather significant discouragement for electing to come in Manitoba?

**MR. HININGS:** Yes, I would most certainly.

**MR. SHERMAN:** Thank you very much, Mr. Chairman.

**MR. CHAIRMAN:** Thank you. Mr. McKenzie.

**MR. MCKENZIE:** Mr. Hinings, did you give us a figure of the approximate overtime cost you'll be faced with, with this legislation?

**MR. HININGS:** For one particular company I did. I think the figure I tossed out was probably \$100,000 — (Interjection) — a little more, \$120,000 did I say?

**MR. MCKENZIE:** The other question, Mr. Chairman, did I hear you or the Minister say that that legislation will create more jobs for your company?

**MR. HININGS:** I didn't. I think I said it would be likely to create fewer, Mr. McKenzie.

**MR. MCKENZIE:** Thank you.

**MR. CHAIRMAN:** Thank you Mr. Hinings.

**MR. HININGS:** Thank you Mr. Chairman.

**MR. CHAIRMAN:** Mr. Hicks, Campbell Soup Company, Portage la Prairie.

**MR. WILKINSON:** Mr. Chairman, might I correct two things. First of all my name is not Mr. Hicks it's Wilkinson. Mr. Hicks was not able to be here and this morning it was alleged that Campbell Soup Company was in Brandon. It isn't, it is still in Portage la Prairie.

**MR. CHAIRMAN:** Well I have indicated Portage la Prairie.

**MR. WILKINSON:** In Mr. Hicks' absence, I have been asked to read a brief, I have a few copies of available.

**MR. CHAIRMAN:** Fine. The Clerk will distribute them. Wilkinson as in Wilkinson. . . I did want to give any extra publicity.

**MR. WILKINSON:** I am sorry I don't have enough to give one to every one. The brief reads as follows:

We are very concerned regarding the proposed legislation to be introduced in Manitoba amending the The Employment Standards Act which would prohibit voluntary overtime and raise the overtime rate to time and three-quarters.

We believe the implementation of this amendment would add additional costs to the operation of

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our manufacturing facility located in Portage la Prairie and would also limit our ability to operate our plant in an economical and efficient manner.

Since we are working with perishable ingredients and finished food product, it is essential that these food items be processed within prescribed time limits. Although we normally schedule eight-hour working periods, any delays in the manufacturing process such as equipment breakdowns, necessitates overtime to handle ingredients already in the system. Voluntary overtime has historically allowed us to cope with this type of situation. Legislation to the contrary will hinder our ability to deal with such problems in the most effective manner possible.

Production of the products manufactured at Portage la Prairie is sales orientated. In any given week, it might be necessary to manufacture for longer than eight hours a day to fill orders. At the present time we are able to cope with these production peaks with voluntary overtime. Restrictions on voluntary overtime could force us to import extra product from our Ontario plant.

It has been a Campbell Soup Company policy to utilize as much as possible, ingredients grown within the immediate area of our plants. In Portage la Prairie, we have worked with growers to develop vegetable crops which meet our needs. Since some of these vegetables are perishable, particularly when weather is unfavourable, extended production hours are sometimes necessary if we are to maximize the use of local grown crops.

Our objective is to manufacture as much as possible of products sold in western Canada, using Manitoba labour and Manitoba ingredients. Since the Portage la Prairie plant competes with our plant in Toronto, Ontario, for schedule, it is essential that we be able to operate efficiently and effectively so that our products are economically competitive with products manufactured in the east — not only of our own company but those of our competitors. Any restrictions which would increase the cost of manufacturing in Manitoba could make the importation of product from the east a viable alternative.

Mr. Chairman, that's the brief that I wish to present.

**MR. CHAIRMAN:** Thank you. Mr. Green.

**MR. GREEN:** Mr. Wilkinson, I take it that you would want a law which would permit voluntary overtime?

**MR. WILKINSON:** Yes, Sir. That has worked historically very well with us. We do not have a collective agreement with our employees and this is has not been a problem.

**MR. GREEN:** So you wouldn't want a law that would prohibit people from working overtime?

**MR. WILKINSON:** No, Sir.

**MR. GREEN:** And you wouldn't want a law that would require people to work overtime?

**MR. WILKINSON:** No, Sir.

**MR. GREEN:** You would want a law that would leave it up to the parties?

**MR. WILKINSON:** That's correct.

**MR. GREEN:** Can you tell me whether this law prohibits voluntary overtime or are you just reading brief?

**MR. WILKINSON:** Well I am reading the brief but one of the confusions, as we understand it in our company, is that we weren't certain that voluntary overtime would be allowed.

**MR. GREEN:** Can I tell you to rest assured that you can go back to your company and tell them that the law does not prohibit voluntary overtime. What it does is take out what appears to some people to be a requirement in the law that the overtime be compulsory. But it doesn't prohibit an employer and an employee from arriving at an arrangement with regard to overtime. — (Interjection)— Oh, yes, it does change the rate. Well Mr. Chairman, I wasn't trying to confuse Mr. Wilkinson. — (Interjection)—

**MR. CHAIRMAN:** Order please. I'll put you on the list.

**MR. GREEN:** There are two parts to the bill and in case you have the same misunderstanding as Mr. Bilton, I wasn't referring to the rate.

**MR. WILKINSON:** No, I was aware of what you were saying.

**MR. GREEN:** You understood that?

**MR. WILKINSON:** Right.

**MR. GREEN:** Well Mr. Bilton didn't understand that but I am glad that you did. I was just talking about the provision as to a requirement, that as far as you're concerned, the law should neither require or forbid overtime. That should be something between the employer and the employees.

**MR. WILKINSON:** That's correct, Mr. Green. Our interpretation of this was that the only overtime that would be allowed would be emergency and we really did not know what emergency meant.

**MR. GREEN:** The law will not prevent you from arriving at an agreement with your employees either for overtime, when and if they want to do it, or some prearrangement, a pre-understanding as to overtime.

**MR. WILKINSON:** Individually or on a collective bargaining basis?

**MR. GREEN:** It will let you and your employees make whatever agreement is a satisfactory to you that you can arrive at with regard to those things, but it will not prohibit voluntary overtime.



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**MR. WILKINSON:** If I might clarify that, Mr. Green. Are you saying that there would have to be a collective agreement?

**MR. GREEN:** Not necessarily, no, no, not necessarily.

**MR. WILKINSON:** Very good, that's good.

**MR. CHAIRMAN:** Mr. Paulley.

**MR. PAULLEY:** Mr. Chairman, I think Mr. Wilkinson in effect answered the question of Mr. Green insofar as Campbell is concerned at Portage la Prairie, there isn't a collective agreement, Wilkinson, at the present time.

**MR. WILKINSON:** That's correct, Mr. Paulley.

**MR. PAULLEY:** You say on the first page of your brief, referred to about the last sentence. "At present time we are able to cope with these production peaks with voluntary overtime." There's nothing in the Act that prevents, as Mr. Green has pointed out, an arrangement for voluntary overtime and I trust and hope that as far as Campbell is concerned, as a good employer, that it will attempt to impose so-called voluntary agreements on its employees arbitrarily and I just make a comment aside.

**MR. WILKINSON:** Well Mr. Paulley, in the interest of being economically competitive, it's in our own interest not to work overtime.

**MR. PAULLEY:** Right, that's right. And I note, too, that insofar as your particular industry is concerned, according to DBS, that your weekly average, and I always emphasize average, work week is — in accordance with the last DBS statistics that I have available to me — a 37.4 represent, which is less than the 40-hours, which, of course, obviates the necessity on average. I can appreciate that there can be fluctuations and I'm sure that there is no difference of opinion between us in the use of average, as against particular or peculiar situations that might arise from time to time.

**MR. WILKINSON:** Right.

**MR. PAULLEY:** And unless you can indicate that there is a conflict in the statistical information that's supplied to all in sundry from the DBS, there really isn't much argument except as so far as peculiar situations are concerned.

One thing, Mr. Wilkinson, I would like to ask of you: "Restrictions on voluntary overtime would force us to import extra products from our Ontario plant." That really disturbs me, Mr. Wilkinson, because I'm a native Manitoban and want your industry to flourish at Portage la Prairie and it does concern me when you indicate in your brief that restrictions on voluntary overtime, which I think Mr. Green has clarified, is not our intent, would force you to import extra product from your Ontario plant. I wonder if you would expand on that?

**MR. WILKINSON:** Yes, Sir. Might I say that I'm an easterner who has become a Manitoban and . . .

**MR. PAULLEY:** I bet you find benefits far greater than in Ontario.

**MR. WILKINSON:** . . . and I sort of find that I am liable to stay here.

**MR. PAULLEY:** But go ahead.

**MR. WILKINSON:** What we were saying here was that if the intent of Bill 65 was to say that we could not work overtime, voluntary overtime, then in order to meet the peaks of production we would have no alternative but to reach into our Ontario operation and bring the product out to Manitoba. I don't want to do that, obviously.

**MR. PAULLEY:** No, and we don't want you to do it either. We want you to "tin" our Ontario Manitobans. And I guess, Mr. Wilkinson, when I make that statement that we want you to employ Manitobans I could be accused of being slightly parochial, because that is our objective and I do think, as has been pointed out by my colleague, Mr. Green, that there is anything contained in the legislation that goes contrary to that general objective. And I appreciate too, Mr. Wilkinson, that there has been, at least in my opinion as a sponsor of this bill, a misunderstanding of some of the objectives and provisions within the Act. I hope, Sir, that as a result of your appearance here, and I appreciate very much, that some of those areas have been clarified to the satisfaction of Campbell Soup at Portage la Prairie and indeed in the whole area of manufacturing in the Province of Manitoba.

**MR. WILKINSON:** Well, we appreciate your comments, Mr. Paulley, and if indeed voluntary overtime is still accessible without, say, negotiating a collective agreement as in our case, then that does not become a problem. We can still meet our peaks of production and emergencies and carry the business in a competitive manner.

**MR. PAULLEY:** I think this is the case, Mr. Wilkinson, and if after this bill is passed — and I'm sure I'm inclined to think that it will be passed — you have any problems in this particular area we would be more than pleased to hear from you accordingly.

**MR. WILKINSON:** There is one other comment, if I might make it, that our present policy is a tier and a half policy and therefore, just in plain mathematics, any increase in the overtime rate would necessarily be an increased cost to our business.

**MR. PAULLEY:** Well, I'm glad you raised that, Mr. Wilkinson. Can you tell me whether or not in the base rate to which time and a half is applicable at the present time, certain fringe benefits a

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cluded?

**MR. WILKINSON:** I can't answer that. I'm not . . .

**MR. PAULLEY:** I wonder, Mr. Wilkinson, then as you can't answer — I'm not trying to nail you to the masthead — that you might take a look at that because I announced in the House the other day at where fringe benefits are included in arriving at the base rate, if they are not less than the application of a general formula of the base rate of one and three-quarters, we would take into consideration and, as a matter of fact as I indicated, I announced in the House, that I'm prepared to give cause an amendment to the legislation to the effect that where fringe benefits are included to, juratively speaking, equate the one and three-quarters, time and a half will still be applicable. So I think that it may be in the interests of Campbell Soup as indeed, in the interests of other plants as well, take a look at that aspect and then the one and three-quarters would not be as widespread as it is because we have no desire of assessing double penalties on an employer who takes into consideration the fringe benefits that are being paid by making that employer apply one and three-quarter percent as against one and a half and I think this gives me the opportunity, Mr. Wilkinson, because of the type of your presentation, what I think is reasonable and fair to re-emphasize the position taken by myself as a sponsor of this bill in the Legislature when we were dealing with it.

**MR. CHAIRMAN:** Mr. Bilton.

**MR. BILTON:** Mr. Chairman and Mr. Wilkinson, I have one or two, possibly three questions I would like to ask.

I wonder if you could inform the Committee as to how this legislation may effect the growers? I ask that question because I compare your industry with the dairy industry. The cows have got to be milked twice a day whether we like it or not, whether it's a 40-hour week or a 48-hour week or a 60-hour week. How does that affect the farmers when the vegetables are ready to be transferred to you?

**MR. WILKINSON:** This is one of the problems that we have that falls into the norm of working more than eight hours in a day. We contract, for example, about 800,000 pounds of celery. You have a relatively short period of time of about four weeks to get this off. If you have any inclement weather during that period of time, you're running to try and get that crop salvaged before frost comes.

**MR. BILTON:** Do you pay overtime during that period?

**MR. WILKINSON:** We pay overtime over eight hours, yes.

**MR. BILTON:** During that four-week period to take off that crop?

**MR. WILKINSON:** Oh, yes, if we work more than eight hours we pay the overtime.

**MR. BILTON:** How does this affect other vegetables?

**MR. WILKINSON:** To a lesser extent because potatoes and carrots, for example, can be stored. We have a mushroom farm which is company-owned which has peaks of growth and that is certainly affected. When the mushrooms are ready, you have to run them.

**MR. BILTON:** Could you tell us, Mr. Wilkinson, what this means to the agricultural industry in the Portage la Prairie area with your firm? Just a ballpark figure? Payroll.

**MR. WILKINSON:** No, Sir, I can't. I'm not confident to give that figure; I don't know it.

**MR. BILTON:** You wouldn't say a million dollars?

**MR. WILKINSON:** I wouldn't want to guess on it, no.

**MR. BILTON:** We heard this morning a good deal on a 40-hour week and a 36-hour week. How would this affect your industry and the farmers as well that supply you with the wherewithal to keep your plant running?

**MR. WILKINSON:** Are you saying if we could only work 40 hours?

**MR. BILTON:** That's right.

**MR. WILKINSON:** There would be times when we would be in trouble because there would be crops to harvest and product to run and we would not be able to run it.

**MR. BILTON:** You are telling us, you are telling this Committee in no way, in no way at all would 40 hours a week accommodate this industry?

**MR. WILKINSON:** What we would have to do, I think, would be to modify our anticipation as to what we could handle, contract less of the materials on a local crop basis, and import the balance when and if we could handle it.

**MR. BILTON:** Could you give us a ballpark figure as to how many hours overtime your company paid out last year?

**MR. WILKINSON:** No, Sir, I can't. I don't know that figure.

**MR. BILTON:** Could you give us those figures, or could you provide the Committee with them?

**MR. WILKINSON:** I certainly think they could be, yes.

**MR. BILTON:** One last question, Mr. Chairman. Mr. Wilkinson, if what I've attempted to outline to you today — you probably heard what happened this morning — but however, if you find that this legislation compacts and restricts your company, would it be the feeling of the Campbell Soups that they would take the same route as Christie Biscuits?

**MR. WILKINSON:** All I can say to that is that we have a plant in Ontario that is about five times the size of the plant that we have in Manitoba and if the economic climate became so bad that the Portage operation wasn't viable, yes, I think it would have an effect.

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**MR. BILTON:** Thank you very much.

**MR. PAULLEY:** Could not the reverse take place between Ontario and Manitoba?

**MR. WILKINSON:** Yes, sir, we try to take schedule away from them whenever we can.

**MR. CHAIRMAN:** Mr. McKenzie.

**MR. McKENZIE:** Do you understand under this legislation that you as an employer cannot require your employees to work overtime unless it is an emergency?

**MR. WILKINSON:** Yes, but I understand from what Mr. Paulley said that there could be a voluntary agreement.

**MR. McKENZIE:** Yes, but would there be cases of an emergency in your operation, weather such, where you would require X number of additional hours of overtime in a certain case?

**MR. WILKINSON:** That's possible, yes.

**MR. McKENZIE:** Would you think you should be included in the definition of what an emergency is in the Act? Have you looked at that possibility?

**MR. WILKINSON:** We do have emergencies. If a filling machine breaks down at three o'clock the afternoon and we lose half an hour and our eight hours are over at four o'clock, obviously we have got to make up that half-hour because the product is already in the system. If we could not work overtime, then obviously what you would have to do is dump the product and this would not conducive to an economic situation.

**MR. McKENZIE:** Mr. Wilkinson, this morning THE Deputy Mayor of the City was here and brought matters to the attention of the Committee such as hydro, fire, police, health services, transportation problems, will likely be classed as emergencies. If something happens to the essential services, then they would be in the legislation spelled out that they could be classed as emergency. I'm just wondering if you have any idea of any weather system that could cause emergency to your plant or the people who are on contract for your firm?

**MR. WILKINSON:** Certainly an interruption in hydro power, an interruption in gas—these things could very definitely affect us.

**MR. McKENZIE:** That's all I have, Mr. Chairman.

**MR. CHAIRMAN:** Thank you, Mr. Wilkinson. Oh, Mr. Green.

**MR. GREEN:** Mr. Wilkinson, Mr. McKenzie has asked you, when you have extra work you would require your employees to work overtime. I take it from what you said, Mr. Wilkinson, that you have pretty good working arrangement with your employees?

**MR. WILKINSON:** Yes, we feel we do.

**MR. GREEN:** If you had the right to ask them to work overtime under such a situation, has it been your experience in the past that you could get co-operation from them?

**MR. WILKINSON:** Yes.

**MR. GREEN:** You don't need the help of the government to pass a law requiring your employees work overtime in order for you to get their co-operation?

**MR. WILKINSON:** No, I don't think we do.

**MR. GREEN:** Thank you very much.

**MR. WILKINSON:** As long as we can have voluntary overtime.

**MR. CHAIRMAN:** Thank you, Mr. Wilkinson.

**MR. WILKINSON:** Thank you, Sir.

**MR. CHAIRMAN:** Order please. The next one is the Manitoba Chambers of Commerce and I have a letter from the manager, Gordon MacPherson, indicating that due to heavy schedule commitments by senior officers of our organization, it is not likely that they will be able to be present to present their brief on Bill 65. However, the brief is available for distribution to Members of the Committee and will be distributed and put into the transcripts.

**MR. PAULLEY:** Okay, I'm sorry, Mr. Chairman, for the interjection.

**MR. CHAIRMAN:** We shall proceed to the next one. Mr. Holmes, Labour Relations Council.

**MR. H. HOLMES:** Good evening. I will be reading the submission of the Labour Relations Council. Mr. Akins, the Director from the Council, will be up here to field some questions and to direct some questions to the Committee after I am finished.

**MR. PAULLEY:** This is a construction industry, is it?

**MR. HOLMES:** It is.

**MR. PAULLEY:** Thank you.

**MR. HOLMES:** On behalf of the unionized sector of the construction industry, the Labour Relations Council would like to make the following comments regarding the proposed Bill 65.

Ordinarily the construction industry is largely unaffected by The Employment Standards Act but in the case of Bill 65, a number of amendments seem to apply to the construction industry. Section 1 Subsection 4 of the Construction Industry Wages Act, would seem to cause Amendment Number which calls for a minimum of time and three-quarters for overtime, to apply to us.

This, combined with the amendments to 31, Subsection 1 which limit us to negotiating no more than a 40-hour week or the amount specified in The Construction Industry Wages Act, will cause

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ge increases in costs on many projects.

For example, in The Construction Industry Wages Act, we have 42-½ hours for labourers, however, in our collective agreements, masonry labourers have 45 hours as a workweek.

Because construction is a "pass-on" industry, it is the purchaser of construction products who will pick up this added cost. In the case of recreational facilities, schools, hospitals, etc., it will be the citizens of Manitoba who will pick up this cost. Also, any increased costs in the construction industry will have a serious inflationary effect on the economy and a dampening effect on the demand for construction and therefore, an increase in unemployment.

Also included in the proposed amendments are restrictions on employers requiring employees to work overtime except in emergencies as defined in Section 33(1). This section 33(1) refers specifically to the manufacturing industry with its references to a plant and its machinery, but it does not define what can and should be considered an emergency in the construction industry. Because many operations, such as a concrete pour, require a continuous work flow until the procedure is complete, it is not feasible to cease work at the normal quitting time when a concrete pour or similar operation is not complete.

The definition of "emergency" in the Saskatchewan Labour Relations Act which reads, "any sudden or unusual occurrence or condition that could not, by the exercise of reasonable judgment, have been foreseen by the employer" would seem to be more reasonable.

Incidentally, this seems to cover a number of the problems that were brought up in earlier briefs.

In conclusion, we feel that this legislation is aimed at correcting what we feel are largely exaggerated problems in other industries, yet these legislative amendments may detrimentally affect our industry which has operated effectively under existing legislation with very few problems regarding hours of work and overtime.

**MR. CHAIRMAN:** Thank you, Mr. Holmes. Mr. Paulley. I'm sorry, there is a second part. I believe that we should take both of the parts. Mr. Akins.

**MR. GEORGE R. AKINS:** Gentlemen, with your permission, I would like to reverse things and ask the Committee some questions. The concern of our Council is to clarify whether or not the proposed provisions to the Employment Standards Act will be applied to the construction industry.

**MR. PAULLEY:** That's obvious that it does not.

**MR. AKINS:** With respect, Mr. Paulley, from reading the amendments, it is not obvious whether they will apply or not.

**MR. PAULLEY:** It is most regrettable that they are working compulsory overtime and we are not.

**MR. CHAIRMAN:** Mr. Green, on a point of order.

**MR. GREEN:** Yes, I speak on a point of order, Mr. Chairman. Mr. Akins can make a presentation. We cannot reverse the procedure. He is not here to ask us questions. If he wishes to make his brief a series of questions rhetorically asked in which he hopes to get answers, that's fine, but it is not our procedure that the procedure is reserved and the delegation asks questions of the Committee. So therefore, let him make his brief. If it is done in a question form, that's quite all right.

**MR. CHAIRMAN:** You may proceed, Mr. Akins.

**MR. AKINS:** If I'm assured tonight that the amendments will not apply to the construction industry we will have no problem and I will go away happy. If they are to be applied, then substantive changes are required in the wording of the emergency provision section of the Employment Standards Act to make it compatible with the working conditions of our industry.

Now, the organized sector of the construction industry has been bargaining with the International Brotherhood of Bricklayers since the turn of the century. Overtime has never been a contentious issue. Weekly hours vary by trade, by location of the work, and by the season of the year. We have agreements with 40 hours, 42-½ hours, 44 hours, 45 hours, 54 hours, and even more hours. Daily hours vary in the various agreements from eight hours per day to eleven hours per day. Overtime premiums vary from time and one-half to time and one-half for the first two or more hours, to double time.

Gentlemen, why would anyone wish to interfere with this range of equitable solutions freely arrived at by the people who know the industry best, the employers and the unions they deal with? Why should not the regulation of our industry be left to collective bargaining? Even the Manitoba Federation of Labour admits that the construction industry has special needs that they do not wish to be interfered with. They suggested this morning that only the Winnipeg and Manitoba Building Trades Council is qualified to speak for labour on the special needs of the construction industry. Why, then, would this government wish to circumscribe the special arrangements dealing with our industry that were freely arrived at by the parties of interest.

But perhaps our fears are groundless. Perhaps, Mr. Paulley, it is not your intent to apply these provisions to the organized sector of the construction industry? Could you inform me on that point?

**MR. PAULLEY:** When you have finished your presentation I will.

**MR. AKINS:** Yes, Mr. Paulley, I have finished the formal part of my presentation.

**MR. CHAIRMAN:** Mr. Paulley.

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**MR. PAULLEY:** I think, Mr. Akins, that if you take a look at Bill 65, you will find under 31(1) declaration of what the standard hours of work for an employee are. In Section (d), reference is made "In the case of an employee to whom the regulation applies, the number of regular working hours any day, week, month prescribed in the regulation under Section 12 of the Construction Wage Industry is a maximum number of hours that the employee may be required to work in any day, week or month before being paid at overtime rates. I think that reasonably, if legislation can reasonably explain a position, is the position of the Construction Wages Act and the regulations thereto because I'm sure that each of us are aware of the differential in the number of so-called standard workweek provision for hours vary with the various components and trade union agreements entered into between the Labour Relations Council, who act for the construction industry, and the union concerned.

In the last order-in-council that was passed, I believe last Wednesday, dealing with the Great Winnipeg component of the Construction Wages Act there were variances from 40 hours to I believe 44 or 46 hours as the standard work week after negotiations had been completed between the various unions and the Labour Relations Council. In the Rural Construction Act regulations which apply to different group of employees and employers there are variances there that the standard workweek would be far in excess, or considerably in excess — let me put it that way rather than — far in excess than the 40-hour standard workweek which is indoctrinated now or enshrined or whatever the heck you want to call it under the Employment Standards Act. Again, as far as the so-called remote areas or other areas and I am think principally of remote areas north of 53. There are provisions under the negotiated agreements calling for a greater number of hours which are components of the standard workweek, so I suggest, Mr. Akins, that those provisions are there. And then under the legislative there is a provision that where a collective agreement is entered into between management and labour for voluntary overtime and beyond that, that that is permissible under the proposed legislation. So I really, Mr. Akins, can't see any problems insofar as the application of that aspect of the Act is concerned.

It is my understanding, as I read the collective agreements — and I want to say how much appreciate the fact that the collective agreements have been consummated without a withdrawal of services this year, as contrary to some other years — but it is my impression or understanding that in the collective agreements that have been freely entered into between construction industry union and the Labour Relations Council, there are provisions for the payment of certain fringe benefits. Some have indicated to the Assembly that the government is considering proposing an amendment to Bill 65 so that where fringe benefits are included in the base rate for computing the amount of overtime in dollars and cents, then time-and-a-half will be applicable as against one-and-three-quarters. There is no desire on the part of the government to double-penalize companies or industries that have collective agreements to make provision for those fringe benefits, and I would agree that it would be most unfair for us to apply the one-and-three-quarters to an employer that is already in effect reaching that goal under a collective agreement.

So I suggest to you first of all, Mr. Akins, that in the proposed legislation there is consideration of The Construction Wages Act and the regulations thereto. I would like to ask though, why you reference to the definition of an emergency in the Saskatchewan Labour Relations Act, "any sudden or unusual occurrence or condition that could not, by the exercise of reasonable judgment, have been foreseen by the employer" would seem to be more reasonable than what is proposed in Bill 65. And I ask you, Mr. Akins, I know of your long association in the construction industry, that, is really the definition of emergency, as contained in the Saskatchewan Labour Relations Act, really meaningful when it says "any sudden or unusual occurrence or condition that could not, by the exercise of reasonable judgement." In the presentation of Mr. Holmes on your behalf, behalf of the council, reference is made to the pouring of concrete. Surely a competent contractor would know the amount of time that it would be necessary to pour concrete in a continuous operation. Now under the Saskatchewan Act, I can see, and I might say I have looked at it very closely, I could see conflict of interpretation as to the meaning of the word "reasonable," reasonable judgment foreseen by the employer. Surely an employer in the construction industry could regulate the coming and going of concrete trucks so that the concrete could be poured in a continuous operation.

Now these are one or two of the firsthand observations, Mr. Akins and Mr. Holmes, that I find in your presentation. In our Act I hope to clarify, or hope to cause clarification of the input of the word "emergency," but not necessarily to adopt the Saskatchewan wording of their Act, because it has been my experience that where we use the phraseology such as "by the exercise of reasonable judgment, that there are always differences of opinion as to what constitutes reasonable judgment. And that Mr. Akins, / is primarily my direct question to you.

We are making provisions to try and have a reasonable application under Bill 65 for the provision of overtime. I appreciate that it is not going to be acceptable to everybody. It may not be acceptable to anybody, but on the other hand, however, when we use phraseology as you refer to in the Saskatchewan Act, I question the validity of that type of legislation.

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**MR. CHAIRMAN:** Mr. Akins.

**MR. AKINS:** Mr. Paulley, there are several questions that you have read. I will work on them in reverse order.

Firstly the matter of the definition in the Saskatchewan Act. No, for construction it is not perfect, it is a great deal better than what is existing in our Act. Now we will cover a great many of the cases construction. For instance it is not just a matter of putting the concrete in the forms, it is a matter of how quickly the concrete sets up so that it can be finished. This can be affected by humidity conditions, temperature conditions, etc., etc., Now these things cannot be foretold in advance, even by a person using quite a bit of reasonable judgment. You would cover the cases where your hoist eaks down, or the transit trucks are late, or where there is a traffic jam or a parade or something and the trucks can't get through and you are delayed.

Now what it will not cover is the case where you have to pour 1,800 yards of concrete in a continuous pour and there is just no damn feasible way that 1,800 yards can be poured in eight hours, you know right from the very beginning that it is going to take you sixteen hours, but you still have to do it because there isn't any alternative.

**MR. PAULLEY:** Split shifts.

**MR. AKINS:** Well, not even that, Mr. Paulley. You know you can sometimes shift a pour, but sometimes you don't have the experienced people you need available to work for one day, to do one pour which will never reoccur, so you just have to work the men you have a little longer. Now that is the one change that I would like to see in the Saskatchewan definition if it was to be applied in Manitoba.

Working into the matter of The Construction Industry Wages Act which you suggest protects the construction industry fully, I have question as to whether this is so, and this is what I am trying to ascertain here today. My fears are these, that there is a section, 12(4), of The Construction Industry Wages Act that says that nothing in this Act will be applied in such a fashion as to call lesser benefits to be paid than are called for in The Employment Standards Act. Now I wonder, then, if this will not void the entire protection of The Construction Industry Wages Act upon which our industry relies.

**MR. PAULLEY:** I doubt it.

**MR. AKINS:** The other question that comes to my mind is this, that the way 31(d) seems to be worded, it seems as if the provisions in The Construction Industry Wages Act come first and the collective agreements come second. Now I think that's the wrong order, that what is decided in the collective agreements should be the governing factor. The Construction Industry Wages Act follows the agreements.

Now there have been cases, and Mr. Holmes gave you one, where in the collective agreements, the provisions of The Construction Industry Wages Act have been increased. He has pointed out, for instance, how in one agreement labourers who formerly had 42.5 hours in an agreement negotiated 45. There was another case this year where the working week went from 40 hours to 45 because both parties to the collective bargaining process could see that our industry required this increase if we were going to function efficiently.

**MR. PAULLEY:** There is no prohibition here, is there, Mr. Akins?

**MR. AKINS:** Well, this is our question: Does the agreement come first, or the Act? If the Act follows the agreements, we have no problem because in our industry we can usually negotiate what we need to handle the job.

The other matter that we would raise would seem to be under 31(b). The way that's written it seems that 40 hours in any week is the governing factor, and that the only thing you can vary in your collective agreements is the amount of hours per day. Now if that were true, that would give our industry some terrible problems. —(Interjection)—

Well, Mr. Paulley, you hearten me greatly because perhaps some of my concerns are groundless. I wonder if we could have a chance to sit down and work out some of these concerns with your people.

**MR. PAULLEY:** Well, yes, Mr. Akins, in direct reply to you I would be more than pleased because I admit I made a public statement that the purpose of this is not to impose penalties on labour or management, but it is being, in some quarters construed as being precisely that, and we have provisions, as I understand it, at the present time, under The Employment Standards Act, provisions for variances through the Labour Board and in co-operation with industry and its employees, for a variance of the hours of work. But if you feel, Mr. Akins, and I recognize the importance to the construction industry in Manitoba, if you feel that there should be a change, or feel that this is going to be prejudicial to the construction industry in Manitoba, I would be — again, that's arbitrary and I don't intend to be arbitrary — but if you feel that there is some requirement, necessity for a change in the wording to spell out what we consider as being a practical approach, I would be more than pleased, Mr. Akins, to sit down with you. And I might say that I don't think that it is the intention of the Committee to proceed tonight with the adoption of the precise wording of the Act until after we have heard representations from organizations such as those that you represent.

**MR. AKINS:** If I could, Mr. Chairman, there is one point on which I am still confused. Mr. Paulley

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has indicated that it is not the intent for these amendments to apply to the construction industry, yet in talking at other times he indicated that the matter of benefits would mitigate the overtime rate suggested, that variances could be applied for to the Labour Board, etc. Now my question is this: Does the Act apply to us or does it not? Because if it doesn't we don't have to be concerned with the other matters.

**MR. PAULLEY:** It applies, Mr. Akins, to the construction industry insofar as hours over and above the so-called standard workweek as provided for in the regulations of The Construction Wages Act beyond that it does. Then the application of one-and-a-half or one-and-three-quarters, the application of that factor, comes in or is established if the input of the base rate for computing time-and-a-half or time-and-three-quarters, depending on the amount of fringe benefits included in the base rate.

I don't know if I am being clear, Mr. Akins, or not.

**MR. AKINS:** Mr. Paulley, I am really taken back here because our industry bargains collectively and settles its overtime rates through free collective bargaining, and am I now being told that the Legislature is moving in and setting aside our collective agreements and imposing rates upon the parties that neither of them want?

**MR. PAULLEY:** Time-and-a-half was always there, Mr. Akins, as Mr. Green indicated. What we are saying, that in relating the time-and-three-quarters, that we take into consideration the benefit factor contained in the base rate to arrive at one-and-a-half or one-and-three-quarters. If your collective agreements in the construction industry give a benefit to the employees who are working overtime the one-and-three-quarter factor, then only the punitive rate of one-and-a-half will apply.

**MR. AKINS:** That sounds very confusing.

**MR. PAULLEY:** I know it does.

**MR. AKINS:** Are you saying that our agreements that currently contain time-and-a-half will have to go to time-and-three-quarters under this legislation?

**MR. PAULLEY:** I am saying the reverse, Mr. Akins. If, in your collective agreements, there are provisions for fringe benefits that are applicable to the base figure used for computing overtime, then one-and-a-half will apply if those fringe benefits are not less than the general application of one-and-three-quarters. Now I don't know if I can make it any more simple.

**MR. AKINS:** Mr. Paulley, this proposed amendment about the fringe benefit ratio seems a very confusing thing. It is not in the bill at the present time . . .

**MR. PAULLEY:** No, that's right, Mr. Akins, that's just what I have said for the House.

**MR. AKINS:** . . . and it is going to be, as one of my predecessors here suggested, an administrative nightmare. Wouldn't the simpler thing be to exclude the collective agreements from the effect of this Act? When the parties have decided by free collective bargaining what suits them both they should be allowed to stick with it?

**MR. PAULLEY:** No more, Mr. Akins, than the application of The Minimum Wage Act of the Province of Manitoba does not allow an employer and an employee to arrive at a collective agreement to pay less than the minimum wage.

**MR. AKINS:** Well, I am really confused now because of all the statements that have been made to this government about their respect for the collective bargaining process and of its essential nature to industrial peace. And now it appears as if collective bargaining is all for naught because the government will step in and set the provisions anyway.

**MR. PAULLEY:** Well, Mr. Akins, I respect your opinions and your knowledgeability, but that judgment simply isn't true. If the government were to say in this legislation that overtime is not a bargainable issue between trade unions then I would say that basically you are correct. But we are not doing that; we're leaving to the free collective bargaining process the rights of management and labour to enter into a contractual agreement. We're removing from management the rights that they had previously to deem that they could compulsorily require overtime. There's the big difference.

**MR. AKINS:** With respect it would seem as if you are limiting the parties by telling them that they can't bargain for less than time and three-quarters.

**A MEMBER:** There's no difference.

**MR. AKINS:** Well, the difference is simply the difference between time-and-a-half and time-and-three-quarters which is a substantial monetary penalty.

**MR. PAULLEY:** Except, Mr. Akins, that there were considerable number of employers that were using a base factor that didn't take into consideration in computing overtime fringe benefits that were contained within a collective agreement. There's the difference. I know from experience of eight years of collective agreements coming across my desk that this was a case in respect of considerable number of employers and that is why this approach is being taken.

**MR. AKINS:** Just for purposes of clarification, Mr. Paulley, since these proposed amendments have not been reduced to writing and we have no chance to study them, if there are fringe benefits for health and welfare and pension plans we'll say in the amount of 50 cents per hour and these are applicable on every hour worked but they do not double to a dollar an hour if a double time hour

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worked, then in your way of looking at things are these fringe benefits being made applicable to overtime or aren't they?

**MR. PAULLEY:** Only to the extent that the inclusion of fringe benefits of the base rates equate one and three quarters. A number of your collective agreements do make provision for double time which goes far beyond the proposal that we are making of one and three-quarters, Mr. Akin. And we're not going to interfere with the rights of you as a negotiator for the Labour Relations Council and the Unions that you deal with; we're not going to interfere at all with a provision in your collective agreements for the payment of double time after four hours or after some figure.

**MR. AKINS:** Then if this is the case, I would like to suggest as the solution for our industry, that it should be excluded from these amendments in its entirety because I feel that the problems of the industry can best be handled at the collective bargaining table without the interference of legislation of this type. And I do not know this because I haven't checked but it would not surprise me if the Building Trades Council didn't agree with me. So perhaps you might want to check with them also, Mr. Paulley.

**MR. PAULLEY:** They have every opportunity as you indeed do, Mr. Akins, of appearing before the Committee to express their viewpoints. That's one thing that the type of operation we have here in Manitoba has different with other jurisdictions, we do give the public, industry, management and unions an opportunity of appearing before our committees to be heard. That is what you're doing tonight and I appreciate it very much.

**MR. AKINS:** I would just conclude by saying this, that the bill as written, as I read it, and you understand I have no legal training, would be a very bad piece of legislation for our industry.

**MR. PAULLEY:** Okay, thank you.

**MR. CHAIRMAN:** Mr. Wilson. Just a minute Mr. Akins. Mr. Wilson.

**MR. WILSON:** A lot of my concerns were possibly answered but I wrote down a couple of comments as the Minister was talking. Are you satisfied that this bill 65, the way it is, will have no effect on the construction industry? This seemed to be the argument between you and the Minister. Would you not. . . —(Interjection)— Well, I wondered if, in light of the fact that you had suggested it was a bit of a nightmare the way it was now, that the confusion will probably cause the Minister to have to seek another term in office to clear it up.

**MR. PAULLEY:** That would be to the benefit of Manitoba provided I supplanted you and took your place.

**MR. WILSON:** I wondered if the unions that you deal with —(Interjection)— You're talking about excluding your industry, what would happen if all the delegations appearing tonight would want their industry excluded from this bill?

When we were dealing with Mr. Nels Thibault this morning from the Manitoba Federation of Labour and you of course deal with a lot of unions, he indicated that he wanted to outlaw all overtime except in some emergency cases, so are you satisfied that this bill the way it is is not going to have any effect on the construction industry?

**MR. AKINS:** Taking that question first, no. I still have grave fears that it will adversely affect our industry. Moving on to the remarks of Mr. Thibault, I believe that he said that he would like to see construction excluded as well as emergency work. He further said that only the Building Trades Council could speak on the needs of construction, not the Manitoba Federation of Labour. From what I heard, though I haven't had the opportunity to read his written brief, from the verbal presentation this morning I took it that he would like to see construction excluded from the provisions of this bill.

As far as all industries being excluded, I'm only intimately acquainted with one industry, the construction industry. I've worked in it all my life. It is an industry with problems that are not shared by other industries and I think this is illustrated by the types of collective agreements we have. I've pointed out we vary from 40 to 54 hours and even more per week, written right into our agreements, because our industry needs these special concessions. Now, I don't know about other industries and how bad their need is, but I do know that these are a vital part of ours.

**MR. WILSON:** The comment that I had again, was that it seemed that the Minister indicated that yes, this time-and-three-quarters would apply after your standard agreed work week. He tried to shoot down the prior speaker regarding the time to pour concrete as an example given and you corrected him. Doesn't this seem to indicate that more discussion should take place on this bill? What I'm concerned about is, if you're demanding that we exclude your industry from the bill, others will be demanding that they be excluded as well and it seems that we may find we'll run into some problems here.

**MR. AKINS:** Certainly as far as our industry is concerned, the wording of this bill needs some definite revision.

**MR. WILSON:** Thank you.

**MR. PAULLEY:** I'd like to ask, Mr. Chairman, if nobody else. . .

**MR. CHAIRMAN:** Yes, I have, Mr. McKenzie.



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**MR. McKENZIE:** One question, Mr. Akins. In the last sentence of your brief you express concern less unduly magnified and large artificial problems in other industry should occasion legislative amendment detrimental to our operations. Could you elaborate on that or explain why you mean there, Mr. Akins?

**MR. AKINS:** Well, in making that statement I was referring to the fact that in all our years collective bargaining, overtime has never been a major problem in our industry. The bargaining agents have come to agreement that could take care of our needs. Now it seems to me that we have few problems in this province that are being blown out of all proportion and I don't like to see legislation predicated on those problems applied to our industry to its detriment.

**MR. McKENZIE:** Very good. Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Mr. Sherman.

**MR. SHERMAN:** Thanks, Mr. Chairman. Mr. Akins, I'm trying to clear up one thing for you and for me and rising out of your exchange with the Minister, with Mr. Paulley, and I think, hopefully, that can do it. Do you understand that the way Bill 65 is written at the present time, but leaving the Minister's suggested amendment on overtime aside for the moment, that the way the bill is written at the present time that there would be an additional overtime premium incurred in your industry as in other industries for any time worked beyond the standard work week prescribed in your industry?

**MR. AKINS:** The way the bill is worded this certainly seems to be the case. The entire road building industry, for instance, has premiums of only time-and-a-half. The great majority of the agreements in the commercial industrial sector allow for at least some time-and-a-half work. It would look as if all these provisions are going to have to be increased.

**MR. SHERMAN:** Okay, I believe that is the correct interpretation of the bill as it stands at the present time. Now Mr. Paulley has suggested that he is amenable and is giving consideration to an amendment that would make the time-and-three-quarter rate operative only in those cases where fringe benefits were not calculated into the base and where fringe benefits are calculated into the base the operative overtime rate would be time-and-a-half. But if you go through a series of calculations, mathematical, as Mr. Paulley did earlier, you come really to rates that are almost equivalent, that is it works out virtually to within a few pennies, a few dollars anyway in many instances, to virtually the same thing. So that in effect what the government is saying is that from now on, for the purposes of arriving at an employee's overtime pay, an employer might as well, for a practical purposes, add the employee's fringe benefits into the base before calculating the overtime. So, my question to you is whether, in your industry and your bargaining agreement, whether you calculate an employee's fringe benefits into the base before you calculate the overtime. If you do then this bill in terms of its overtime provision probably won't hurt you very much. If you don't, it will inflict an additional cost on you.

**MR. AKINS:** Mr. Sherman, these provisions vary from agreement to agreement. There are over 200 agreements in the industry and every single one of them would have different provisions in that regard. Now this is why I suggest that for our industry the practical thing would be to exclude the collective agreements and the people that are governed by them. So that in lieu of this suggestion of calculating in the fringe benefits the amendment would be that where a collective agreement exists the time specified in that agreement shall apply. Now in that way labour and management working together can assess the problems of our particular industry, which we know the best, and decide what will suit us and suit our industry.

**MR. SHERMAN:** Well, I understand that and I agree with that philosophy, but what I'm trying to get at is how much this overtime provision would hurt your industry. There are other aspects of the bill that you're disturbed about too, but I'm trying to get at how much this overtime aspect would hurt your industry. Could you tell me whether, as a general rule in the agreements in which you're involved, or of which you have knowledge, whether fringe benefits are calculated into base pay before overtime calculations are made?

**MR. AKINS:** In the majority of agreements, not; just in a few. Now the difference that it would make to our industry since our base rate is somewhat over \$10.00 an hour would be roughly adding another \$2.50 an hour to all the overtime hours worked. Now, on jobs like Manitoba Hydro where about 30 percent of the hours worked are overtime hours that's going to make a substantial increase to the cost to be paid by the taxpayers of Manitoba.

**MR. SHERMAN:** Well, in the majority of cases you say that fringe benefits are not added into the base and I would suspect, for lack of definitive knowledge on this subject, that in the majority of cases in industry generally in the Province of Manitoba, they're not added into the base. So that no matter how you slice it, it seems to me, and I wonder whether you would agree, that no matter how you slice it on this time and three-quarters rate in the amendment that the Minister is proposing that it is going to cost employers in general a 50 percent additional premium in overtime pay. The premium being half at the moment and going to three-quarters.

**MR. AKINS:** With the exception of the sophisticated mechanical trades where most of the agreements at the present time call for double time, this assumption would be correct.

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**MR. SHERMAN:** Yeah, with that exception, obviously, but it's going to cost the majority of employers in the majority of overtime situations a 50 percent premium in terms of their costs of doing overtime work.

**MR. AKINS:** That is correct.

**MR. SHERMAN:** So, recognizing what the Minister is saying here, and I can see the validity of the minister's proposed amendment, it still will not get around the fact that there is going to be an additional cost to the majority of employers in the province.

**MR. AKINS:** I do not like to condemn an amendment that I have not seen in writing so that I can fully understand it but from what I've heard, I don't think the amendment will be of much help.

**MR. SHERMAN:** Well, that is what I'm trying to get your opinion on. I have suggested to the minister and to other Ministers, including the Minister of Mines and Resources, that the amendment really is meaningless. What we're arguing about here is an additional cost to employers and what you're saying to me bears out that argument, that there will be that additional cost because of the situation you have alluded to, fringe benefits are not in general added into the base now. Do you know of other jurisdictions where they are added into the base outside of Manitoba?

**MR. AKINS:** No, I believe this does take place with some mechanical trades who have great bargaining leverage, but as a general rule this wouldn't be the case in our industry in this province or any other.

**MR. SHERMAN:** So it would appear to you that the amendment being considered by the Minister, though fine as an ideal, will actually have no effect in practice in terms of additional costs of operation to the majority of employers in this province.

**MR. AKINS:** Rather than say no effect, let's say, little substantive effect.

**MR. SHERMAN:** Little substantive effect, well that sounds good. As a matter of fact, it sounds bad, at least for the purposes of my argument it sounds good. Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Mr. Paulley.

**MR. PAULLEY:** Mr. Akins, did I understand you correctly to say that in some of the collective agreements that the Labour Relations Council, acting on behalf of the construction industry and unions, that some make provision for . . . in arriving at the base rates the fringe benefits are included.

**MR. AKINS:** The one that comes to mind most readily is the Millrights Agreement, which definitely does.

**MR. PAULLEY:** It definitely does. Now we're talking about equality and are trying to arrive at a base factor for computing overtime and whether it's in writing or not, Mr. Akins, I have indicated to the Assembly — maybe I'd better write you a letter to tell you exactly what I said in the Legislature — that one of the factors considered in the application of the one and three-quarters to make sure that there were not differentials insofar as the application with employees are concerned. Now you tell the committee tonight that you have entered into a collective agreement and maybe your reference is just as vague as my reference to one and a half vis-a-vis one and three-quarters, but you say that you have arrived at a principle at least in one collective agreement, that takes into account fringe benefits that are paid to an employee in computing overtime. Now then, I say that the principle contained in this bill, if that is done then in that particular collective agreement you don't have to worry about one and three-quarters, providing the fringe benefit factor at least equates the one and three-quarters, but insofar as the other employees or the other contracts are concerned, that if those fringe benefits are not taken into account, then that portion that is lower than one and three-quarters will have to be taken into account. Now, surely, that's a reasonable approach. As you say, as far as you know there's just one agreement, the millrights. It could conceivably be with the agreements with the electricians or others and I'm not so sure that it's not included as a fringe benefit and in my opinion and in the opinion of my colleagues, it should be taken into consideration.

Now, then, one further question, Mr. Chairman, I would like to ask of Mr. Akins insofar as the incident of overtime. Incidentally may I say that is one of the reasons why we are suggesting legislation for this one and three-quarters or including, if it's not inclusive of fringe benefits, that it should. You have just substantiated, at least in one collective agreement, the validity of the point that we are taking.

According to the latest DBS, the construction industry in Manitoba has an average — and I want to emphasize average — work week of 37.4 hours per week, which is less than any regulation under the Construction Wages Act, be it heavy construction, rural construction, or the Greater Winnipeg construction rates. Do you subscribe to the validity or the correctness of the DBS statistics for — the last that I have I believe were for 1976 and they may have gone down since then.

**MR. AKINS:** Well, Mr. Paulley, obviously the DBS collects statistics in accordance with the prescribed methods. I think the matter is average. Now average means that you take the time throughout the year, the way they collect those statistics and, Mr. Paulley, if I was allowed by legislation and by collective agreement, to bank the hours worked in my industry and average them out over the year, not only would I not have to worry about overtime premiums, I wouldn't have to

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worry about overtime period. Unfortunately, that's not the way it works and our industry does wor good deal of overtime. Now on northern projects it can be as much as 30 to 35 percent.

**MR. PAULLEY:** For which provision is made in our legislation and regulations at the present tin

**MR. AKINS:** Now even in the commercial-industrial sector in the Winnipeg area, among contractors who have issued orders to their supervisory staff that no overtime is to be worked exce in the event of clear emergency, overtime still runs, for the civil trades at least, between three and fo percent.

**MR. PAULLEY:** So you would take three and four percent of the differential between one and half and one and three-quarters percent to arrive at the cost, additional costs that you were talki about.

**MR. AKINS:** Yes.

**MR. PAULLEY:** To arrive at a proper figure. Instead of all hell and doom and gloom, we wou arrive at a figure of the differential between one and onehalf and one and three-quarter of 3 perce

**MR. AKINS:** Mr. Paulley, when you look at it that way you can say that this is not such an alarmi increase, but in these days of restraint or when the economy demands restraint, whether people a giving it or not, even increases of this magnitude must be looked at seriously by people of publ spirit.

**MR. PAULLEY:** Yes. Mr. Akins, you mentioned the variances in the time factor, the month fact insofar as construction. I'm sorry I haven't it right before me at the present time but I did receive DE figures that indicated that throughout the 12 months period, month by month of last year, th construction industry, other than heavy construction, I admit that, did not exceed 40 hours a wee

**MR. AKINS:** On the average bank basis and excluding all the days they missed for rain and misse for other absenteeism and so on, I'm sure those statistics are correct. But I think the method that the are being used is rather misleading.

**MR. PAULLEY:** You see, Mr. Akins, that's one of the reasons in the bill that there is a requireme of reporting overtime so that we here in Manitoba will be able to up-date our statistical information a result of the co-operation of management, so that we don't get into these arguments as to th correctness of statistical information that comes from down east.

**MR. CHAIRMAN:** Mr. Dillen.

**MR. DILLEN:** Mr. Akins, I didn't hear the first part of your presentation but I wonder, you didn't us the argument that — at least while I was here — that this overtime would have the effect of reducin your competitiveness in the particular industry that you represent. Is that just an oversight or is that fact?

**MR. AKINS:** No, in the construction industry, since we can't export our product, it's all for hom consumption, a law that applies to everybody in the industry leaves the competitive situation at th *status quo*.

**MR. DILLEN:** So that would not give any contractor coming in from other provinces an competitive advantage over existing Manitoba industries as well.

**MR. AKINS:** No. The industry would not have problems. It's our customers that will have th problems.

**MR. DILLEN:** Do I take it that you represent contractors or employers who are party to a collectiv agreement?

**MR. AKINS:** Yes. All the members of our council are unionized contractors.

**MR. DILLEN:** Now, if you are faced with any competition, you are facing that competition fro nonunionized contractors.

**MR. AKINS:** Yes.

**MR. DILLEN:** Now by moving the rates of overtime by 25 points, that is closer to what the averag of the construction industry is at double time, does that not reduce the amount of competition tha you'll receive from the non-union contractor.

**MR. AKINS:** Well firstly I would dispute the claim that the average overtime paid in the industry i double time. It's not. I think that time and a half is paid for the great majority. Only the mechanica trades are into double time. Yes, I think that if I was to take a purely selfish, to hell with the public viev as to what would help the members of my council, I would have to say that maybe we might get som competitive advantage out of this legislation. I still think the legislation is not a good thing.

**MR. DILLEN:** Let's take the position of the non-mechanical trades in the construction industry then. If this is going to create some hardship for the construction industry, if they decided not to pay or not to require overtime and put on two shifts as the case may be or whatever, take advantage o longer hours during the summer or whatever the case may be, would that not reduce their costs by whatever the rate of overtime happens to be and cause them to hire more staff rather than less staff?

**MR. AKINS:** If it was possible to do this, it would have that effect, but it's not a practical solution i the method that the industry works. If I'm pouring concrete and required to work 12 or 16 hours tha day, that may be the only day that month I have that requirement and it would be very difficult to gc out and recruit through the unions or the through the UIC or any other way, skilled concrete placers

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id finishers to come in for one day in the evening and then to disappear again. The solution is to use e forces you have at overtime.

**MR. DILLEN:** But it's not customary, is it, for unionized contractors to maintain a continuous mber of people on their staff for a 12 month period of time. Are they not called out of the union fice or union hall as required?

**MR. AKINS:** I think all contractors have a nucleus force which is permanent with them and that ey then pick up their peaks and valley requirements through the union hall when they're unionized ontractors.

**MR. DILLEN:** You're talking about peaks and valleys in the industry and yet, you know, it's been a ort of pre-occupation with me to try whatever new method that we can think of or come up with, to y and eliminate as much as possible the peaks and valleys of the industry. Do you not think that the ffect of this overtime clause, if it's accepted and people work it and are being paid for it, that there ill be some initiative on the part of the industry to make recommendations for removing the peaks nd valleys.

**MR. AKINS:** Mr. Dillen, in an industry where the Canada wide statistics show the profit margins to e one and one-half to three percent over many years and in an industry where every year, roughly ne third of the participants lose money, believe me if it was possible for us to save any money on our xed price contracts by doing the type of things you are suggesting, we would do them. But it is just ot possible.

**MR. DILLEN:** We'll try to help you.

**MR. CHAIRMAN:** Mr. Green.

**MR. AKINS:** Help like this I don't need.

**MR. GREEN:** Mr. Akins, on the jobs that you spoke of on the hydro sites where they are working 30 o 35 percent — was I right, 30 to 35 percent overtime?

**MR. AKINS:** Yes I think it would work out to about that.

**MR. GREEN:** What is the regular work week on those jobs?

**MR. AKINS:** Well the regular work week is supposed to be 54 hours, but I think it more often works out to be more than that.

**MR. GREEN:** Well, if you took the regular work week of 54 and then you said that they're working 35 percent overtime, they are working 71 hours a week.

**MR. AKINS:** No, they get paid overtime after 40, but they regularly are supposed to work 54 hours.

**MR. GREEN:** But the proposition that Mr. Paulley referred to, is not overtime after 40 hours but ime and three-quarters after your regular work week, so it would be after 54 hours.

**MR. AKINS:** No, I think we're getting into semantics here but in actual fact, what will happen under his legislation on these jobs is that the overtime premium will be increased for all hours worked after 40.

**MR. GREEN:** The regulation, as it is in the Act at the moment, as I understood it, says that where it s in the construction industry, the regular work week will be as per the regulations in the onstruction industry.

**MR. PAULLEY:** Unless the Greater Winnipeg Construction Wages Act is applicable because of the extent of the undertaking, but normally, normally . . .

**MR. GREEN:** Well I'm not certain now but the fact is if it is the regular work week as provided for in the regulations and the proviso that Mr. Paulley is talking about doesn't apply, it would mean that overtime would be payable at time and three-quarters after 54 hours a week.

**MR. AKINS:** I'm afraid it doesn't work out that way on the way these projects are set up because the overtime is paid after the time set out in the Winnipeg Agreements, it's only that they are required to work so much compulsory overtime in order to meet the hydro requirements. Of course, I notice that the expert on this type of thing is sitting here, Mr. Howard Croft, who could probably supply more information than I could.

**MR. GREEN:** Well, depending on which work week. If it's a work week that's set out as per the Winnipeg Agreement, then it would be 40 hours I gather, but if it's the work week as set out in the regulation, then it would be time and threequarters only after 54 hours.

**MR. AKINS:** Well I think what we're arguing here is what would the effect be on the hydro projects? I know what the effect would be and that would be that it would increase the overtime premium on all hours worked after 40, which I state to be about 30 to 35 percent of the hours worked on the project.

**MR. GREEN:** Which is 54 hours a week. You take 40 hours and take a third of that and we're talking about 50 hours a week, a little better than 50 hours a week.

**MR. AKINS:** On those jobs the people are required to work 54 and in fact do work 60, 72.

**MR. GREEN:** I understand that there are many people in those trades who are unemployed and are leaving for jobs in Ontario and on the hydro sites they are working over 50 hours a week. ,

**MR. AKINS:** There isn't any question that there are unemployed people in the south. It could be that they are not willing to work in the north. There is also no question that you can't get people to go

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north for a 40 hour week. They will not go.

**MR. GREEN:** They won't take those hours.

**MR. AKINS:** No. The man says, if I'm going to go up there and live in a camp and leave my family going to make money.

**A MEMBER:** A lot of them won't go for 60.

**MR. AKINS:** No. Some of them insist on 72 and when you get up that high, I'd almost agree with Mr. Thibault, you know, that that's becoming injurious to health.

**MR. GREEN:** Well don't you think that the original Act, where the previous government interfered with the collective bargaining relationship and your collective agreements by deciding that there would be a law calling for time and a half, regardless of what you wanted to pay and the men want to work, that part of that was to discourage overtime and increase the spreading out of hours?

**MR. AKINS:** I couldn't comment on the reasons for them doing this. I think that the difference between what they did and what is proposed now is that when they passed this legislation the time and a half was the standard for all of Canada, and you know, for the North American continent whereas this time and three-quarters bit is something I've never heard of before.

**MR. GREEN:** Are you suggesting that nobody started with the time and a half before others had reached that?

**MR. AKINS:** I'm suggesting that Manitoba wasn't the first place to start it.

**MR. GREEN:** Well, I'm proud to say that we are the pioneers on this occasion. Mr. Akins, you have indicated that you and I both take the position that as much as possible the relationship should be determined between the men and the employer themselves; that there should be as little interference as is practical with the collective bargaining procedure. You agree with that.

**MR. AKINS:** Particularly in our industry where there are so many special factors that only the people involved know about.

**MR. GREEN:** You wouldn't want the government's help or government legislation — you would need it — to require people to work overtime.

**MR. AKINS:** No, we've never required it to this date, and as long as we don't have a position where a gun can be held at our heads between collective agreements — and this we worry about. If we had that concrete pour and the people decide to punish us for being tough at the bargaining table by letting that concrete harden in the forms, that can be a big expense. Now it was suggested by one of the people speaking before me, that perhaps this legislation should speak to that problem. It was suggested in a letter to the Minister that it definitely should.

**MR. GREEN:** Well, we have of course spoken to that problem by saying that an employer is entitled to bargain collectively for the purpose of having an understanding for overtime, as against the proposition that this matter can't be discussed, but employees could still discuss it between collective agreements and we did not opt for that proposition. We said that an employer is entitled to try to have a collective agreement and understanding vis-a-vis overtime so that the issue doesn't become an issue between agreements. But in any event you have indicated to me that you don't need the assistance of Mr. McKenzie and Mr. Sherman and myself and Mr. Paulley to have a law requiring you to employes to work overtime.

**MR. AKINS:** That is correct. We haven't needed it to date and we don't need it now.

**MR. GREEN:** Well, then you don't object to us removing it from the Act that's in there at the present time.

**MR. AKINS:** I believe that nothing in our brief speaks to that point.

**MR. GREEN:** That's right and I'm happy to have your assistance on that point.

**MR. PAULLEY:** And your support.

**MR. GREEN:** The one feature that I want to say — this business of men holding you up in the middle of an agreement, when the concrete is poured, I suppose that there could be an unscrupulous employer who could take action under management rights clauses in the middle of an agreement when he wants to punish his employees as well. That doesn't speak for good relationship but it is available.

**MR. AKINS:** I think that in either case there should be some fair practice legislation covering those points.

**MR. PAULLEY:** And it's there now.

**MR. GREEN:** Isn't the best way of dealing with it by having a good relationship between the employer and his employees, that legislation is not a good substitute for that.

**MR. AKINS:** I would generally agree with that. I think that sometimes some legislation can help the relationship between the employer and his employees and some can hinder it. But I think we should be very careful which we're doing.

**MR. CHAIRMAN:** Thank you, Mr. Akins.

**MR. PAULLEY:** All I say is that a good employer doesn't require it, but we require it for bargaining employers.

**MR. CHAIRMAN:** Thank you, Mr. Akins. Mr. Dave Grant from the Mayor's office. It's eleven

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'clock, what is the will of the Committee?

**MR. PAULLEY:** I think, Mr. Chairman, we should hear the balance of those who want to make presentations to us and then the Committee rise. I think there are four or five.

**MR. CHAIRMAN:** There are 1,2,3,4,5.

**MR. PAULLEY:** But mercifully, I hope they are brief.

**MR. CHAIRMAN:** Mr. Hugh Delaney, Winnipeg. . . Pardon me, Mr. Norm Thompson, Canadian Manufacturers Association.

**MR. NORM THOMPSON:** Gentlemen, I didn't appreciate you would have my name. Unfortunately, Mr. Tony Swann is unable to present the brief of the CMA and I am here as an alternate.

As you know the CMA represents approximately 300 manufacturing companies in Manitoba. Now, gentlemen, I don't plan to read the brief. I understand that you all have copies of it and hopefully you have read it. What I will do is comment on the main points that it contains.

Before I do that, though, I think it's very regrettable that when government is introducing controversial legislation such as Bill 65, that steps were not taken to have dialogue with the parties affected by this kind of legislation. I'm referring to labour and management and the dialogue with the objective of trying to reach a consensus that is acceptable to both, based on the problem or problems that generated the need for the legislation. If this had been done perhaps a reasonable solution could have been found. As it is now, with the limited time available, everyone as I see it is engaged in fire fighting. The government from the point of view of what I consider bottom of the barrel kinds of things trying to defend what it is presenting.

From our point of view we have no alternative but to present arguments as to why this bill, in its present form, should not be passed. I know that this present government is interested to take steps in the direction, I think, of what it terms "industrial democracy," but I don't think, gentlemen, that you can legislate industrial democracy.

Gentlemen, the CMA opposes Bill 65 because we strongly believe that it is vitally important to the citizens of Manitoba that we maintain a strong, healthy and growing private industrial sector to provide jobs for the citizens of the province and to develop a level of economic activity that will also generate sufficient wealth to meet their social welfare needs. We assume that you must have identical goals in mind. You want more jobs created. You are looking at expanding the level of social welfare. Social welfare is a cost that has to be paid for. Corporate and individual income taxes are two main sources of funds that you look to. If this is insufficient, you must borrow, increasing the debt *per capita* and, in effect, create situations where we are living beyond our means.

A healthy, growing, private industrial sector must be of prime importance to you, and you need this kind of vital growing industrial sector because without it you cannot attain the goals that you have in mind with respect to further increases in social welfare and the costs of social welfare.

In our opinion the kind of legislation that you are proposing can only harm the province in terms of economic impact, lead to higher incidence of labour disputes and increase costs to production. In the area of the overtime rate where you are proposing going from time and a half to time and three-quarters, we point out to you that it will add to the cost of doing business. It will impair the ability of companies in the private sector to compete with similar industries in other provinces and in the United States, particularly if we do not have some other offsetting advantages.

The private industrial sector operates in a highly competitive environment. Any move which makes it harder to compete in such a market decreases the ability of a company to stay in business. Higher costs can make it more difficult to retain customers and thus more difficult to continue to employ Manitobans. The result will be to reduce employment rather than to increase it.

I think one last point that I consider to be very important, and that is the image that you create with respect to this kind of legislation that you are proposing. Gentlemen, it doesn't lead to confidence in the minds of people who make decisions with respect to capital investment. It does not do this. And what we need in this province is legislation that will encourage the flow of capital to Manitoba, not discourage it.

On voluntary overtime — and we oppose the proposed legislation that you have making all overtime voluntary — I would like to propose to you that industry does have a legitimate need for overtime to meet peak production needs, absenteeism, sickness, rush orders, maintenance of plant and equipment, situations involving the failure of relief workers to report on shift operations and so on, and these needs are not what you would consider to be necessarily of an emergency nature, as presently defined.

By making all overtime voluntary you are leaving employers vulnerable. You are reducing their flexibility to operate efficiently and indirectly increasing their costs. There are direct costs and indirect costs. A direct cost, of course, is all of this kind of conversation that's been going on tonight about what it costs to go from time and a half to time and three-quarters. The indirect costs have to do with other aspects, and the indirect costs are more important and larger, in my estimation and in the estimation of CMA, than the direct costs.

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In effect, you're possibly negating the plans that management may have to accomplish objects because of their inability to get employees to work overtime when it is necessary to do so. Employers do need some guarantee to enable them to depend on employees responding to the need for overtime work that has been planned for. In the area of employer-employee relationships you are greatly increasing the chances of conflict. You have changed the balance to the disadvantage of the employer making it necessary for the employer to seek some alleviation from the legislation making overtime voluntary. We hold to the view that it is always better to ask an employee to do something than to order that employee to do it. We also hold to the view that an employee has a responsibility to accede to the reasonable requests of his employer as regard to the working of overtime, and by and large this has worked out.

Legislation making all overtime voluntary, except in emergency situations, is not a solution and should be dropped. We made some comments in our brief with respect to emergency situations. These comments were made based on a misunderstanding, on our part, when the brief was written. As far as emergency situations are concerned we believe that this section does require a clarification from the point of view of what is an emergency. As you can appreciate an employer attempting to meet the needs of a customer would consider overtime for packaging and shipping his product to the customer an emergency if his retention of the customer is at stake in his getting that product out.

One last comment has to do with overtime involved in maintaining plant and equipment. Many companies in Manitoba schedule work for maintenance and repair on a day in which the plant is not operating, and this is a regular practice of many of the companies and this involves overtime. To be able to plan vital maintenance work in this way would lead to increased costs through loss of production time. Maintenance work is vital in the viability of a company and cannot be equated with overtime occasioned by production needs. Employers need to have some kind of a guarantee that such planned maintenance work will, in effect, be done. They cannot have this assurance with overtime on a voluntary basis.

In conclusion, the CMA strongly recommends that you rescind the provision of overtime at time and three-quarters, and that you seek some other solution than that of making all overtime voluntary. And gentlemen, from my own point of view I haven't actually had the opportunity of listening to this kind of a proceeding, but from what I have listened to, in my estimation, we need much more time to delve into the kind of legislation you are proposing so that we know to a greater degree what we are doing, than what you are giving time, as I see it, at the present time.

That's all I have to say. Some of my comments are personal — my own personal comments. The brief, I think, that has been written speaks for itself and I can assure you, gentlemen, I am not in a position to answer some of the questions that I consider to be, — and I don't say this disrespectfully — bottom-of-the-barrel kinds of questions on facts as to what the costs are and what they are not; how much overtime do you work, why do you work it? But I can say this, that any move from time and a half to time and three-quarters will result in an additional cost and will have an impact on the private sector in Manitoba. Thank you, gentlemen. I assume we're all very tired and if no questions, then I'll just retreat to my seat.

**MR. CHAIRMAN:** Thank you, Mr. Thompson. Are there any questions? Thank you. Mr. Hugh Delaney, Winnipeg Chamber of Commerce.

**MR. HUGH DELANEY:** Thank you, Mr. Chairman. I have a two-part presentation. I'm glad to see some of you stuck it out anyway.

**MR. PAULLEY:** We're on compulsory overtime.

**MR. DELANEY:** The Winnipeg Chamber of Commerce representing over 1,200 member businesses and industries in the Winnipeg area vigorously questions the validity of the state underlying forces giving rise to Bill 65 in the effects of the two major provisions embedded in the proposed amendments upon employers, employees and the public through the entire Province of Manitoba. If the government is not prepared to accept the grave and far-reaching negative implications identified in our brief then we respectfully submit that the government at least undertake its own in-depth study which will surely confirm that Bill 65 would directly contribute to unfavourable economic hardship upon many employers, significantly impact individual Manitoba taxpayers and ultimately affect employees themselves.

The background or the nature of overtime needs to be discussed. Overtime as required in most businesses and industries today is not the most economic alternative. Rather it is usually the only alternative. While organizations employ sufficient workers to secure reasonable flexibility due to unforeseen manpower problems or situations a mosaic of job-skills or knowledge and experience requirements often precludes coverage except on an overtime basis. For example, employer terminations, illnesses, bereavements, inclement weather conditions, machinery or equipment breakdown, customer delivery deadlines, etc. It is common management practice in Manitoba to solicit volunteers for overtime work to be done. Failing this the operational needs of the business are judiciously weighed against the legitimate personal needs of individual workers and of decisions made accordingly.

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The Chamber of Commerce challenges the implication that employers abuse their current right to require overtime. While we recognize the increasing importance within society upon "quality of life" matters, we are of the opinion that workers should continue to accept some obligation for productivity in the workplace, including a commitment to work a reasonable amount of overtime. In some industries overtime represents a financial incentive to the workers, particularly in remote locations and/or where the nature of the work makes it difficult to otherwise attract and retain a full complement of fully qualified employees. In many high technology industries and continuous process plants an incomplete manpower complement at any time cannot be countenanced — and I give for example Airport Controllers, Refinery Operators, etc. In summary, the Winnipeg Chamber of Commerce respectfully submits that overtime is a necessary and unalterable feature of the workplace. It is often the only viable means of balancing the production function and safeguarding the integrity of the operation.

Let us examine time-and-three-quarters rate for all overtime. The Winnipeg Chamber of Commerce proposes that this unilateral legislative intervention will have several widespread negative effects including first of all cost implications. For many employees the unalterable nature of overtime required will necessitate price escalations directly contributing to inflation during a period of national restraint. To others, particularly those competing in the international marketplace, rising unit costs may well jeopardize their very ability to survive. At a time when Canada already boasts the highest wage rate structure in the world and there is widespread growing concern about our sluggish economic performance, surely we must realize the negative impact upon productivity and employment that any additional incentives will inevitably create for both existing business and industry as well as prospective new enterprises considering locating in Manitoba.

Examining the public interests, there will be a substantial negative impact upon the taxpayers in this province, given the nature of many of the services provided by municipal and provincial government agencies. For example, snow removal, road construction, police protection, fire protection, service utilities, etc. While this added cost has been confidently predicted to be in the millions of tax dollars, introduction of Bill 65 after speed-up has precluded a detailed breakdown of cost figures.

Thirdly, the collective bargaining process: There are real and sobering implications to management labour relations underlying Bill 65. A 175 percent rate for overtime will effectively upset further the concept of a package settlement based upon such things as historical national regional wage relationships, management's ability to pay, direct and indirect benefits, hours of work, premium pay provisions, rates of pay, etc.

For instance agreements previously providing a 175 percent rate for all overtime will now be inferior to agreements that had provided for a 150 — that is a correction in there, if you'll make note please — 150 percent and 200 percent rate.

Fourth, I'd like to deal with the myth of benefits exclusion. There are real and significant costs associated with overtime work in to the premium rate of pay itself, such as overtime meal provisions and/or allowances, call-in premiums, transportation allowances, etc. Given the unpredictable and irregular nature of overtime, it is understandable that life and disability insurances, sick pay plans, saving funds, pension plans, etc. be calculated on regular hours of work. In many agreements, vacation pay and statutory holiday pay are computed on group earnings inclusive of overtime. Canada pension plan contributions are calculated on gross earnings.

Dealing with the issue of voluntary overtime. First, clarification of intent. There is an official government press release dated May 20, 1977, just several weeks ago, and it states that, and I quote: "An employer would be permitted to negotiate with a trade union to include an express provision in their agreement for compulsory overtime where necessary." This provision is not referred to in Bill 65. If this was an oversight we must then question the absence of similar provisions and mechanisms for the hundreds of thousands of non-union employees in this province.

Secondly, Industrial Strife: given the unalterable nature of overtime work and in view of unilateral withdrawal of management's longstanding right to require employees to work overtime, additional about strife can be confidently predicted as management will be steadfast in their insistence upon inclusion of specific new contractual language giving them the right to direct overtime when necessary.

Section 33(4) will no doubt create disruption at a time when understanding and harmony is most important. And now the law has a sword. While the philosophical appeal of volunteerism is difficult to oppose conceptually, there is genuine apprehension in the business community that this legislation will encourage certain unions to impose overtime sanctions as a powerful lever to achieve unrelated economic concessions both during negotiations and during the life of collective agreements. We propose that specific prohibition of such activity be included with clarity in any legislation.

The Winnipeg Chamber of Commerce respectfully requests that consideration be given to these points before submitting this proposed legislation to the Provincial Legislature for final reading.

There is a second part to this presentation as well and I would like this as an appeal, to be directed



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not only to the present government but to all future governments of Manitoba and of Canada.

The most important test of all new legislation affecting the working family is how does this law regulation affect the security of my job. How does it affect the businesses that create those jobs? While a loss of a job for personal reasons is an individual problem, the loss of jobs and of job opportunities on a provincial - wide scale is a total disaster. When that happens the workers have no paycheques, there is no housekeeping money apart from a welfare cheque, and for the children there is very little future. For the greatest need of the working families of Manitoba is to keep the weekly paycheque coming in and to ensure that there will be suitable job openings for their sons and daughters when they become old enough to look after themselves.

In private business the cost of production and the cost of doing business must be paid out of what the products are sold for on the open market place. When the costs exceed this income then businesses get sick and jobs now provided are wiped out. When the cost of production in Manitoba becomes higher than elsewhere in Canada or outside of Canada no new plants will be established in Manitoba nor will any additions be made to a plant already existing in this province. Excessive increases in the cost of production inevitably and directly destroy job opportunities in Manitoba. Businessmen now know that costs of production in Manitoba are higher than the rest of this country. They also know that Canadian costs are higher than in many parts of the world. That's why hundreds of millions of dollars are now being invested by Canadians in the United States and other parts of Canada rather than in this province. The latest instance is raising overtime pay to 175 percent without even being asked to do so by organized labour. Since the comparative costs of production in Manitoba are already higher than they should be we feel such action will be irresponsible.

Only too often these days we discover the greatest threat to our ordinary every day living arises from people doing what seems to be apparently beneficial and good for us, such as using DDT to get rid of germ carrying flies and mosquitos, using phosphate detergents to get rid of dirt or using 2-4-D to get rid of weeds or the use of aerosols to give us fingertip application of useful sprays. While the use of all these aids to better living seems so beneficial that their widespread use became almost instantaneous, in the final analysis their cumulative effects were found to actually endanger the vital necessities of ordinary life. The word "pollution" is often used to explain this cumulative poisoning, and in some of the legislation we have seen lately we fear this phenomenon - it is a potential pollutant to the ecology of employment in Manitoba. What good are fringe benefits and increases in overtime rates of pay if because of them your jobs are lost? As already mentioned, Manitoba's production costs are out of line with the rest of North America and Manitoba's unemployment rate is already the highest of the three prairie provinces. While the government cannot increase costs for everybody it cannot increase the prices at which businesses sell their goods on the open market.

We have seen attempts to make up for the loss of job opportunities in Manitoba by unprecedented increases in government jobs and by creating temporary jobs by use of taxpayer money. All this money is drawn from the taxes and in the final analysis must be paid as a cost to business whether the taxes are paid by workers out of wages received from that business or by consumers in the cost of goods or by business directly. Such tax increases only increase the unit costs of doing business in Manitoba. For a government to try to make up for the loss of jobs caused by excessive business costs by increasing the tax load in business is, again, unreasonable. It can only make matters worse.

We have heard that the income tax paid by wage earners earning \$15,000 or less has been reduced below the rates of tax imposed elsewhere in Canada. If this had been done without at the same time directly increasing the tax costs of business to a point where they are higher than in the rest of Canada it would have been a tremendous achievement. But instead the government directly increased the tax costs of business in Manitoba higher than elsewhere in Canada and in so doing has gone that much further in the destruction of the jobs of the working families in Manitoba.

For the sake of all the working families of Manitoba, we strongly urge this government not to pass Bill 65 or any more legislation which will increase the cost of doing business in Manitoba until intensive "Environmental Impact Studies" are done to ensure that they have a positive effect on the "Ecology of Employment" in Manitoba. Bill 65 should, we suggest, be withdrawn.

**MR. CHAIRMAN:** Thank you, Mr. Delaney. Are there any questions? Mr. Sherman.

**MR. SHERMAN:** Thank you, Mr. Chairman. Mr. Delaney, just for the record, could you tell me how many businesses in the City of Winnipeg belong to the Winnipeg Chamber of Commerce.

**MR. DELANEY:** 1,200.

**MR. SHERMAN:** 1,200. Would you have an idea of the percentage representation that would be in the business community generally?

**MR. DELANEY:** Of the total business community? No, I don't Mr. Sherman.

**MR. SHERMAN:** In terms of preparing the presentation could you just sketch for me the kind of procedure you would have gone through. I presume this wasn't a submission that was just developed by yourself. It would have been developed in what way?

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**MR. DELANEY:** We have a Labour Relations Committee, people who have expertise in studying isolation, who immediately that it came out sat down and we to work on it in order that we would be able to address this problem at this very late date. It has not been brought before our Council, as it sets tomorrow, but I have as the Chief Officer of the Chamber brought it before us tonight in order that we can deal with the issue at this time.

**MR. SHERMAN:** Essentially, in addition to the fact that you have strong objections to aspects of 165, it was the consensus of your Committee that worked on it that a pretty rush job was necessary to assess the impact of the legislation, correct?

**MR. DELANEY:** Yes, and we're very concerned, Mr. Sherman, with the fact that there has not been enough time to properly assess all the aspects of what this legislation will do. I noticed also that the honourable Minister has asked frequently for statistics from various members that have come before a meeting here and I anticipate that there are tons more that will have to come forward and we feel that the bill should be suspended until such time as a proper evaluation has been made of the total impact of what is proposed on the marketplace.

**MR. SHERMAN:** Could you tell me what you feel, presumably your Committee hasn't had a chance to consider, but what you feel about the Minister's proposed amendment with respect to the one-and-three-quarters rate, that it would be time and a half in those cases where fringe benefits are calculated into the base.

**MR. DELANEY:** Well, it's a very difficult thing to assess what's been spoken before, because I haven't actually seen the exact wording of what Mr. Paulley has proposed. Let me say, that we are present in the Chamber of Commerce, 1,200 organizations of which probably 80 percent are made up of companies that are 15 to 20 members on staff and every one of them has a whole different myriad of different policies and it would be impossible for me to give you any kind of an idea of what all of them are really dealing with in terms of how it will affect them. I have no idea how many of them could meet the representation of what that amendment has proposed — couldn't possibly project.

**MR. SHERMAN:** Well, would it be fair to say that you could foresee a pretty complicated administrative problem in terms of the application of the principle the Minister has suggested he may advance?

**MR. DELANEY:** Yes, I certainly can see it. I haven't heard anybody that stood here that hasn't been able to suggest that they couldn't see that this is going to pose nothing else but a whole brand new bureaucracy to try to define what we're talking about.

**MR. SHERMAN:** Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Thank you, Mr. Delaney. Mr. McKenzie.

**MR. MCKENZIE:** The other question I was wondering, in page 3 of your brief, you mentioned that the added costs have been confidently predicted to be in the millions of dollars but the speed of that included a detailed breakdown. Would you have that breakdown maybe in the next week so we could use it in third reading?

**MR. DELANEY:** Well, I'd hate to promise but we'll try. We'll do our very best to get it to you. No further questions?

**MR. PAULLEY:** I just have one request, Mr. Delaney. You gave us epistle No. 1 from the Chamber of Commerce, dated June 4th, and we have copies of that. I wonder if . . .

**MR. DELANEY:** I'm having the other one circulated.

**MR. PAULLEY:** . . . you would give me a copy of epistle No. 2 which I found most interesting.

**MR. DELANEY:** One was from St. Paul and one was from St. Peter.

**MR. PAULLEY:** Yes, I know, but it wasn't the same St. Paul that I'm in conversation with every Sunday. But if you would give me . . .

**MR. DELANEY:** It's being circulated around, Mr. Paulley.

**MR. PAULLEY:** Is it?

**MR. DELANEY:** Yes.

**MR. PAULLEY:** Oh, that's fine, Mr. Delaney, because . . .

**MR. DELANEY:** It's coming up behind as a matter of fact.

**MR. PAULLEY:** Oh, that's right. St. Paul was very forthright and came to the front, not from the back.

**MR. DELANEY:** Well, that was the first section. St. Peter was a little more rhetoric . . .

**MR. PAULLEY:** Okay, thanks, Mr. Delaney, that's all I want.

**MR. CHAIRMAN:** Thank you Mr. Delaney. Manitoba Fashion Institute, Ray Winston. Okay. Mr. Winston has left and he has left copies of the brief to be distributed to the members. Those will be distributed and will be included in the transcript of the committee. We shall proceed.

Versatile Manufacturing, Eric Nernberg.

**MR. ERIC NERNBERG:** Thank you, Mr. Chairman. My submission here will consist of a letter which was written by our General Manager and addressed to Mr. Paulley as of June 1st and I have copies available here.

**MR. PAULLEY:** Thank you and may I suggest, my friend, that in due course the letter will be

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acknowledged and answered but business of the House has been such that I haven't had really opportunity of dictating to my secretary replies to the letters that I did receive. It's not that ignoring the letter.

**MR. NERNBERG:** No, I didn't want to leave that impression.

**MR. CHAIRMAN:** Well let's proceed with the brief, Mr. Nernberg.

**MR. NERNBERG:** I just wanted to make a few comments in regard to the points that we have raised there.

Our first point deals with the additional cost which would be introduced by increasing the basic overtime rate. What concerns us as well is that this would cause pressure for escalation of overtime premiums. For example, our current agreement calls for double time for work on Sunday. This is now one-half times greater than our basic overtime rate. Under Bill 65 this would be reduced to a differential of one-quarter times. I'm certain this would result in pressure to increase that differential as well.

In regard to our second point, since overtime rates are already prescribed for such emergency work as indicated in subsection 33(3), we question the necessity for a written report to the Board required under that subsection.

Our third point, Versatile is in the business of designing, building and marketing farm implements and, as such we frequently have to, as the saying goes, "make hay while the sun shines." This occurs in a number of areas. For example, in the testing of equipment. The various phases of the farm season are generally quite short and in order to get a certain number of test hours on a machine that frequently requires our people to work from practically sun-up to sun-down. Failure to take advantage of the available time could result in certain cases in as much as a one year delay introducing a product into the market. Because the work is seasonal in nature and because tests are conducted under field conditions only a limited amount of the extra work could be absorbed through additional staffing. Overtime is essential to get the job done. It is simply not feasible to staff for peak workloads.

We're currently in the process of bringing into manufacturing a new product. Now because various technical problems, there have been various bottlenecks that have been created. These can only be resolved through overtime work. Failure to do so would get the product into the market at a later date and because the problems affect major parts of the product, other employees would also be affected by work shortages if the problems were not cleared up quickly.

Our company does not take a flippant approach to overtime work. In fact, it is closely monitored. Nor do we like to incur the additional costs which are involved. We schedule overtime work because it is essential in running a going concern in this industry and most of the cases where overtime work required are not the result of poor planning or other faults of the organization. They are not what the Act defines as emergencies, but they are nonetheless essential in the continuing life of the organization. We do require, particularly in certain areas, that employees do work overtime.

I have one other comment and that is that overtime provisions of our agreement have not been the subject of discussion during our last negotiations and we were not anticipating any problem at the next round of negotiations. In other words, we don't have any problems in this regard. However, if that legislation is passed as is, I am certain that that will no longer be the case.

For the reasons that I have outlined, I would ask that consideration be given to eliminating the particular paragraphs that have been identified.

**MR. CHAIRMAN:** Thank you, Mr. Nernberg. Are there any questions? Mr. McKenzie.

**MR. MCKENZIE:** Mr. Nernberg, on the first page of your brief you question the necessity for a written report to the Board as required under a section of the Act. What are you referring to there? This going to create another cost on your industry?

**MR. NERNBERG:** Well, it's another item for record keeping. We did not have straight time for emergency work. If emergency work had to be performed and it was beyond the regular eight hours per day, it was paid at overtime rates and in this instance now we're saying that even though we pay at overtime rates it must still be reported to the Board within a period of thirty days.

**MR. CHAIRMAN:** Thank you, Mr. Nernberg. There are no further questions, we shall proceed. There are two people left, just for the benefit of the members of the committee. Prairie Implement Manufacturers, J.L. Ross. Apparently Mr. Ross has left, but he did leave briefs for the members of the committee. These briefs will be distributed and will be included in the transcript.

Mr. Joe Borowski.

**MR. JOE BOROWSKI:** Thank you, Mr. Chairman. I know you are all tired and it's late and I'm not going to take too much time. I've got a couple of pages of material written out which I think I should present as one who has been in the labour force for many years.

There are two parts of the bill that I want to speak on. The first one is the three-quarter time, Mr. Chairman. If that provision creates more jobs, then I think that that is a commendable piece of legislation. If it does not, then I question its reason for being introduced into the Legislature. I'm sure

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not the Minister's intention to fatten the pay cheque of the workers, many of whom are already adequately compensated under a collective agreement.

The other concern, and it's one not really for me, is that if the cost of that three-quarter time vision is implemented and if, let's say it's three percent, is it possible that there may be conflict with AIB legislation. If the agreement negotiated called for ten percent which was the maximum allowed by the AIB ruling and this package is an additional three percent, is it possible there will be a violation of the AIB ruling? That's something I leave to the Minister and that is really the minor part. The important part of this legislation is the second part, Mr. Chairman, and that is, should companies have the right to unilaterally force any employee to work overtime or face firing? In all my years of working for many employers, firing was always considered economic capital punishment. That is the ultimate weapon against the individual. When you fire him, you've done everything that can be done. If you give him time off, if you give him four days off or five days, or suspend him, there is no way he will come back but once you fire that man, that is the end. Not to mention the fact that he's going to have that as a mark against him for the rest of his life.

Parliament has abolished capital punishment for the most hardened and unrepentant murderers. Therefore is it unreasonable to ask for the same consideration for working people who are guilty only of not wanting to make extra money and that is to work overtime. In my view, compulsory overtime is simply civilized slavery and it's time it was permanently abolished. Let employees and employers through a collective agreement arrive at an arrangement that is fair and acceptable to both parties. From my personal experience has been over the years that most guys on the job will be fighting for overtime. I know that was the case in Thompson. In fact, we used to call them "brown nosers." They'd follow the shift boss just to get the overtime and I really don't see the problem today or at anytime where an employer is going to have difficulty getting guys to work overtime. With the one and three-quarter provision being brought in simultaneously, it seems to me that employees will be lining up to work overtime. I do not share the concern expressed by previous speakers that they are going to have difficulty running their plants because if guys say, "We won't pour cement," or whatever, there is going to be problems. I suggest that with this provision there will be a lineup of guys wanting that overtime. But should a person due to laziness, family reasons or religious reasons not want to line up for overtime, then he should have the right protected by legislation, which I understand Bill 65 is doing.

Regarding emergencies, I think 56 elected heads can come up with a suitable wording to protect the legitimate needs of employers and they certainly have legitimate needs. Some were expressed by Mr. Akins and some, I believe, by the City of Winnipeg. In the Highways Department there are provisions made that if you want to move a load that is above what is permitted by legislation — I think the legislation when I was in there was 76,000 and I think it's now 80 some thousand — all a person had to do was go to a weigh scale, or to 1075 and make an application and pay a fee and say, "I want to move this load from point A to point B and that was permitted and that is something that is done as a matter of routine. And the same applies to extra wide loads, whether it's moving farm machinery or some other object. I think that wording in this legislation can be provided to look after situations where there will be real and legitimate problems arising, especially in a seasonal industry and that is something that I'm confident the members of the Legislature can deal with.

Mr. Chairman, I would like to close by congratulating the Minister of Labour for his concern for just and fair laws for the working people of Manitoba. It took courage to introduce this pioneering piece of legislation. Most Manitobans agree with it and are silently grateful to you for bringing it in. Thank you.

**MR. CHAIRMAN:** Thank you, Mr. Borowski. Are there any questions?

**MR. PAULLEY:** I will not question the last few sentences of Mr. Borowski, but I want to say I welcome it in view of the other criticisms that I have been receiving lately.

**MR. CHAIRMAN:** Thank you, Mr. Borowski. That concludes all the hearings that we've had for people to present briefs in regard to the bill before us. I see we have another gentleman, Mr. Coulter.

**MR. COULTER:** Yes, I've requested the Clerk some weeks ago, opportunity to know when this committee was meeting.

**MR. CHAIRMAN:** Oh, just a minute, Mr. Coulter. I'm sorry. I see there was somebody wanting to ask a question. Mr. Borowski would you please come back. I'm sorry, Mr. Coulter.

Mr. Dillen.

**MR. DILLEN:** Mr. Borowski, I'm sure you will remember from your early days in Thompson the procedure that existed there for many years with regard to overtime and that was to have a system where, if you refused to work when required, you would be subject to a penalty and the penalties went something like, one day off, two days off, three days off, five days off and then out the gate, finished. Now that we are attempting to modify that system somewhat so as to give a person at least the right to be able to refuse without being subject to a penalty, the improvements — let me put it another way. What I'm trying to get at is if you were given a penalty, another person was required to work overtime in your place if you happened to be on the shift that followed your particular shift. So, the company in

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giving a person a penalty of a day off or five days off, was required to pay five days at time and a half which they didn't consider to be a penalty at that time. The time and a half was not considered a deterrent enough to keep you on the job rather than giving you a day off. You understand what I'm getting at now is: will, in your opinion, the moving towards time and three-quarter act as a sufficient enough deterrent to prevent the requirements of overtime?

**MR. BOROWSKI:** Well, I think the speakers here who represent industry indicated there was a cost factor and industry did not get to be successful by being stupid or wasteful or extravagant. If it's going to cost them an additional one or two percent through this provision yearly, then certainly they are going to take steps to try and eliminate as much of that overtime as possible. They are certainly going to do that and I think that that is a commendable thing. They may be doing it for another reason than what the Minister wants, but nevertheless they certainly will take that action.

One of the other things that the companies will not be able to do, and you are aware of that practice, is that if they didn't like a guy they kept pushing overtime on him and that really became a weapon. If you want to drive a guy out of a plant, the best way to do it is to keep throwing the overtime at him, especially if it's dirty work. Overtime, at least in Thompson, meant that you did not necessarily get the overtime in your line of work. If you were a driller, they could on overtime take you off the drill and reduce your pay and put you in a dirty place to do muck work and if you didn't do it, then you were in trouble and if they saw that you didn't like it, they would continue to use that to push you in there until the guy would get fed up and quit. This was another weapon that the company had of clubbing the guy over the head if he was too zealous in his union activities or whatever, or if he didn't get along with the foreman. By taking this right away from the employers — and I think one of the speakers said that it has been the industries right up until now — well I think it's damn well time that they had that right at that club taken away and the boys start off on an even footing and I think that will solve that problem and probably other problems that we haven't even heard of.

**MR. CHAIRMAN:** Thank you, Mr. Borowski. Mr. Art Coulter.

**MR. ART COULTER:** Mr. Chairman, we made indication that we wanted to have a word on Bills 245, 47 and 50. I understand it referred to this committee.

**MR. CHAIRMAN:** 45, 47, 50, yes. You may proceed.

**MR. COULTER:** I presume that the business before this committee has pretty well run down. I'm rather pleased that nobody else wished to speak on these particular bills. I don't either, seeing the case. I just want to make it clear and for the record that we support these four bills. Okay?

**MR. CHAIRMAN:** Thank you, Mr. Coulter. That concludes the committee. Committee rise after report. We will proceed with the clause by clause next sitting.

**BRIEFS PRESENTED — NOT READ**

**BILL (NO. 65)**

**THE MANITOBA CHAMBERS OF COMMERCE, (R.M. Painchaud, President):**

The Manitoba Chambers of Commerce representing 80 community Chambers and over 7,000 small to medium size businesses throughout the Province of Manitoba is deeply concerned with the provisions contained in Bill 65.

In correspondence to the Minister, we attempted to do what our members considered responsible and reasonable, in asking for specific reasons as to the intent of the Bill and also to get statistics to measure the impact of the Bill. The Minister and the Department of Labour still have not come forward with this information.

The Manitoba Chambers of Commerce feel that this legislation will foster severe detrimental effects and irreparable damage to all small entrepreneurs in the province and of course, this will severely hamper any efforts to revitalize the provincial economy. This legislation will not assist in the creation of job opportunities but rather, will bring about a reduction in the amount of overtime work for employees along with a lowering of productivity and viability of small enterprises.

It is rather interesting and commendable that the Department of Industry and Commerce at this very point in time, recognizing that the business climate in the province is not as healthy as it could be, is attempting to assist businesses by promoting entrepreneurship and by its program of job creation. In the Chambers' opinion, Bill 65, is working at direct cross-purposes in relation to the efforts of the Department of Industry and Commerce.

This Bill may well be, not only counterproductive legislation but may also add much to the malaise in the economy especially in a psychological sense, not to mention the actual effects on the costs of doing business, which increases, invariably are passed on to the consumer which at a time of price restraint is not a desirable thing.

Our very main and immediate concern is the unavailability of statistics which justify the introduction of such legislation.

The Manitoba Chambers of Commerce are also disturbed with the introduction of a major

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controversial piece of legislation during speed-up. Such hastiness by the Honourable Minister has allowed for no reasonable consultation with employer groups in the province. There has been no outcry for such legislation and there is serious doubt as to whether in fact, it is a progressive measure.

We are speaking as representatives of all Chambers in the province and one such member, the Winnipeg Chamber of Commerce has, or will be giving you a more detailed critique of the Bill and its effects.

The Manitoba Chambers of Commerce is just as concerned with the quality of life for Manitobans as the Government. Due to the lack of explanation and understanding of Bill 65, we have no alternative but to recommend that it not be given third reading.

We sincerely hope that the Industrial Relations Committee will take our points into serious consideration.

**THE CANADIAN MANUFACTURERS' ASSOCIATION (Mr. Norm Thompson):**

The Manitoba Branch of the Canadian Manufacturers' Association is extremely concerned with the implications of Bill 65, an Act to amend the Employment Standards Act and on May 20 conveyed a preliminary response on the proposals to the Minister of Labour, in view of the need to register our concern quickly.

We cannot comprehend the need to introduce legislation that can only harm the Province in terms of its economic impact, that could lead to a higher incidence of labour disputes and that must be considered as an over-reaction to a particular labour-management confrontation. It represents another landmark in Manitoba's history of innovative, costly and counter-productive labour legislation **BAN ON COMPULSORY OVERTIME** We are opposed to the proposed ban on compulsory overtime because employers must have some form of guaranty that they can count on in unexpected situations to ensure that urgent work is completed. It is surely reasonable to expect that employers should have such a safeguard. Every other province makes provision for this obvious need. Saskatchewan recently enacted legislation which will allow for four hours a week of compulsory overtime which could be considered fairly reasonable and we are disappointed that Manitoba did not follow this example, although the Minister has stated this alternative had been considered.

There are obviously many reasons why overtime is necessary such as peak production needs, seasonal demands for specific industries, absenteeism, vacations, sickness and accidents, after-ours customer service, rush orders that must be filled (or risk the loss of future orders), maintenance of plant equipment, failure of relief workers to report on shift operations.

For these and other reasons the employer must have a minimum guaranty of compulsory overtime per week and not be subject to the uncertainty that must surely result if the Bill is passed. **THE SASKATCHEWAN EXAMPLE SHOULD BE ADOPTED IN PLACE OF THE PROPOSAL IN BILL 65. OVERTIME RATE TWO HOURS AND THREE QUARTERS** The proposed escalation of the overtime rate from time and a half to time and three quarters will have severe economic consequences for Manitoba and is unique in Canada. What possible justification can there be for such a move? It will place Manitoba at a further disadvantage vis-a-vis the other provinces as far as our ability to compete is concerned and it will not result in the hiring of more employees, it will be decidedly inflationary in effect, and will represent a further deterrent for new industry or expansion of existing industry. Comments by the Minister attempting to justify this proposal can in no way be called convincing or well thought out and demand further clarification. Members of this Association have responded in unprecedented numbers to this proposal, expressing dismay and concern. **ECONOMIC IMPACT**

The economic impacts of the proposals in Bill 65 were obviously at the bottom of the list when the legislation was drafted, if they were ever considered at all. Consider the obvious additional cost burden that will have to be borne by our manufacturers and the consequent harm that will be done to our ability to compete both in Canada and in the U.S. We are already undergoing a most difficult time in attempting to compete and there can be no possible justification for making the situation worse, as Bill 65 will surely do. The Bill will add to the list of reasons why new industry will not locate here and will deter our existing industry from expanding. It will create uncertainty in the minds of out-of-province customers who may not be able to rely on definite delivery dates. It will greatly harm companies that have concluded collective agreements with cost factors that are reflected in their price lists, which cannot be arbitrarily changed. It will adversely affect decisions of Manitoba companies that have associated operations in other provinces, resulting in production being transferred from Manitoba and consequent decreases in jobs in Manitoba. It will worsen the problems faced by operations in remote areas where overtime is an integral reason for employees to take jobs in such areas. All these factors added to existing disadvantages such as freight costs, climate, other antiemployer labour legislation, tax levels etc., must be considered carefully and the conclusion must be reached that the proposed legislation is unwise, harmful and unnecessary. To be

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the so-called leader in terms of innovative labour legislation will surely make Manitoba the loser in terms of economic growth. The Minister of Industry and Commerce must surely be concerned with the disastrous consequences of the Bill. EFFECT ON COLLECTIVE BARGAINING The Minister has stated that his adherence to the concept of free collective bargaining has been maintained in the provisions of the Bill that would allow compulsory overtime provisions to be included in collective agreements. We take the opposite view, in that we foresee many instances where the collective bargaining process will not be free, in the sense that the issue will become a trade-off item, forcing employers wishing to have such provisions in an agreement to concede monetary or other provisions, solely as a result of the requirements of Bill 65.

It is therefore an intrusion into the collective bargaining process and gives the employees an advantage at the expense of the employer. Even before the proposed Bill was a fact, there were many instances of unions refusing overtime work as a negotiating tactic and generally using the issue as harassment. This was often countered by the application of management rights, which have not been further reduced under Section 33(4) of the Bill in which ". . . management rights shall be deemed not to include any implied right to require an employee to work overtime." EMERGENCIES

We are concerned that under the Bill overtime will now have to be paid for work made necessary by emergency situations, defined as accidents, or in case of work urgently required to be done to the machinery or plant or in case of occurrences beyond human control. Presumably such circumstances would not be anyone's fault neither the employer nor the employee. Why then should the employer be faced with yet another cost burden? We urge that this amendment be deleted from the Bill. The definition as it now stands could be improved along the lines of recent changes to the Saskatchewan Labour Standards Act, which states that an emergency is ". . . any sudden or unusual occurrence or condition that could not, by the exercise of reasonable judgment, have been foreseen by the employer." We recommend that the definition be amended accordingly. MAINTENANCE

There are many companies that, because of the nature of their operations, are compelled to arrange for regular maintenance work to be done in the plant, without which the operation could not function. An example would be a foundry which regularly schedules such necessary maintenance work on Saturdays and for which overtime is customarily paid.

This maintenance work is vital to the viability of the company and cannot be equated with overtime occasioned by production needs. As such, we believe that employers should be able to insure of the dependability of employees engaged in such work and recommend that specific provisions be made in the Employment Standards Act accordingly. Section 9 (b) of the Act provides that regulations can be issued governing the suspension of provisions of the Act ". . . to any industry, employer, or employee, or to any group, kind or class of industries, employers, or employees."

We recommend that consideration be given to specifying those industries, etc. that may be excluded from the prohibition of compulsory overtime provisions in Bill 65 in such regulations.

The Association would be prepared to canvass its members to determine which industries or companies are faced with this special problem and to submit detailed and specific recommendations as to which should be included in the regulations. The haste with which Bill 65 has proceeded through unfortunate haste with which Bill 65 has proceeded has not allowed enough time for useful study of this problem, nor has it allowed members of this Association to effectively study and respond to other aspects of the Bill.

**WINNIPEG ECONOMIC DEVELOPMENT BOARD INCORPORATED (T. S. Durham, Commissioner):**

This Board takes particular exception to item number one (1) of the subject proposed change to existing legislation, for the reasons to follow: (Clause 29(c) amendment - refers)

1. We believe that a legislated over-time rate of one and three-quarters times as great as the rate ordinarily payable would create a serious impediment to the efforts of this organization, as well as others, who are dedicated to the expansion of existing business and industry in Manitoba as well as the attraction of new.

2. It is our opinion that base rates of pay and the various differentials that apply to those base rates are matters of concern during collective bargaining deliberations, not as preordained terms of reference. Such legislated changes, as proposed, would detract from the negotiation function of all parties during collective bargaining.

3. Throughout the National economy, "time-and-a-half" is the accepted differential for regular overtime time pay. We are convinced that a legislative departure from this norm would:

- work a hardship on those employers who from time to time require overtime work in rush periods or continuous process work.

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- work a hardship on those employees who rely on a modest amount of overtime as a sometime income supplement; but who would lose this if employers were to cut down on infrequent overtime when faced with a disproportionate and legislated increase as proposed.

Premium overtime rates are a half way position in determining the size of a given work force. When the premium differential exceeds the marginal cost of employment, it is simplistic to state that more employment opportunity is created. This would imply that experience and qualified help can be hired and discharged as the fluctuations of daily or weekly demand dictates. This is obviously not possible in industry at large. Most industry prefers to keep overtime work at a minimum because it is a less profitable operation. We therefore suggest that punitive overtime rates will neither create more work nor will they allow our employers and our provincial economy to remain flexible and competitive.

We have been informed that had such legislation been in effect as recently as two years ago, Winnipeg and Manitoba would not have been seriously considered for major industrial development at has since taken place here.

It is for these stated reasons that the Winnipeg Economic Development Board Incorporated strongly advises against implementing the amendment to the Employment Standards Act, that would increase the overtime rate of pay from one and one half to one and three quarters times the regular rate applicable.

### **IKE KOSTANSKI:**

In regard to the amendment to the Labour Act now before the Manitoba Parliament, I would like to make the following comment and suggestion.

If the workers are given the right to strike then they should have the right to picket, and anybody crossing the picket line with intent to take the place of the striking workers would be a strikebreaker and would be in violation of the Law, and if this leads to acts of violence then the one crossing the picket line would be responsible before the law.

The way it is now the workers have the right to strike but if they put up a picket line, they have no right to picket because strikebreakers have the right to cross the picket lines and they get the protection of the Police to do so. This is a one-sided law loaded in favour of the Companies and against the workers. If there is a strike then the Company is in a way better positioned than the workers to wait out the strike. The Company has millions of dollars and the workers have only their wages to feed themselves and their families.

You have a bill on voluntary overtime now before the Parliament. In it you put that little loophole that the Company and the workers could negotiate to have compulsory overtime and if negotiations fail then everybody is back to square one. The Company forces a strike, call in the strikebreakers, they get the protection of the Police, and all those fine words about voluntary overtime go down the drain. The Companies are already way better protected than the workers. Why is the Government worrying so much about the Companies?

So therefore be it resolved:

1. That once a legal strike is called in any plant and the workers set up a picket line then anybody crossing the picket line with intent to take over any of the jobs of the workers that are out on strike would then be in violation of the Law and would be responsible for any acts that would disturb the public peace.
2. No worker shall lose his job as a result of legal strike action.
3. All overtime over 8 hours and 40 hours a week shall be voluntary and not subject to any kind of pressure by negotiations.

### **VERSATILE MANUFACTURING LTD., (E.F. Bell, Vice-President):**

We have reviewed Bill 65 and wish to bring to your attention our concerns about the following paragraphs:

Para. 1 Increasing the overtime rate to 1.75 times the regular rate will introduce additional costs which are totally inessential in our case, either as a deterrent to the scheduling of overtime or as an incentive for employees to work overtime. In addition, it will cause pressure to escalate other overtime premiums. We question whether this would be a responsible action at a time when the emphasis is on keeping inflationary pressures down.

Para. 7. Since overtime rates are already prescribed for such emergency work, we question the necessity for a written report to the board as required under subsection 33 (3).

Para. 8. This section should be deleted. In our opinion this deals with an area which



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would be more appropriately determined at the bargaining table. In this way, conditions which would best suit the particular requirements of employees and employers could be specified for the organization concerned. Our current Agreement has provisions whereby Management can "determine the amount of overtime to be worked and by which employees." This has not been abused and has not been a major concern during negotiations. Although the need for compulsory overtime may be limited in our case, we can visualize situations which are not classed as "emergencies" under the Act, but which would be of vital importance to the future of the organization. In the introduction of a new product, for example, various problems may put the project behind schedule to the point where it would require substantial overtime to get the product ready for the current farm season. Failure to meet a given date could result in a one-year delay in bringing the product into the market. This problem may be peculiar to the agricultural industry but it emphasizes the need to leave this item open to negotiation.

In general, we feel that these provisions would impose an unnecessary penalty on us for taking periodic actions which are essential in operating effectively. We respectfully request that serious consideration be given to their elimination from Bill 65. We would, of course, be pleased to discuss this further at your convenience.

### **PRAIRIE IMPLEMENT MANUFACTURERS ASSOCIATION (John L. Ross, Chairman):**

This submission is made by the Prairie Implement Manufacturers Association (PI) to voice strong opposition to the contents of Bill 65.

The Prairie Implement Manufacturers Association has as its membership 53 companies in the three prairie provinces who are manufacturers of farm equipment. Of this total, 16 manufacturers are located in the province of Manitoba. (In addition, the association has 123 associate members who are suppliers to our members and are located across Canada and the States). The purpose of the association is to foster the growth of the agricultural implement manufacturing industry in each of the three prairie provinces.

Under the direction of an elected Board of Directors, and ably managed by a full time general manager, the association has a number of hard working voluntary committees. For instance, each province has a Legislative Committee whose job it is to monitor provincial and federal legislative which might affect members of the association. This submission has been prepared by the Manitoba Legislative Committee of the Association.

We are opposed to Bill 65 for two principal reasons: (a) payment for overtime and (b) voluntary overtime.

#### **(a) Payment for Overtime:**

The payment for overtime at the rate of time and three quarters rather than time and one half, is an absurd penalty assessed against Manitoba manufacturers. Canadians are having a hard enough time trying to compete in the world markets and this makes it more difficult for Manitoba manufacturers to compete not only in world markets but also elsewhere in Canada.

#### **(b) Voluntary Overtime:**

We think it is most unwise to make all overtime voluntary. No matter how well a manufacturer plans his work, there are always unforeseen circumstances which dictate that overtime must be performed in order to get the job done. In this respect, I think that most of us are human and will, wherever possible, consider the personal requirements of our employees.

Another aspect of voluntary overtime which is most disturbing is that the contemplated legislation provides employees with a very powerful leverage to obtain concessions. This lever of course is that of concerted refusal to work voluntary overtime.

We trust that your committee will consider our remarks and that the Bill will be considerably altered before it becomes law.

### **ALLIED FARM EQUIPMENT (MANITOBA) LTD. (John L. Ross, General Manager):**

I am making this submission as General Manager of our Company, to express grave concern relative to the introduction of Bill 65.

The proposed increase in overtime rates from time and half to time and three quarters is appalling in the Manitoba industry - and yes, Canadian industry is fighting for its existence. As a nation, we have lost our competitiveness, and as a province, we are on the bottom of the totem pole. The added cost of Bill 65 is just one more nail in our coffin.

Please do not think that I speak without knowledge. The Winnipeg Manufacturing Division Allied Farm Equipment (Manitoba) Ltd. has been an exporter of a considerable dollar volume

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ods. Less than 10 percent of our production has remained in this province while some 30 percent of our production has been shipped to eastern Canada, and some 30 percent to that portion of Canada to the west of us. The remaining 30 percent has been exported to the U.S.A. We are finding that our U.S. market, because of our costs, is in considerable jeopardy, and that our share of the market in that country, is being drastically reduced. Similarly, our share of the markets to the east and to the west of us are both being reduced because of our costs which place us in a non-competitive position.

The imposition of an increase in the rate of payment for overtime cuts right across our collective bargaining procedures. I had always thought that the Minister of Labour was a strong supporter of collective bargaining and I am surprised that he would allow such a bill to be presented.

The making of all overtime voluntary frightens me. Our collective agreement is 'silent' and we have always considered that overtime was compulsory under our management rights clause. This has now been taken from us. The fact that overtime has been compulsory has never given us any problems in dealing with our employees and/or our union. We have never abused the right which we had because we have known that an employee would not do a good job on overtime if he was forced to work against his will. We have always accepted reasonable personal requirements of our employees, and I feel quite certain that none of them has been unjustly treated.

There have been concerted efforts to refuse to work overtime. They have occurred toward the end of negotiations for renewal of collective agreements when employees have resisted efforts of the company to make shipments prior to a possible strike. We have been able to combat such concerted efforts by our employees on the basis of our management rights, but as I have mentioned previously, this prerogative has now been taken from us. In other words, Bill 65 provides unions with powerful leverage to obtain concessions through the application of concerted refusal to work overtime on a voluntary basis.

It would appear that there is a lack of common goals at Cabinet level. The Honourable Minister of Industry and Commerce, Mr. Evans, is making efforts to attract industry to Manitoba, as well as to old existing industry in this province. Bill 65 and other labour legislation is making it less and less attractive to operate in this province.

I trust that your Committee will give the foregoing favourable consideration.

**MANITOBA FASHION INSTITUTE INC., (Ray Winston, Executive Director):**

The Association of apparel factories in Manitoba has examined Bill 65, entitled, "An Act To Amend The Employment Standards Act (2)". The main difficulty we find with this Bill is to determine its rationale and any demand which existed for legislation of this nature.

1. Raising the overtime rate would have the following effects on the apparel industry:

- a) Serve to make us less competitive since over 90 percent of our product is shipped out of the Province.
- b) Tend to diminish the overtime which most employees seem to desire. This will most likely occur to people of fringe productivity who most require the overtime.
- c) Make it impossible for the companies to accept borderline orders which are used to balance capacity and merely contribute to fixed costs.
- d) Will not result in the hiring of any new employees since overtime is normally a seasonal phenomena. No factory can plan for, and administer, a second shift to replace the few hours of overtime which occur at certain times of the year.

2. Lack of a provision for some compulsory overtime will lead to more uncertainty for the customers of products manufactured in Manitoba. Delivery dates become erratic and planning becomes uncertain.

We are not too clear as to the pragmatic objectives of these amendments, but if their purpose is to add to this Province's reputation as a difficult place in which to do business, then the Bill will be unsuccessful.

**BILL (NO. 50)**

**ROBERT B. GOODWIN:**

I understand from the Clerk that the Standing Committee on Industrial Relations is meeting at 2:30 p.m., Saturday afternoon, June 4, 1977 to consider Bill 50 among other bills. Unfortunately the writer will be out of town on that day and will be unable to appear before you in person to make a submission to you with respect to Bill 50, and he is therefore taking the liberty of providing you herewith with his comments.

The writer's concerns relate to two matters. Firstly, the conflict in the provisions of the Payment of Wages Act and the Corporations Act of Manitoba as to Directors' liability for wages, and secondly,

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the apparent disregard for the rules of natural justice in respect to the procedures established determine the liability of employers for wages and, where the employer is a corporation secondary liability of the Directors of the corporation.

The Payment of Wages Act provides in Section 5 that Directors of a corporation are liable unpaid wages in an amount not exceeding two months' wages and twelve months' vacation wages. Section 114(1) of the Corporations Act provides that the Directors of a corporation are liable amounts not exceeding six months' wages of each of the employees of the corporation. Section 114 of the Payment of Wages Act is expressed in terms which indicate clearly that it takes precedence over the provisions of Section 114 of the Corporations Act and it would appear therefore that in case of conflict between the provisions of the two acts, those of the Payment of Wages Act would apply. There is nothing in the Corporations Act however, which suggests that once liability for wages is settled under the provisions of any other Act of the Legislature, including the Payment of Wages Act, that the liability of a Director under the Corporations Act ceases. The writer submits that it is equitable that the liability ought to cease, and Directors of corporations together with all other citizens of the Province, should not be subject to successive actions for the same remedy, based upon different statutes. Nor should they be subject to different remedies in each of the statutes. The law should be certain and clear and there should be a finality to it.

The writer is extremely concerned with what appears to be a lack of concern for the normal principles of natural justice which is embodied in the Payment of Wages Act. As the writer understands the procedure, the complaint is made to the Employment Standards Division of the Department of Labour which would then conduct such investigation as it deems necessary in the circumstances. At this stage of the proceedings the Division may or may not request any information from the employer, which information might include a reasonable answer as to why the employee was not paid, if he was not paid. The Division then makes an Order which, unless it is reviewed or appealed pursuant to the other provisions of the Act, may then be registered as a judgment of the County Court. Similarly, where the corporation fails or refuses to pay the wages to the employee for whatever reason, the Division may make an order against the Directors and Officers of the corporation which also presumably may be filed in the County Court and will become an Order of the County Court in favour of the Division against the Director. There is a right in the Director to request a review of the Order of the Division but the important point is that an Order is in existence and, unless acted upon by the Director, it becomes a judgment of the Court.

In the first place it is important to note that there is no indication of who constitutes a Director or Officer of the corporation. Presumably it was intended that the records of the Corporations Branch of the Province of Manitoba would constitute conclusive evidence as to who is a Director or Officer of a corporation. This of course is not necessarily correct since for many reasons (including neglect or just simple delay) the records in the Corporations Branch may not be up to date. In any event, I do not believe that the Corporations Act states that the records in the Corporations Office are conclusive evidence as to who are the Directors and Officers of the Corporation, but rather the Directors and Officers of a corporation are generally determined from the records kept by the corporation itself. Thus there is an important basic question of definition of the words "Director" and "Officer".

The rules of natural justice, as the writer understands them, require that a person charged with an offence of any nature should be told of the offence of which he is charged and have an opportunity to defend himself against the charge. The defense of the person includes the right to a hearing before an impartial and unbiased tribunal, the right to be present together with counsel at the hearing and to present testimony, including that of witnesses, thereat. It is the writer's submission that the procedure as outlined in the Payment of Wages Act is completely counter to these simple rules of natural justice since, before either the employer or the Director has an opportunity to make a representation of any sort or often to know the nature of the claim against him, an Order is made which may very well become a judgment of a court of the land. With the greatest respect this situation seems to be completely inconsistent with the democratic principles under which this Province and this country have operated since their respective inceptions.