



Second Session - Thirty-Sixth Legislature

of the

**Legislative Assembly of Manitoba**

**Standing Committee**

**on**

**Industrial Relations**

*Chairperson*

*Mr. Mike Radcliffe*

*Constituency of River Heights*



**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Sixth Legislature**

**Members, Constituencies and Political Affiliation**

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ENNS, Harry, Hon.	Lakeside	P.C.
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GILLESHAMMER, Harold, Hon.	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KOWALSKI, Gary	The Maples	Lib.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
MACKINTOSH, Gord	St. Johns	N.D.P.
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MARTINDALE, Doug	Burrows	N.D.P.
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McINTOSH, Linda, Hon.	Assiniboia	P.C.
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PITURA, Frank	Morris	P.C.
PRAZNIK, Darren, Hon.	Lac du Bonnet	P.C.
RADCLIFFE, Mike	River Heights	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack, Hon.	Niakwa	P.C.
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**LEGISLATIVE ASSEMBLY OF MANITOBA  
THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS**

**Tuesday, November 5, 1996**

**TIME – 6:30 p.m.**

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**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Mike Radcliffe (River Heights)**

**VICE-CHAIRPERSON – Mr. Peter Dyck (Pembina)**

**ATTENDANCE - 11 – QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Ernst, Gilleshammer, Reimer, Toews

Messrs. Dyck, Helwer, Jennissen, Martindale, Radcliffe, Reid, Santos

**APPEARING:**

Mr. Gary Doer, MLA for Concordia  
Mr. Steve Ashton, MLA for Thompson  
Ms. Shirley Strutt, Legislative Counsel

**WITNESSES:**

Bill 17–The Government Essential Services Act

Mr. Dave Tesarski, Canadian Federation of Labour  
Mr. Rob Hilliard, President, Manitoba Federation of Labour  
Mr. John Sinclair, Manitoba Health Organizations  
Mr. Peter Olfert, President, Manitoba Government Employees' Union  
Ms. Catherine Holmes, Tache Family Association, Tache Nursing Centre

**MATTERS UNDER DISCUSSION:**

Bill 50–The Remembrance Day Amendment Act  
Bill 17–The Government Essential Services Act  
Bill 301–The Native Alcoholism Council of Manitoba Incorporation Amendment Act  
Bill 302–The Grand Lodge of Manitoba of the Independent Order of Oddfellows Incorporation Amendment Act  
Bill 26–The Labour Relations Amendment Act

**Mr. Chairperson:** Good evening, ladies and gentlemen. The Standing Committee on Industrial Relations will come to order, and I would welcome the new members on committee tonight. As I had indicated in my previous remarks, we were partway through consideration of Bill 50, The Remembrance Day Amendment Act, and I believe that we were considering an amendment to Clause 8.1. Has discussion concluded on Clause 8.1?

**Mr. Daryl Reid (Transcona):** Mr. Chairperson, prior to the break for the supper hour, the government had tabled before us amendments to The Remembrance Day Amendment Act, and I had referenced at that time that the act itself in the title does not allow for consequential amendments. I believe that these amendments that the government has tabled here, which are quite extensive, some two pages of amendments to the bill which would include provisions that affect Christmas Day or on Good Friday and substituting words like “holiday” do not lend to the act itself and in fact these amendments are out of scope.

\* (1840)

I know you, Sir, have ruled on this. You say you have received information from Legislative Counsel to lead you to believe. But I am saying and stating here, for the record today, that these amendments, in my humble opinion, are out of scope because you cannot amend a piece of legislation that specifically refers to one act saying that you are going to incorporate consequential amendments to another act to take place under the act that we are currently discussing. So what you are doing here today is, you are establishing a precedent for your government and future governments to be able to amend a piece of legislation without clearly having that indication in the title of the bill.

At the same time as you are setting this precedent, you, by tabling these amendments here today that are quite substantive, did not give the public the opportunity to come out to the hearings and comment on what your intent was with respect to the legislation to allow for the wide-open retail liquor business to occur on Remembrance Day after 1 p.m. in the afternoon. So

while I have already stated that I am opposed to portions of the bill that allow for that wide-open shopping, I am telling you that the public did not have that opportunity to comment and that you are setting I believe a very dangerous precedent that can be used by other governments to circumvent the legislative process that we have in this province by allowing for consequential amendments to be included under a specific act without referencing that in the title.

So I say to you, Sir, that I am opposed to that, and I will reflect that when this matter comes to a vote.

**Mr. Chairperson:** Thank you, Mr. Reid. Is there any further discussion on amendment 8.1? On hearing none, the question has been called.

#### Voice Vote

**Mr. Chairperson:** Those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** And those against, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it.

#### Formal Vote

**Mr. Reid:** Recorded vote, please.

*A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6, Nays 4.*

**Mr. Chairperson:** In my opinion, the positive has it; the amendment carries. Clause 8.1—pass; Clause 9—pass.

**Hon. Vic Toews (Minister of Labour):** I move

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

#### [French version]

*Il est proposé que le conseiller législatif soit autorisé à modifier les numéros d'article et les renvois internes de*

*façon à donner effet aux amendements adoptés par le Comité.*

**Motion agreed to.**

**Mr. Chairperson:** Preamble—pass.

**Mr. Toews:** I move

THAT the title be struck out and the following substituted:

#### THE REMEMBRANCE DAY AMENDMENT AND CONSEQUENTIAL AMENDMENTS ACT

#### [French version]

*Il est proposé de remplacer le titre du projet de loi par ce qui suit:*

#### LOI MODIFIANT LA LOI SUR LE JOUR DU SOUVENIR ET APPORTANT DES MODIFICATIONS CORRÉLATIVES

**Motion presented.**

**Mr. Chairperson:** Any discussion on the motion?

#### Voice Vote

**Mr. Chairperson:** Hearing none, those in favour say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Those against say nay.

**Some Honourable Members:** Nay

**Mr. Chairperson:** In my opinion, the Yeas have it.

**Mr. Reid:** On division.

**Mr. Chairperson:** On division. So noted.

Title as amended—pass. Shall the bill as amended be reported?

**Some Honourable Members:** No.

**Some Honourable Members:** Agreed.

**Voice Vote**

**Mr. Chairperson:** Those in favour of reporting the bill as amended, say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Those contrary.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it.

**Formal Vote**

**Mr. Reid:** Recorded vote, please.

*A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6, Nays 4.*

**Mr. Chairperson:** In my opinion the motion carried. The bill shall be reported as amended. I just wanted to see if you were listening.

Before the committee can proceed with the business before it, it must elect a new Vice-Chair. Are there any nominations?

**Hon. Jim Ernst (Minister of Consumer and Corporate Affairs):** I nominate Mr. Dyck.

**Mr. Chairperson:** Are there any further nominations? On seeing none, Mr. Dyck is elected as the Vice-Chair. All right, we will now proceed to hear presenters on Bill 17. Yes, Mr. Helwer.

**Bill 17—The Government Essential Services Act**

**Mr. Edward Helwer (Gimli):** Mr. Chairman, I feel it would be proper that we use the normal time limit for each presenter, which is 10 minutes for the presentation and five minutes for the questions.

**Some Honourable Members:** Agreed.

**Mr. Daryl Reid (Transcona):** Mr. Chairperson, I know before the supper hour we had talked about the

possibility of dealing with, I believe, three relatively minor pieces of legislation that would take a few moments, I believe, to dispose with. I wonder if there is leave of the committee to deal with those matters right now.

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

**Hon. Jim Ernst (Minister of Consumer and Corporate Affairs):** I think we should hear the presentations, Mr. Chairman. The weather is not great outside, so let us hear the public that have made the effort to come here tonight, and then we will deal with them after.

**Mr. Chairperson:** All right. It is the will of committee then to hear the presenters first and then—

**Mr. Ernst:** Then we will consider which bills we deal with and in what order.

**Mr. Chairperson:** —consider the priority of bills after that point. All right. It is customary to hear the out-of-townners prior to the regular calling of the list. Is that the will of committee tonight? [agreed] Agreed. Okay. We have a number of individuals who have registered to speak on Bill 17. I will now read aloud the names of the persons who have preregistered. They are as follows: a spokesperson for The Canadian Union of Public Employees of Manitoba; No. 2, Rob Hilliard; No. 3, Deb Stewart; No. 4, Dave Tesarski; No. 5, John Sinclair and Wayne Byron; No. 6, Rob Lindey; No. 7, Peter Olfert; and No. 8, Catherine Holmes.

If there are any other persons in attendance who wish to speak to the bill whose names do not appear on the list, please register with the Chamber Branch personnel at the table at the back of the room, and all such names will be added to the list. Just as a reminder to those persons wishing to hand out written copies of their briefs to committee members, 15 copies are required. If assistance is needed to duplicate the required number of copies, see the Chamber Branch personnel at the rear of the room or the clerk assistant, and assistance will be offered.

We will now proceed with the hearing of the presenters. The first person who has indicated he is from out of town is Mr. Dave Tesarski. Is Mr. Tesarski in the

audience? Good evening, sir. I see you have some written presentations. While the clerk is proceeding to circulate, I would ask you to commence your presentation, sir.

\* (1850)

**Mr. Dave Tesarski (Canadian Federation of Labour):** Thank you, Mr. Chairman.

**Mr. Chairperson:** You have 10 minutes for the initial presentation—the usual procedure. I am sure you are familiar.

**Mr. Tesarski:** Oh, yes. Mr. Minister, committee members, the Manitoba Council of the Canadian Federation of Labour is a politically nonpartisan labour organization representing local unions, lodges and associations across Manitoba, with approximately 10,000 members in communications, construction, health care, manufacturing, mining, utilities and the public sector. The mandate of the Manitoba Council is to proactively represent our member organizations in a nonpartisan manner to promote labour issues to government, business and workers in our community. In keeping with that statement, the Manitoba Council is committed to strengthening our economy by supporting long-term economic growth and development for all of Manitoba. This, however, must be done in a fair and equitable manner.

The labour relations system in Manitoba has, like all other systems, had its successes and problems. It has functioned through business cycles of the last few decades and should, from time to time, be reviewed so that we can look forward to the future with greater, more progressive stability in labour relations. Changes with existing legislation or the introduction of new legislation must not be detrimental to one party or the other. It must be carefully designed to enhance labour relations as a whole.

The Manitoba Council recommendations. The basic assumption of our industrial relations system is the notion of freedom of contract between the bargaining agent and the employer. There are powerful arguments in favour of that policy of freedom of contract. We are dealing with terms and conditions under which labour will be purchased by employers and will be provided by

employees. The immediate parties know best what are the economic circumstances of their relationship, what are their noneconomic priorities and concerns, what trade-offs are likely to be most satisfactory to their respective constituencies.

To honour and enhance industrial relations in Manitoba, the government should encourage the implementation of voluntary and essential services agreements in specific province-owned sectors. To determine these sectors requires a voluntary essential services agreement. A committee should be struck made up of labour and business representatives from those sectors. The government would submit to the committee a list of sectors they feel provides essential services. From that list the committee would contact the respective labour and business representatives and they would request they attend an educational forum on voluntary essential services agreements. The committee would in turn request consultation from the respective industry representatives, labour and business, of those specific sectors. From the consultation process the committee would be able to narrow down, if appropriate, the sectors that require essential service agreements. Once this process has been completed, the committee would contact the sectors deemed essential and provide additional educational sessions to encourage the parties to enter negotiations for a voluntary essential services agreement. Once the parties have grasped the concept, negotiations for a voluntary agreement could proceed.

Contract negotiations are by far the most dramatic part of the collective bargaining cycle. It would not constitute an unfettered view of which services and how many employees would be required to provide the essential services if strike or lockout action was to occur. The best time frame to negotiate a voluntary essential services agreement would be in the interim period of a collective agreement. In the interim, the union-employer relations are usually not in a confrontational mode, thus giving way for a more balanced approach when considering essential services.

A recent poll conducted by the Manitoba Association of Health Care Professionals, an affiliate of the Manitoba Council, indicated that 75 percent of their membership agreed that voluntary essential service agreements are necessary. MAHCP provides essential services to all their employers, even those who indicate

they do not want it. See Appendix 2 for that. Many other affiliated unions also have negotiated voluntary essential service agreements in sectors where the union and the employer both agreed upon.

My closing statements. The Manitoba Council recommends that Bill 17, The Government Essential Services Act, is not required. The government should, however, encourage unions and employers in the sectors that provide essential services to voluntarily negotiate essential service agreements. Better relations are made when respective parties are able to freely negotiate an agreement that best pertains to their situation. The Manitoba Council affiliates that have experience with voluntary essential service agreements would be willing to be active participants in the educational sessions and act as intermediaries where there seems to be difficulties between parties arriving at an agreement.

**Mr. Chairperson:** Thank you very much, Mr. Tesarski. Honourable Minister. Any questions of our presenter?

**Mr. Conrad Santos (Broadway):** Mr. Tesarski, do you think this legislation facilitates or hinders voluntary essential services agreements?

**Mr. Tesarski:** It would hinder it in a way that it is forcing parties to do it. What should be done is that there should be encouragement for them to do it on a voluntary basis.

**Hon. Vic Toews (Minister of Labour):** Mr. Tesarski, we have received correspondence from the Manitoba Health Organizations, and I anticipate them making a representation here tonight as well, essentially indicating that voluntary essential services in the health care sector have generally not worked for a number of reasons including different interpretations of what is and is not essential health care and the hesitancy of some unions to participate in voluntary agreements. Would you not consider it prudent for the government to pass essential services legislation but allowing unions and the employers to enter into voluntary agreements, failing that, to have the legislation apply?

**Mr. Tesarski:** Yes, we would agree with that.

**Mr. Santos:** Under Section 6, Mr. Tesarski, it says that "If, in the opinion of the Lieutenant Governor in Council, a service not listed in the Schedule is an essential service

as defined in this Act, the Lieutenant Governor in Council may, by regulation, declare the service to be an essential service." Do you accept this provision as reasonable?

**Mr. Tesarski:** I did not catch that all. Can you read that again?

**Mr. Santos:** Section 6 states, "If, in the opinion of the Lieutenant Governor in Council," meaning the cabinet, "a service not listed in the Schedule is an essential service as defined in this Act, the Lieutenant Governor in Council may, by regulation, declare the service to be an essential service."

**Mr. Tesarski:** No, the way we have it in our position paper is we would rather have a committee struck to determine which province-owned sectors would be deemed essential or not.

**Mr. Santos:** What is wrong then with Section 6 giving the authority to the cabinet to declare anything they like as essential services?

**Mr. Tesarski:** They should not have that authority.

**Mr. Santos:** Should or should not have that authority?

**Mr. Tesarski:** Should not.

**Mr. Gerard Jennissen (Flin Flon):** Mr. Tesarski, in your conclusion to your brief, you state that Bill 17, The Government Essential Services Act, is not required, yet obviously the act is before us. Would you give us a short assessment of why you think the government feels it is necessary to bring such an act forward?

**Mr. Tesarski:** I think it has to do much in part of what happened this past summer with some strikes that went on with the home care workers, with casino workers and so forth.

**Mr. Jennissen:** So you see, sort of, a punitive edge to this or a getting even edge?

**Mr. Tesarski:** It could be.

**Mr. Chairperson:** Any further questions of this witness? Thank you very much, sir. I appreciate your presentation this evening. The next presenter tonight will

be Rob Lindey. Mr. Lindey. On hearing no response, Mr. Lindey will go to the foot of the list and presumably be called later.

I will now go to the head of the list and inquire if there is a representative spokesperson for the Canadian Union of Public Employees of Manitoba. Is there a person here who is speaking on behalf of the Canadian Union of Public Employees of Manitoba? There appearing to be no response, this registration will go to the foot of the list.

Mr. Hilliard, I see you in the assembly this evening, sir. Welcome. You have some presentations for us tonight the clerk will circulate? Thank you very much. While they are being circulated, I would ask you to commence your presentation.

**Mr. Rob Hilliard (President, Manitoba Federation of Labour):** Thank you, Mr. Chair. I would just like to advise the committee that I am here to speak my own words tonight. I do not rely on other people's words to make my presentations.

The Manitoba Federation of Labour has the duty and obligation to speak out in the defence of the rights of workers. These rights include the right to organize, the right to free collective bargaining and the right to strike. While the right to organize is recognized in the Charter of Rights, the rights to free collective bargaining and to strike are recognized by international labour conventions, by federal and provincial legislation, by jurisprudence and by long-standing practice. These rights were won by working men and women over many decades of hard-fought battles, confrontations and political action. They were paid for with dedication, sacrifice and, in too many cases, with blood and lives. It is these rights that are the foundation of the union movement. These are the things that have enabled working people to coax and lever justice and fairness in the workplace from their employers.

\* (1900)

Governments of all political stripes and levels have often been cautioned that when they contemplate limiting the rights of those whom they govern, they must take great care and err on the side of democracy. Because of the vulnerable position that working people have occupied in our society, this rule is of extreme importance

when legislation affecting them is being considered. The balance of justice and fairness in the workplace has always been fragile, and, once disrupted, it is difficult and time consuming to restore.

Historically in Canada, business and commerce have been the focus of government efforts to develop and maintain our economy. Our legal framework has become one that sometimes encourages their development at the expense of other considerations. It has taken a great many years to put in place even the most basic protections for workers' safety and health, minimum wages, employment standards, workers compensation, pension benefits and collective bargaining. In spite of these advances, the hold that workers have on them remains tenuous.

In the last decade, workers in Canada have been affected by government legislation that tends to weaken their ability to form unions or to be effective in their relations with their employers. The purpose of this legislation has been to react to corporate guidance in order to make Canada a more friendly place for business activity. Manitoba has not been an exception. Examples of this kind of legislation include the repeal of progressive dispute resolution labour legislation that puts tangible power in the hands of shop floor workers. Other legislation has increased the standards that workers must meet before obtaining certification from labour boards. Others have made it more difficult for injured workers to have financial security between the time they are injured and the time they return to work. Other legislation suspended public sector workers' bargaining rights while freezing or rolling back their wages.

In 1996, the trend continues. More pending legislation will further erode the rights of public sector workers. A fundamental aspect of the economic strategy adopted by many governments in Canada is to reduce taxes through reduced public program spending, even though much of it is designed to maintain an acceptable standard of living for the most vulnerable members of our society. Caught in this strategy are public sector workers. Under this philosophical light, public sector workers are viewed as a principal cause of public spending. They deliver services which cost money. The fact that they are important services which benefit the needy and the destitute, as well as providing essential infrastructure and assistance to the business community, is quietly ignored.



The last thing this government strategy can withstand is an effective union. This is the instrument that public sector workers use to give voice to their objections to what is happening to their jobs, the social safety net and their future. It is through their union they are able to fight back against this agenda.

Bill 17 was drafted during a period of public sector strikes and because of that it contains provisions that may not otherwise exist with sober second thought. Now is the time for that to occur.

Bill 17 has the effect of limiting the right to strike in the provincial public service, and it will make future strikes ineffective, thereby denying them an effective method of redressing workplace injustices. Its main impact is not focused on the preservation of essential services. It is not about any of the reasons that are being put forward by the government, high-minded though they might be on the surface. Bill 17 will be a dangerous law if it is enacted. It is an action that takes away from a certain number of workers one of their most fundamental rights: the ability to withdraw their services if their employer refuses their demands for a just and fair collective agreement. It creates two classes of provincial public sector workers: one group that remains in possession of their rights and another that does not. The only difference between the two groups is the fact that their jobs appear on different lists. These lists are compiled by the government as employer, but in this case, these lists also carry the weight of law unlike any other employer. This creates an irreconcilable conflict of interest. The government is creating a favourable labour relations situation for itself as an employer. It is doing so at the expense of its employees.

The importance of a vibrant and effective union structure in society is widely recognized. Internationally respected economist John Kenneth Galbraith described it this way: The rules that regulate pay, seniority, other benefits, and conditions of promotion are voluminous. Any unilateral application of such rules by management, however meticulous, would seem arbitrary and unjust. By helping to frame the rules, the union serves invaluable to mitigate the feeling that such systems are unjust. It is a measure of the importance of this union function that, where a union does not exist, good management practice calls for the development of some substitute.

Limiting the ability of government employees to carry on an effective strike, that is the effect of Bill 17. If the concern of the government is about preserving essential services during unusual circumstances, such as a strike, then surely this should be the subject of negotiation.

Public sector workers have a great deal of concern about the impact of a strike on their clients. In fact, there is evidence that a majority of public sector workers would support a negotiated essential services agreement that meets the basic needs of their clients while enabling them to conduct an effective strike. Such an agreement has been a reality for many years in the health care sector. For more than two decades, most of the members of the Manitoba Health Organization have been part of an agreement with health care unions that guarantees that certain jobs will be filled for the duration of a strike in order to meet the basic needs of patients.

Granted, negotiating such an agreement requires commitment to the process and the objective if it is to succeed. It is not a time for posturing and maneuvering for objectives other than arriving at an essential services agreement, but the point is, it is a tested process, one that arrives at a workable agreement. We have the proof in the health care sector. It is an agreement that has been tested in a number of health care sector strikes over the past two decades, and it has worked.

The Manitoba Federation of Labour urges the government to reconsider the unilateral imposition of essential services provisions and to withdraw Bill 17. The objective of preserving essential services during a strike or a lockout in the public sector is one that is shared by the government as employer and the men and women who deliver them, but it is a goal that is best met through the parties being in agreement and having a sense of ownership of the solution. It is counterproductive for either party to unilaterally impose their own vision on an essential services plan. Coercion does not lead to cooperation.

What suggestions do we have? There are a number that have emerged in the labour relations field over the years, processes that we have found that will lead to consensus and commitment. The common characteristic is that they are the product of consensus, that is, mutual agreement on the elements of the pact. In our experience, this is arrived at through the structuring of a committee

comprised of representatives of the employees and the employer under the guidance of co-chairs who have equal authority.

This process should be completed prior to any negotiations for a new collective agreement. In this particular application, the committee could represent individual government departments with the employee representatives elected through their respective union's democratic processes in the proportions that they are represented in the workplace. The committee would elect their co-chairs. Alternatively, a committee could be struck at the public service-wide level with representation from the Civil Service Commission in equal numbers to employee representatives elected in proportionate numbers through their unions.

Again, it is important that the committee have co-chairs with equal responsibility. It may even be viewed as productive to have co-chairs appointed by the Chair of the Manitoba Labour Board, individuals who currently serve as labour and employer vice-chairs at the Labour Board. Whatever model is chosen, it is key that employers and workers be represented in equal numbers from the co-chairs on down. It is equally important that the committee be expected to put forward consensus-based recommendations that support the objective of an essential services agreement. In this way both parties have contributed to the process and both parties have a sense of ownership of the agreement with an interest in it functioning effectively.

At the end of the day, if this process is followed, there will be an essential services agreement in place that reflects the agreed-upon needs of the people of Manitoba during work stoppages. It will be an agreement that is both designed and supported by both parties. It will be an agreement that does not remove the rights of workers through the unilateral imposition of legislation. We urge the government to withdraw Bill 17 and negotiate an essential services agreement with its employees unions.

**Mr. Chairperson:** Thank you, sir, very much for your presentation. Are there any questions of the presenter?

**Mr. Reid:** Thank you, Mr. Hilliard, for your presentation. I want to ask you one question because I was intrigued by the minister's comments just a short time ago to the previous presenter. Do you think, Mr.

Hilliard, that the minister may be prepared to allow time for the negotiation of a voluntary essential services agreement with the various labour organizations and the provincial government representatives? Do you think the minister is prepared to allow for that? Has he made any comment to you or other members of the labour community?

**Mr. Hilliard:** I have not heard any comments to that effect, nor am I aware of others who have.

**Mr. Jennissen:** Mr. Hilliard, when I hear you present the brief, I come to the conclusion that basically what you are saying is that there is a way to have a win-win situation where you could have an environment which is friendly to business but at the same time does not have to be negative to unions. This government seems to believe that there has to be a winner and a loser, and we are saying if it was properly done there could be winners on both sides. Am I correct in that, and would you comment on it?

**Mr. Hilliard:** I would agree with that assessment. It appears to me that after spending a few weeks in this building talking to different bills that there is a fairly common theme throughout and that is that there is a desire of this government to control decision making centrally with their own group and to exclude, to a large degree, other elements of society, particularly those who may not agree with their position. I do find this disturbing.

**Mr. Santos:** Mr. Hilliard, it seems that there are two roles the government is playing here, the government as government and the government as employer. Do you perceive any difference between the role that the government should be playing, depending on the role it is playing and it should not be playing the role of government when it is acting as an employer?

**Mr. Hilliard:** Yes, I think there is an inevitable conflict here and it appears to the MFL at least that the desires the government has as employer are interfering with the desires it may have in terms of passing legislation for the greater good, and it appears that the self-interest of this particular government is woven throughout this bill right now and that that self-interest is to place a greater control on their own workforce.

**Mr. Doug Martindale (Burrows):** Mr. Hilliard, can you tell me approximately how many existing Manitoba government unions have essential services agreements in place now?

**Mr. Hilliard:** I do not know the number off the top of my head, but it is essentially all of the unions in the health care sector.

**Mr. Martindale:** It seems to me that during a work stoppage quite often members of the public and unions try to find examples of the public good suffering or individual suffering and bring those to the attention of the media, but during last summer's strikes do you think there were very many examples of where either the public good suffered or individuals suffered greatly? The reason I ask is that—well, I will just let you answer the question.

**Mr. Hilliard:** I think there is a tendency in the public and in the media, and certainly with employers, to confuse essential services with those that may cause inconvenience. Frankly, if a strike cannot cause inconvenience, there is hardly any point to having one. At the minimum, that must be necessary. What employers often do, in particular employers, is confuse inconvenience with what they would determine to be essential.

However, relating back to your question, I think that there was a fair bit of inconvenience over the course of the summer, particularly in the home care strike and particularly with personal care homes, for example, but that I have seen nothing to indicate that there was anything there that risked life and limb and that caused any real dire consequences. Inconvenience, yes, essential service, no.

**Mr. Chairperson:** Any further questions?

**Mr. Santos:** Having made a distinction between government as government and government as employer, when the government steps down from its sovereign status and becomes an employer, do you think it should assume all the obligations of an employer, including the right to negotiate and find common agreement with its own employees?

**Mr. Hilliard:** Yes, I do, and I certainly think that government ought to resist the urge to resort to legislation with all its vigour, and it ought only to do that in the

demonstrable situation where there is a public crisis at hand. Otherwise it ought to lay off using legislation as frankly a weapon for the employer.

**Mr. Chairperson:** Thank you very much, Mr. Hilliard. That would conclude the time allotted for questions tonight, and thank you for coming before the committee.

**Mr. Hilliard:** Thank you.

**Mr. Chairperson:** The next presenter tonight is Deb Stewart. Is Ms. Stewart in the assembly? On hearing no response, her name will go to the foot of the list. The next presenter is John Sinclair and Wayne Byron. Good evening, Mr. Sinclair.

**Mr. John Sinclair (Manitoba Health Organizations):** Good evening, Mr. Chairperson. Nice to see you in this setting.

**Mr. Chairperson:** As ever, sir.

**An Honourable Member:** Knock it off, you guys.

**An Honourable Member:** It must be two lawyers.

**Mr. Sinclair:** It beats the bus stop at six in the morning, does it not?

**Mr. Chairperson:** That is right, by a long shot.

I see your brief is being circulated. I would invite you to commence your presentation, sir.

\* (1920)

**Mr. Sinclair:** Mr. Chairperson and members of the committee, I am asked by the board of the Manitoba Health Organizations to make this presentation, which has been distributed to you now. As you know, MHO represents 160 health care agency members across Manitoba, and we have 30,000 members.

In this presentation there are some key messages that I wish to precis myself to you and just highlight those matters.

According to statistics obtained from Manitoba Labour there were 40 work stoppages in Manitoba in the 10-year period from '86 to '95. Of these, none were in the

government sector. If I refer you to page 3 of our presentation, there are some interesting statistics there. Out of a total of 239,000-some-odd lost person days for all Manitoba industries over this 10-year period, well over half, 151,000 lost person days, were in the health care sector. Then the chart sort of breaks that down for you to show the distribution by year and the person days lost.

Such extensive work interruptions inhibit health care employers' ability to provide care and as such have an impact on life, health and safety of patients, that is, the residents of Manitoba. What I am saying here is, they are holding the sick hostage.

Seven of the work stoppages during that 10-year period were in the health care sector accounting for 63 percent of all person days lost. Work interruptions in the health care sector inhibit health care employers' ability, as I said, to provide care, and no use repeating that.

Voluntary essential services in the health care sector have generally not worked. So this is apropos the last presenter. They generally have not worked well for reasons of differing interpretation of what is and what is not essential health care and the hesitancy of some unions to participate in voluntary agreements prior to the work stoppages.

It is correct that in the early '80s health care unions and employers developed an umbrella, a memorandum of agreement for the maintenance of services that are essential during work stoppages in health care facilities. Since that time this agreement has been signed on a voluntary basis by individual bargaining agents and employers who agree that in the eventuality of a strike, designated employees will continue to perform designated essential work functions. The success of this voluntary agreement depends on its being in place prior to a work stoppage situation and also on the willingness of signators to proceed to the next step, that is, the designation agreement.

So while we have quite a large number that have signed the memorandum of agreement that I earlier referred to you, not as many, in fact very few, really, have really signed that specific agency-, facility-specific designation agreement prior to the expiry of collective agreements. Unfortunately the outcome has frequently been less than

satisfactory, as I say, because of the different interpretations of essential services. So it leaves us so vulnerable really. That is the point.

An MHO survey of its members in 1991 revealed that 81 percent of respondents felt essential services should be regulated for the health care sector. That was taken subsequent to the five-week nursing strike in 1991. In November of '91 recommendations emanated from this survey were approved by the MHO Board at that time and forwarded to the ministers of Health and Labour. Today we are not aware of any action that has been taken by the government on those recommendations.

At least one province, British Columbia, has included the health sector in an essential service legislation and another province, Alberta, has removed the right of the public health sector to strike, so with minor changes the proposed Bill 17 could be adjusted to incorporate the health care sector.

Just on the final page of the presentation from MHO, we want to stress that many health care employees would advocate for the removal of health care workers' right to strike and the introduction of some form of dispute resolution mechanism. However, an acceptable approach would be to include health care services as essential services under Bill 17.

In Bill 17, essential services are defined in part, quote: services that are necessary to enable the employer to prevent danger to life, health or safety. As such, the inclusion of health care services would not be changing the intent of the act and could be achieved with minimal amendments. On this basis, we recommend that the definition of employer be expanded to include all facilities, agencies and organizations providing health care to Manitobans and funded by the Manitoba government. The name of the act could be changed to the essential services act. Additional fine-tuning of individual articles may be necessary but we feel confident that changes would be few, and MHO would be willing to assist in such a review.

In conclusion, the health care sector experiences recurrent work stoppages that impact the life and safety of Manitobans. For this reason, MHO feels that a minimum health care service should be declared essential services under Bill 17. MHO would be pleased to work

with a government in wording any necessary amendments, as I say, to ensure the legislation meets the operational requirements of our industry.

We feel confident that this approach, in combination with an effective dispute resolution mechanism, will provide for a fair resolution of labour disputes without negatively affecting Manitobans in need of health service. Throughout the entire reform process we have seen that the government has cited on many occasions the importance and value of input from the key stakeholders in health. We appreciate this partnership approach as we see it, and we believe that the government will seriously consider our concerns, comments and recommendations in this area. Thank you.

**Mr. Chairperson:** Thank you very much, Mr. Sinclair.

**Mr. Toews:** Thank you, Mr. Sinclair. I think, in view of the obvious failure of voluntary essential services agreements as demonstrated this summer, I have quite a bit of sympathy for your position.

I do have a particular problem, and that is that the type of amendments that you are proposing may be outside of the scope. However, I would certainly be prepared to move an amendment here tonight to include your sector to be—include personal care homes and hospitals in order that they too receive the benefit of that legislation.

One of the things though that I would like to see in return, and perhaps I would have your comments on that, is that there be an opportunity for the unions and the health care sector to try to work out a voluntary agreement beforehand but failing that, there would be recourse to the legislation so that the vulnerable, the sick, and not just to people who are dying, as the union wanted this summer, are the only beneficiaries of this type of legislation.

I mean, government is different. Yes, government is the employer. Yes, government is government, but we are government because there are certain essential services that we as government must take care of. I am wondering, generally speaking, what your feelings would be to having that recourse to legislation if there were a failure of the achievement of a voluntary agreement?

**Mr. Sinclair:** I think that is well spoken, Mr. Minister. Certainly, at MHO and in all our committees, and we

work with the unions, consensus is what we try to achieve and we often do achieve it and it is generally, as a matter of fact, so I think that I can ascribe to that approach, and I think it would work.

**Mr. Santos:** Mr. Sinclair, the experiences of the past enable us to deal with the problems of the present and to plan intelligently for the contingencies of the future. You have cited the statistics that in the past 40 years, in the past how many years from '86 to '95—

**Mr. Sinclair:** Ten years.

**Mr. Santos:** —there have been 40 work stoppages but none of them in the government sector. Does it seem to you that there is no need for this legislation, given the statistics you have cited?

**Mr. Sinclair:** No, no, it does not mean that. I do not see that that follows, actually.

**Mr. Santos:** If I say to you that, given my favourite and preferred solution, I can always create a problematic crisis or situation so that I can justify my preferred solution, what would you say?

**Mr. Sinclair:** I would say I did not understand what you said, I am sorry. I am sorry I just missed that. I did not follow it.

**Mr. Santos:** If I say to you, given my favourite and preferred solution to a problem, I can always, if I were the government, create a problematic crisis or situation so that I can justify my favourite solution.

**Mr. Sinclair:** Uh huh.

**Mr. Santos:** I am saying that given the past 10 years that there have been no work stoppages, it occurred to me that maybe the last experience in the last summer about the so-called nonworkability of a voluntary agreement in the health care sector will not protect the public interest, maybe that was concocted so that they can put this legislation into the forum.

**Mr. Sinclair:** Thank you. I understand what you are saying now, but I cannot agree with you, Mr. Santos. Really, the way that we viewed it over in the work that we did was that, as I said earlier, it looked like the sick were being held hostage this summer.

**Mr. Chairperson:** Are there any further questions?

**Mr. Martindale:** Mr. Sinclair, you point out in your brief that 63 percent of all person-days lost were in the health care sector and in 19—well, I am not sure of the year here—but out of a total of 239,000 lost person days for all Manitoba industries over this 10-year period, 151,000 lost- person days were in the health care sector. Your main concern, I guess, because you represent MHO, is the health sector, but you support the entire bill.

Given your statistics about the amount of work stoppages in health care, why do you think it is needed for all government sectors?

**Mr. Sinclair:** You are correct that I have sort of a narrow view of things because I am representing the MHO's point of view, but it appears to me that just generally from my own experience that we need this type of legislation in Manitoba at this time.

**Mr. Chairperson:** Thank you, Mr. Sinclair, very much. That would conclude the time limit allotted for questions tonight. Thank you for your presentation.

The next person on the list is Peter Olfert. Good evening, Mr. Olfert. I see you have a number of presentations tonight. The clerk will circulate those. While they are being circulated, I would invite you to commence your proceedings, sir.

**Mr. Peter Olfert (President, Manitoba Government Employees' Union):** Mr. Chair, members of the committee, again, I appreciate the opportunity to come out here and make a presentation on behalf of our union.

The Manitoba Government Employees' Union is an organization that represents about 25,000 Manitobans employed by the government of Manitoba and by other public sector employers. We are here today because Bill 17 will have a direct impact on a significant number of our members employed in the civil service.

The government has described this bill as an effort to protect and ensure that vital services within the civil service continue to be delivered to Manitobans during labour disputes. We are disappointed in the minister's press release announcing the introduction of The Essential Services Act without negotiating with the Manitoba Government Employees' Union. It was our

opinion then and still is that essential services should be negotiated and not legislated.

\* (1930)

With a negotiated agreement both parties also feel some ownership of the process, as opposed to a legislated one. The rights of workers to organize, the right to free collective bargaining and the right to strike are cornerstones that have long been recognized by federal and provincial legislation. Governments of all political stripes have often been cautioned that when they contemplate limiting the rights of those they govern, and in this case, those they employ, they must take care and err on the side of democracy. Bill 17 was obviously drafted during a period of public sector strikes and strike votes. This bill contains elements that are totally unacceptable to the Manitoba Government Employees' Union and a sober second thought is required.

We would like to point out several sections of Bill 17 and make some comments on them. Now, Section 1 of the act defines temporary terms and conditions of employees performing essential services. We believe that the wages and working conditions of employees required to work during a strike should be consistent with the terms and conditions in effect prior to that strike.

Section 5, it refers to a schedule that declares the services which are essential. The schedule refers to specific classifications of employees and, in many instances, names workplaces, as an example the Selkirk Mental Health Centre, as opposed to job functions. Clearly there is work performed by some classifications, and in certain places that is not essential even by the broad definition of essential services set out in Section 1. Essential services ought to be determined by work function first. Only after determining the functions that are required can you then determine the classifications, the workplaces and the number of staff necessary to ensure the provision of those essential services.

Section 6 allows for additional services to be declared essential. Neither Section 5 nor Section 6 is appealable. The only area of appeal allowed under Section 8.1 is the number of employees required as provided under Section 7.

Section 8 allows for an appeal to the Labour Board for a variation on the number of employees in each

classification as provided in Section 7. The union believes that the designation of essential services should also be appealable and also notes that the Labour Board has 14 days to render a decision. When determining a matter of essential service, time is of the essence as either party can be compromised by a delay in a decision. We would suggest that some form of quick adjudication of disputes within 24 hours or 48 hours be provided for in the act.

Section 12 states that no essential services employees shall participate in a work stoppage against the employer. Again, it is unclear what is intended by this section. If the intention is to prohibit an essential services employee from participating in picketing on their own time or otherwise participate in the work stoppage or support the union even though they are fulfilling their obligation to provide essential services, we would take strong exception to that provision.

We would like to make a number of recommendations. First of all, the MGEU would urge the government to reconsider the unilateral position of essential services provisions and withdraw Bill 17. Number 2, the MGEU would urge the government to continue with the process that has started and negotiate an essential services agreement with the union, (3) that the MGEU would urge the government to negotiate an essential services agreement patterned after the one that already exists in the health care sector, (4) the MGEU would urge the government to amend the bill so that any negotiated agreement would supersede the legislation, and (5) that the MGEU would recommend to the government an all-party agreement to delay this legislation until the spring session.

In conclusion, the MGEU supports the notion of a negotiated essential services agreement as opposed to a legislated one. If this is allowed to happen, there will be an essential services agreement that reflects the needs of Manitobans during a work stoppage. It would not be an agreement to remove workers' rights through legislation but rather a negotiated one designed and supported by both parties. We again urge the government to withdraw Bill 17 and negotiate an essential services agreement with the union.

**Mr. Chairperson:** Thank you, sir, very much for your presentation. Are there any questions of the presenter?

**Mr. Santos:** Mr. Olfert, the honourable minister offered the spokesperson of the Manitoba Health Organizations that in the area of health care or in the respective field they will first be offered the first opportunity to negotiate an agreement and only if the agreement voluntarily done fails will they apply this legislation. What is good for the goose is good for the gander. Do you think that should also be done with the rest of the government service?

**Mr. Olfert:** Well, I think we have a point in No. 4 where we talk about the fact that we think a negotiated agreement should supersede the legislation, so in fact that if you had a negotiated agreement the legislation would not be applied.

**Mr. Santos:** I would grant that because if there is already a negotiated agreement, there is no need for imposition, but in case of a failure of a negotiated agreement is it reasonable or is it not reasonable that this legislation be applied?

**Mr. Olfert:** In the case of—and you are speaking of the health care sector now or the government sector, because it appears that the government is now going to amend the legislation to cover the health care sector, as well. While I listened with some interest about the fact that there appears to be some problem in terms of the umbrella agreement and the designated agreements in health care, I sit on a subcommittee, a working committee, chaired by Wally Fox-Decent who deals with these issues on an ongoing basis.

The other thing I think we need to be aware of is that the nurses have just ratified a three-year agreement, CUPE has ratified a three-year agreement, and most of our contracts in the health care sector are settled for the next two years. So, I do not know what the rush would be to now, at the 11th hour sort of thing, throw in the personal care homes and every other sector that might be out there.

**Mr. Toews:** Mr. Olfert, I certainly would be willing to extend the same offer to you as to the health care sector, if failing voluntary essential services agreements in the mainstream government departments that the legislation apply. That offer would certainly be open to government as well. I would be prepared to move that amendment along with the health care sectors as well this evening.

Just one particular question, in respect of the personal care homes which your union has organized, how many essential services agreements are there?

**Mr. Olfert:** We are signatories to the umbrella agreement. Unfortunately, what has occurred in this last year, is strike votes were taken and strike action commenced well before any—there was basically no request from the employers to enter into designated agreements. Once you get that close to—No, only moments before the strike starts, I mean that is not the time to start talking about designations. That is the problem we had in the home care, and in other sectors as well. That is not the time to do that. The time to do it—for the government services to do it now, between now and March of next year, when the civil service agreement expires.

**Mr. Toews:** Fine. We would be prepared to sit down and, in fact, I know my department has sent you letters throughout this last six months or seven months asking for essential service agreements, even prior to that time. If you are prepared to agree to the legislation, we are certainly prepared to sit down and try to hammer out a voluntary essential service agreement with your institutions, where your workers are organized and in the health care sector as well.

**Mr. Chairperson:** Mr. Olfert, that, I do not think, was in the form of a question, but if you wish to be responsive, we certainly would welcome your comments.

**Mr. Olfert:** I appreciate that offer, and certainly that is work that has been begun informally, and the minister is probably aware of that, that there have been some discussions in terms of the civil service.

**Mr. Santos:** I heard your objection to designating essential services by place of work, by facilities, rather than by nature of the function being performed. In this day of privatization, government divestment of services, contracting out of services to private groups and private organizations, would you agree with me that the nature of the service itself should be the deciding criteria whether a service is essential or not and not the place where it is being done?

**Mr. Olfert:** Yes, I believe that work functions have to be looked at as opposed to designating the Selkirk Mental Health Centre, the entire building, as essential. That is why we say that the definitions, or the act is too broad. Certainly, I do not think anybody from the government side would argue that the groundskeeper, as an example, would be an essential service that would need to be employed during that or would not be allowed to be able to go out on strike during a work stoppage.

This schedule here basically says that everybody working in that facility could be designated essential.

**Mr. Chairperson:** Thank you very much, Mr. Olfert. That concludes the time available for questions this evening. Thank you for coming before us with your presentation.

The next person on the list is Catherine Holmes. Good evening, Ms. Holmes, and welcome to the committee tonight. Do you have a written presentation?

**Ms. Catherine Holmes (Tache Family Association, Tache Nursing Centre):** I do, Mr. Chairman.

**Mr. Chairperson:** The clerk will circulate. While copies of your presentation are being circulated, I would invite you to begin.

**Ms. Holmes:** Mr. Chairman, ladies and gentlemen, I speak today as a representative of the Tache Nursing Centre Family Association. This ad hoc group was formed in June 1996 to meet the needs of our family members and relatives who were victims of a strike. On June 18, 1996, all employees except administration and professional nurses walked out, ending normal services at the Tache Nursing Home. This strike lasted 71 days. It caused substantial, even life-threatening disruption in some cases. Our association marshalled its forces to protect our loved ones. It was thus in a position to observe and document the frantic atmosphere and irregular, sometimes nonexistent, services during those nine weeks.

We have 80 care reports to substantiate our monitoring of the situation. Now a care report, and I have many examples here, was a form filled out by a worker, a family member, a visitor, on some service that was sadly



deficient. It was not a question of not having proper flowers in their room, I assure you. It was a question of having proper food, proper positioning in a chair, which can be a life-threatening situation depending on the person's handicap. We have 80 of those; they were sent to the government. We are credible and well-informed witnesses to the serious negative impact of last summer's strike. We are now much heartened to hear that steps are to be taken to ensure those vital services that the people of Manitoba have a right to expect, and I quote the minister, will always be there regardless if there is a strike. I quote the Minister of Labour (Mr. Toews) introducing The Essential Services Act, or Bill 17, which we are discussing tonight.

While the intentions of our legislators have our complete support, we are distressed to read on page 8, under the heading "Schedule," that two institutions only are listed, namely, Brandon and Selkirk. Yet the Minister of Labour speaks of all Manitobans. He shows concern for the health of families and other caregivers. His legislation will ensure that people will not be put in jeopardy because of a labour dispute. We must respectfully point out that, as drafted, Bill 17 does not provide for essential services in private and public health institutions, such as hospitals, nursing homes, and convalescent homes.

We are here today to request and to urge that such institutions be included in the scope of essential services legislation. Minister Toews gives us hope that this can be achieved when he states that there is a mechanism for designating additional services, if a significant need arises. We have just heard him mention the intention of proposing an amendment, and we are very much heartened to hear that. Our experience last summer is proof that a significant need arises in the case of nursing homes. We do not want ever to have to face a repeat performance of the summer of 1996.

**Mr. Chairperson:** Thank you very much, Ms. Holmes.

**Mr. Toews:** Thank you very much for your presentation. I am glad you heard some of my earlier comments, that there may be a concern about the scope of this particular bill to include health care facilities such as yours. Clearly, it is my intention tonight, if we can proceed that far, to introduce amendments that include, first of all, provision for voluntarily coming to an

agreement, but in the end, that people are protected by the same provisions of The Government Essential Services Act. I consider that important. We will have to wait to hear what the Legislative Council says in respect to the scope of these amendments, and even if it is beyond the scope, all my colleagues here, if they unanimously decide to agree to those, then we can bring those amendments here tonight. I can indicate to you that this government is committed to bringing those amendments if we cannot achieve some kind of voluntary agreement. Hopefully that will satisfy you, perhaps not immediately, but as soon as we possibly can.

**Mr. Chairperson:** Ms. Holmes, I know these remarks were not framed in the point of a question, but you may be responsive, if you so wish, to the honourable minister.

**Ms. Holmes:** Well, I am a bit worried about the time element of having a negotiated procedure, a process which is engaged in negotiation to come to some sort of agreement on essential services. This might go on for six weeks while other people are on strike. So I am a bit worried about the time element. Could you have your negotiation before the strike starts, and then perhaps the essential services would be assured. This is the element that so worries me in this gesture on your part of compromise, of wanting to come to some sort of negotiated agreement rather than impose the essential services. I understand that that is more acceptable to the unions, but speaking from the point of view or a relative of a nursing home resident, I wonder if we are really much ahead in that. That is why I will come back to what we are requesting, that the nursing homes of Manitoba be included in the schedule and some time element would come in where the law would be in force.

**Mr. Toews:** I agree with your comments exactly. I think that if there is a time for negotiations, that time would be before a strike, but should it ever occur, that a strike occur, that the provisions of that act would automatically kick in regardless of whether an essential services agreement has been reached or not. Would you agree with that?

**Ms. Holmes:** Yes.

**Mr. Chairperson:** And your answer, madam?

**Ms. Holmes:** Yes, I think that that would be satisfactory, yes.

**Mr. Jennissen:** Ms. Holmes, I am wondering, your organization obviously talks about the negative effects of strike or lockout and some of the painful consequences. As you realize, strikes are there in order to create a bit of hardship, otherwise what is the sense of having them. But we do not want to do them in the sense of holding sick people or disabled people hostage, obviously.

Now, we have talked about the negative things about strikes and lockouts. What would you or your organization say to binding arbitration? What is your view on that?

**Ms. Holmes:** Well, we certainly suggested in our correspondence with the Minister of Labour, (Mr. Toews) during the summer, we did suggest that, because we were living through a very painful experience. We felt that because of that situation, of people being handicapped, unable to help themselves, writing these care reports, some of the residents wrote themselves that they did not want to eat any more, that they were just fed up with the whole business. We felt that binding arbitration would be a very good solution. We had suggested that to the minister in correspondence. I think I would prefer the solution that we are presenting tonight.

**Mr. Jennissen:** And the response from the minister to that suggestion was?

**Ms. Holmes:** Well, at first, as you know, if you have read the papers during the summer, the situation was a stalemate for a very long time until finally there was a gesture taken by the minister to bring the people to negotiation and to appoint an arbitrator, mediator. I do not know if it was an arbitrator or a mediator. Someone was appointed to settle the issue.

\* (1950)

**Mr. Chairperson:** Thank you very much, Ms. Holmes. That would appear to conclude the questions tonight. Thank you for coming before us this evening.

I will now pass through the list again. The first person to be deferred was Rob Lindey. Is Rob Lindey in the assembly? On there being no response, Mr. Lindey's name will be struck off the list. I will now go to the head of the list and inquire, is there a representative from the Canadian Union of Public Employees of Manitoba? On there appearing to be no response, this entrant will be

struck off the list. The next person is Deb Stewart. On there being no response, Ms. Stewart's name is struck off the list. That would appear to be them all.

I will now canvass the room once more to see if there are any other persons in attendance who wish to speak to this bill this evening. On their appearing to be no response, is it the wish of the committee to proceed clause by clause? [agreed]

I would seek direction from the committee at this point as to which bill should be considered at this time. Any suggestions?

**An Honourable Member:** Essential Services.

**Mr. Chairperson:** Essential Services?

**Mr. Toews:** Just in respect to that, I have no problem with dealing with the two short ones first, provided that all government business will also be dealt with tonight.

**An Honourable Member:** I think you want to do the Essential Services clause by clause now and then do the two short bills and then come back to the government bill.

**Mr. Toews:** All right, we will do that, provided that all government business will be dealt with tonight. I do not see any problem with that.

**Mr. Chairperson:** All right, the agreement, as I hear it, colleagues, is that we will proceed with Bill 17 clause by clause at this point. We will then proceed with adopting the two independent bills and then finish up with Bill 26. The committee will sit this evening until all work has been completed. Does that properly represent the understanding? [agreed]

The first bill, then, that we will consider will be Bill 17, The Government Essential Services Act. Did the minister responsible have an opening statement?

**Mr. Toews:** No. I believe that the statements that I have made, I have already made in the House, and I have made them here tonight as well.

**Mr. Chairperson:** Thank you, Honourable Minister. Does the critic of the official opposition have an opening statement?

**Mr. Reid:** Mr. Chairperson, I will be very brief. In listening to the presentations that were made here this evening, it appears that there are some changes since this bill was introduced and that based on the presentations as well that there are obviously some concerns that need to be addressed, I believe, through and by way of amendment. I have several amendments that I would like to propose, but I would also like to hear the minister's comments with respect to his intentions to allow negotiations to take place, hypothetically, after passage of this bill.

What type of a process is he prepared to allow to take place? What type of a time frame does he have in mind to allow this negotiation to take place so that those that are involved in the negotiations as one of the stakeholders will have some idea on what the minister has in mind and whether or not there is going to be a reasonableness that is built into the process? So I would like to have some understanding of that.

**Mr. Toews:** Essentially, what I would propose is that in view of the submissions made here tonight from the Manitoba Health Organizations and from the representative from Tache, essentially what I would prefer to see is that the bill be extended to include health care facilities such as personal care homes and hospitals and regional health authorities when those come into operation in the province.

I think the point is made here that the health care sector is in fact one of the greatest areas of strike and controversy, and given that in fact in most of those areas, as the Health Organizations has indicated, the present voluntary system has not been working very well. Yes, there is an umbrella agreement, but individual agreements seem to be hard to find, and clearly in the case of, and I am just pointing out the St. Amant Centre, there was no such agreement. The types of agreements that were proposed this summer were essentially agreements where people were essentially dying, and that was not satisfactory to the government.

So in those kinds of situations where we have a collective agreement between a union and an employer in the health care sector as well, essentially what the government would be proposing, what I would be moving, is that where there is no essential services agreement under the act, the employer and the union 90

days before the expiration of their collective agreement would commence negotiations with a view to concluding an essential services agreement.

Now, this would not preclude the two parties from entering into a voluntary essential services agreement at any time. In fact, the amendments that I would propose would in fact foresee that if there is no essential agreement—so clearly they could embark at any time to enter into an essential services agreement. But clearly they would be put under the gun at 90 days before the expiration to get that voluntary agreement, and there would be a process by which the employer would advise the union of that negotiating process, and then the two parties would in fact negotiate. So, essentially, there is a process, I would foresee, of 90 days in advance of the expiration of the collective agreement going ahead, and the concerns that were raised here tonight by the unions that the act is so broad, frankly I think there are many valid rebuttals of that argument. In fact, what we could in fact do is make this entire act irrelevant by encouraging through a mandatory bargaining process the essential services agreement. Ultimately, though, if the essential services agreement is not voluntarily entered into, the act would in fact apply. So it would perform a backstop agreement.

Now, the reason I like a voluntary essential services agreement is because the parties to that agreement could work out the nuances of that agreement that would be particular to their institution. So I would suggest we proceed in that direction and include the health care sector, including personal care homes, but in view of the very real concerns that the union has, that there should be some bargaining process. We should in fact enter into an essential services agreement wherever possible before the operation of the act commences.

**Mr. Reid:** The minister referenced a 90-day window. I want to ask the minister—because he as the Minister of Labour is responsible for the Civil Service Commission which does the negotiations on behalf of the government for various sectors—if he and his department and the Department of Health, for example, are prepared now to sit down and start negotiating an essential services agreement so that we do not have to go through this process here which I expect may be out of scope with respect to the legislation itself. We have already dealt with that matter once here tonight on another bill. I hope

that the minister is not referring to this, him bringing forward another out-of-scope amendment as the previous minister had done. So I draw your attention to that, Mr. Chairperson, that that may be the case, and at that time, we will debate that.

I want to know if the minister is prepared to negotiate now, on behalf of the government, an essential services agreement with the various labour organizations that are involved as stakeholders in this process as well.

**Mr. Toews:** We gave that commitment to Mr. Peter Olfert sometime in April or May of last year, that an essential services agreement be entered into, and frankly negotiations went nowhere. We sent letter after letter to him asking him to enter into an essential services agreement. He did not even show up at the table to negotiate. Now, we are in fact recommencing that negotiating process. We do want to see a voluntary essential services agreement entered into with MGEU in respect of this matter, but, make no mistake about it, if we cannot achieve an essential services agreement, we intend to rely upon the provisions of this act.

\* (2000)

In respect of the health care sector, we will have to listen to Legislative Counsel to see whether or not that is out of scope. Again, as I have indicated on the record, this government is committed to seeing essential services agreements bargained with the employers and the unions in that sector, and failing that—as we saw this summer where the unions refused to enter into agreements with the employers in that case despite numerous attempts by those employers to enter into appropriate agreements. Yes, the MGEU is a signer of the umbrella agreement, but not one agreement, not one agreement in respect of personal care homes was signed. So, clearly, it indicates to us that legislation is essential as a backstop. I think if we agree here to adding the health care sector and have very definite provisions in respect of the negotiations of voluntary essential services agreements, we will be going a long step.

I am prepared to move that motion in respect of the government of Manitoba, too, that it sits down prior to the expiration of a collective agreement and attempts to hammer out a voluntary essential services agreement. We have in our bill, 90 days, but if you want to do it to 120 days, I have no problem with that.

**Mr. Reid:** This is not an option, as my colleague has referenced here, about the number of days that are involved—

#### Point of Order

**Mr. Toews:** On a point of order, I was simply referring to what I saw as hand signals from the member for Transcona, bringing his hands closer and farther apart. I thought he was referring to whether I was flexible on that time period. I am flexible. I am sorry I gave the impression that anyone would have thought that I was dealing with an auction when I am dealing with essential services.

**Mr. Chairperson:** Obviously a mistake on the facts, and I would recognize Mr. Doer, if you were to speak to the point of order.

**Mr. Gary Doer (Leader of the Opposition):** Yes. Is there a copy of the thought process the minister has in terms of an amendment to this committee? We are now dealing in thoughts, in hands, in arms, in legs, blinks, whatever else from the minister. I want to speak to this when we see a copy, because there are no nurses at this committee meeting, I would daresay, tonight. There are no health care workers at this committee tonight. It is never the intent of this Legislature to move an amendment in a bill that actually is a new bill. I would suggest very strongly to the minister, he may not have liked the way that things went this summer. We certainly did not like the way he acted this summer as the Minister of Labour. That does not mean to say that he can take—

**Mr. Chairperson:** Excuse me, Mr. Doer.

**Mr. Doer:** I am speaking to the point of order.

**Mr. Chairperson:** A point of order has been raised, an additional point of order.

**An Honourable Member:** No, no, let him finish his point of order.

**Mr. Chairperson:** I apologize, Mr. Doer. I invite you to finish.

**Mr. Doer:** Thank you. It is not the reality of legislation that you can just move an amendment based on inexperience that takes place after you have moved

legislation in this Legislature. We have had another minister of the Crown, the other day, moving an amendment that was ruled out of order, out of scope, in the university section. It is not the intent of the opposition to subvert the public hearing process by moving amendments that substantively change the collective bargaining relationship in the health care sector without any public presentations at all.

Now, if the Minister of Labour is moving in this kind of amendment, I think the public is entitled to be consulted about it. The Minister of Labour may think he is a power unto himself, but we do not. We do not believe any one of us are.

If he did not think of this issue before he brought in essential services in the proper time frame, or did not contemplate it, I think that that is regrettable if that was his intent. I would suggest to him that it has been past ministers of Labour that have dealt with this issue quite adequately, whether it is Minister MacMaster, Minister Schroeder, Minister Dolin, Minister Mackling—I am just going through my memory of who the previous ministers—Minister Hammond, who has, I believe, a celebration night tonight in this very same building—Minister Praznik, and now we see this minister, in a ham-handed way, I would suggest, coming in with amendments that are, quite frankly, subverting the public hearing process.

The reason why bills come to this committee is so that the public can have a chance to speak on them. It is not the fly by the seat of your proverbial trousers with moving amendments, based on what happened this summer. I would suggest strongly, I am very disappointed in the days lost to strike and lockout in this last year. I am very disappointed in what has happened in the health care sector.

I am very disappointed, quite frankly, in the Minister of Labour's performance. I listened to him talk about these very same disputes as if he was a third party—the parties are far apart. He is a member of the cabinet. It disturbs me greatly that Manitoba has lost its reputation in terms of days lost to strike and lockout, particularly in the public sector. When I listen to people, one of their angers was about all of us, all of us as MLAs who took a rate increase this year when they did not. Maybe we should start with legislation to deal with ourselves, so that we can be leading from in front rather than these haphazard amendments.

I suggest to the minister, this is out of scope. It is absolutely undemocratic and it is not the way this Legislature should be proceeding. If he did not have the foresight to deal with this issue, and we have had people with quite good credentials in the past deal with this issue, like Cam MacLean who came up with a voluntary agreement with nurses and health care workers. I respect Cam MacLean greatly. I think he worked on the original agreement with Joyce Gleason [phonetic], and other people.

For this minister just to come in tonight and indicate with his arms how long or short this thing is going to be, I think is quite absurd. I am very disappointed. It should be ruled out of order. It should not even be before us, quite frankly.

**Mr. Chairperson:** Just for a point of clarification, the minister did not have a point of order, and I ruled on that. I was in error by encouraging Mr. Doer to proceed to debate the issue. So I just wanted to make sure that in fact the record is correct, that there was no initial point of order, and, in fact, we were descending to debate on the particular issue.

#### Point of Order

**Mr. Ernst:** On a new point of order, it is regrettable that Mr. Doer was not here during the presentations, because I think he might be pretty embarrassed right now, after having made the statements that he made as a result of the public hearing process.

During the public hearings, which is why we have public hearings in this building, we had the Manitoba Health Organizations come forward to suggest that their institution should be included, all of them. We had a suggestion made by the minister or a question actually asked of Mr. Olfert, the president of the MGEU—would he be interested in some sort of an arrangement such as the minister was floating. This is not a situation where he came in by the seat of his pants. He was genuinely responding to two people who had come here to talk about this particular bill and the issues surrounding it. To accuse the minister of somehow trying to subvert the public hearing process, it is quite the opposite.

The minister, in fact, was trying to respond to the public hearing process when a suggestion was made as to how to improve the bill, how to improve relations and

how to perhaps deal with the situation, rather than making it mandatory to use it as a backstop to a voluntary settlement, which is in the interests of everyone. If two parties can get together and decide on a voluntary arrangement between them, that is highly preferable to any legislative imposition. The fact of the matter is certain essential services need to be protected.

So, Mr. Chairman, I think Mr. Doer was quite unfair in dealing with the suggestion of the minister. He is simply trying to respond to situations raised during the public hearing process. Now, I suppose the whole question is academic if it is ruled out of scope, but, nonetheless, I think fairness needs to be brought in here, rather than jumping to conclusions, and to be fair also, Mr. Doer was not here to hear those presentations so he would not have known that. However, other members of his caucus were present and did not draw that to his attention.

**Mr. Chairperson:** Thank you, Mr. Ernst. I would rule that this is not a point of order. It is a debate on the facts, and—[interjection] Yes, I would advise honourable colleagues tonight that we do not have to raise points of order in order to debate the issue. I am quite happy to recognize individual members. Mr. Ashton, I had noted that you were wishing to speak. Will you defer to Mr. Doer?

**Mr. Steve Ashton (Thompson):** I will defer to Mr. Doer, but I do have some comments also.

**Mr. Chairperson:** All right, thank you.

\* (2010)

**Mr. Doer:** Well, I would point out to members of this committee, that in essential services and in legislation dealing with management and employees, there are employees that would be impacted by changes. Now, I happen to believe that the nurses, for example, who negotiated with Mr. MacLean, if past history is correct, and other organizations negotiated a voluntary essential services agreement that has been superior in terms of its results to, say, the legislative process that has been used in the past in, say, Alberta. Now I would think that the minister would want to study the—of course, in Alberta, everything was illegal in terms of the withdrawal of services in the health care field for a period of time, so then what resulted were very difficult situations in that

province, whereas in Manitoba when we look back over the strike—I believe it took place in '91—there was an essential services agreement in place that was negotiated by Joyce Gleason [phonetic], I think, carried on by Irene Giesbrecht.

I am merely stating that I personally believe that there should be a negotiated framework for life and limb services in the health care field; I believe that strongly. I do not believe that you draw up legislation like this quickly and in haste. You do it with great care, and you do it in consultation. You were talking about health care; you do it in consultation with nurses, support staff, volunteers and community boards.

We have already got criticism of this government on—look at Bill 49. MHO condemned the government in terms of its abhorrent and undemocratic measures in the bill. The faith-based institutions have criticized the bill and are still concerned about the bill. I just do not think that is the way we develop legislation in this Chamber for the long run. So, if there is a point raised by MHO that is worthy of deliberations, I would recommend strongly that the minister take that under advisement and go back and work with the various employee groups in health care and be prepared to come back.

The MacLean agreement of the past is, in his opinion, no longer workable. That is what I am suggesting, there are a lot of people impacted by this. They are not all in this committee room tonight. I suggest there should be the spirit of legislation in second reading, public hearings, is to at least have people directly impacted have a right to have a say on it.

**Mr. Chairperson:** Mr. Ashton, if you are going to be speaking to the issue of proposed amendments, perhaps the honourable minister has received some advice. He might be able to make some reflections now that might forestall any comments. I do not want to in any way curtail you, and if you would wish to make your remarks first, I would certainly recognize you to proceed.

**Mr. Ashton:** If the minister wishes to respond, I will then respond to his comments.

**Mr. Toews:** I have heard those comments. I have essentially been advised that the proposal that I was floating here would be out of scope in that it brings a

health care sector into it. Accordingly, without leave of this committee, I would not be able to bring those amendments. So, if there is no leave, I am unable to, as much as I would like to, bring those amendments to this committee.

**Mr. Ashton:** One of the difficulties I would point out again is, as the government House leader would have it, the minister was responding to a brief. Now, does he have a draft of this available? Has he given a draft copy to any of the opposition critics? Was this raised at the outset of the committee hearings?

I would raise those questions because we have seen ministers, for example, who have, with in-scope amendments, raised at the beginning of committee hearings that this is being contemplated, that is being contemplated. The Minister of Health (Mr. McCrae), as I said, in Bill 49, the Minister of Education (Mrs. McIntosh) both did that. What is particularly concerning here is not only the out-of-scope question—because I think if we do not say that it is out of scope, there is a whole process question here that has to be dealt with, not just as us, we are just the representatives of the people in this particular case—but there are obviously different people who would make a presentation depending on the scope of the bill.

One of the reasons we have protection under our rules for the ability of people to only bring in-scope amendments is—there is a reason for these committee hearings—to make sure everybody is aware of that particular content. I appreciate the fact the MHO included this in its brief, but there may be others, I am sure a lot of others, who are more than willing to comment on that. So I want to raise that question. It is not a question of leave in the sense of some minor courtesy. You cannot make legislation, I think properly, unless you have proper notice. That is why we have second reading; that is why we have committee hearings; that is why we have third reading.

The other thing I wanted to indicate, too—and this is something that we should give serious consideration to—with all amendments, the one thing I regret in the current rules we have adopted is that there is not a notice period between the hearings, the tabling of amendments and the time which amendments are considered because that is something that would help deal with some of the other

problems that we run into in this committee. It can work both ways. I have sat in committees in a minority-government situation where the opposition brought in amendments which were passed by the committee with no ability for the government to consider amendments. It also, however, works the other way, particularly in the case where you have a majority government where you have amendments, even if they are in-scope, unless they are brought in with some advance notice, leave the opposition members in a very difficult situation, not being able to consider them, not being able to discuss these items with our caucus. I would note in this particular case that has not happened, those amendments have not been distributed in advance on this. Once again, whether this is in scope or not in scope, it raises very serious questions about the ability with which we have to deal with it.

Now, if the minister is now acknowledging that the matter is out of scope, I really think that is the end of the discussion on that particular motion. I did want to put those remarks on the record. I do not mean this as any personal criticism to the minister, but I do think that what the Minister of Health (Mr. McCrae) and the Minister of Education (Mrs. McIntosh) did in this particular case—and I am not always this praiseworthy of them. I disagree with them on issues. Please do not tell the Minister of Education I said this, because she will get suspicious—[interjection]—or Jean Friesen, but I mean the one thing they did do—

**Mr. Chairperson:** Your confidences are safe with us, Mr. Ashton.

**Mr. Ashton:** Exactly. Because I do remember Ms. Chivers [phonetic] being in a committee where I agreed—the Minister of Labour, previous Minister of Labour and I agreed on an amendment, and she got very suspicious. As soon as I said I was in favour of it, she wanted to go and reconsider it. So, please, do not communicate that, but I do think that is a good process. I think obviously in this case there must have been some communication to the minister before on this matter, and if the minister had considered this, by putting it out early on, it gives some chance for consideration. In this case, it is a double problem because it is also out of scope, so I appreciate the minister is indicating that now. We will not necessarily have to deal with it. I would just make the suggestion for future bills, and I know we are dealing

with some other bills that are coming up fairly soon. They are going to have a significant number of amendments. Any kind of notice, either directly through the critic or in the committee, is very helpful in helping us move through and make clear decisions in this committee.

**Mr. Chairperson:** Thank you, Mr. Ashton. Your reflections have been very helpful. We now will proceed with the clause-by-clause consideration of the bill. The bill that we are perusing is Bill 17, The Government Essential Services Amendment Act. The first clause for consideration is Clause 1. Excuse me, during the consideration of the bill, the schedule, the preamble, and the title are postponed until all other clauses have been considered in their proper order by the committee.

Clause 1—pass. Shall Clause 2 pass?

**Mr. Reid:** In Section 1, I have an amendment.

**Mr. Chairperson:** Is there leave to return to Clause 1? [agreed] Mr. Reid, you have an amendment.

**Mr. Reid:** I move

THAT the definition “temporary terms and conditions” in section 1 be struck out.

[French version]

*Il est proposé que la définition de “conditions temporaires”, à l'article 1, soit supprimée.*

**Motion presented.**

**Mr. Chairperson:** Any debate on this issue?

**Mr. Reid:** I guess I can debate this a bit further as we get into the bill itself, clause by clause. This particular definition is not in keeping with what has, I believe, been standard practice or at least experience that I have had in my life in dealing with strike and lockout situations where we have collective agreements that have expired. While I do not profess to be an expert in these matters, and I am sure there are other members in this room that are, I believe that it would be more appropriate to have the existing collective agreement, even though it has expired, be the guide in dealing with the conditions under which employees are paid. So that is the reason why I believe that—and I can get more fully into some detail in

this discussion further in the bill, but I think it is important, because this ties in with another section of this bill, that we delete it at this time. I am prepared to move another amendment later on in the bill that will allow for some way to allow the government to meet its objectives of this bill under the existing collective agreements, hoping that they are prepared to consider such an amendment.

**An Honourable Member:** Question.

\* (2020)

**Mr. Chairperson:** The question has been called.

**Voice Vote**

**Mr. Chairperson:** All those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those contrary, nay.

**Some Honourable Members:** Nay.

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

**Formal Vote**

**Mr. Reid:** A recorded vote.

*A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 5.*

**Mr. Chairperson:** The opinion of the Chair is that the motion has been defeated.

Colleagues, at this point, I would canvass the committee to see if there is consensus that all the amendments that will be made tonight will be deemed to have been made in both the English and French languages. Is that correct? [agreed]

The next clause for consideration is Clause 2. Clause 2—pass; Clause 3—pass; Clause 4—pass. Clause 5. We have an amendment.

**Mr. Reid:** Mr. Chairperson, I move



THAT section 5 be struck out.

[French version]

*Il est proposé que l'article 5 soit supprimé.*

**Mr. Chairperson:** Is there leave to vote on the amendment, rather than voting against the clause? Is that the will of committee? It is a truce. The clerk is indicating that the customary process—

**An Honourable Member:** Obscure.

**Mr. Chairperson:** Obscure, yes—is to vote against the clause rather than vote against the motion. What is the will of committee? Does committee wish to deal with the amendment?

**Some Honourable Members:** No.

**Mr. Chairperson:** Does committee wish to vote on it?

**Some Honourable Members:** Yes.

**Mr. Chairperson:** All right. So that will be the will of committee. Is there any discussion on this amendment?

**Some Honourable Members:** No.

**Mr. Chairperson:** All right. The question has been called.

#### Voice Vote

**Mr. Chairperson:** All those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those contrary, nay.

**Some Honourable Members:** Nay.

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

**Mr. Reid:** On division.

**Mr. Chairperson:** On division, so recorded.

Clause 5 passed on division. Clause 6. We have an amendment to Clause 6.

**Mr. Reid:** Mr. Chairperson, I move

THAT section 6 of the Bill be struck out.

[French version]

*Il est proposé de supprimer l'article 6 du projet de loi.*

**Mr. Chairperson:** Is there any discussion on this amendment?

**An Honourable Member:** Question.

#### Voice Vote

**Mr. Chairperson:** All those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

#### Formal Vote

**Mr. Reid:** A recorded vote.

*A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 5.*

**Mr. Chairperson:** The motion is defeated.

**Mr. Santos:** I have a question. Can the Lieutenant-Governor-in-Council declare any kind of service essential service even if it does not fall under the categories as defined in Section 1?

**Mr. Toews:** No, it would be outside the scope of the act. That is how we would have to raise that amendment for the personal care homes and the health care sector. The Lieutenant-Governor-in-Council cannot raise a—do something that is outside the scope of the statute. In exercising regulatory powers the Lieutenant-Governor-in-

Council is entitled to do what the regulatory power allows him or her to do, and the regulatory power, which is essentially what this is, needs to reflect the other principles of the act.

**Mr. Santos:** Another question. Supposing a particular kind of service satisfies the definition of essential services while it is still being performed by the government and then it is contracted out to some private organization. Does it lose its essential service nature?

**Mr. Toews:** Well, I mean, I do not want to give you a legal opinion here, but everything that the Lieutenant-Governor-in-Council does must be within the scope of the act. If that then—you have to take a look at who the employer is, who the union is, that kind of thing. It could be outside the scope of the act. I do not know.

**Mr. Santos:** This is what I am after. This is a reason why there is a flaw in the definition of essential services by reason of the place where it is being performed. It is in the nature of the function itself whether or not it is essential for the protection of the public.

**Mr. Chairperson:** Clause 6—pass.

**Mr. Santos:** On division.

**Mr. Chairperson:** On division, okay, so recorded. Clause 7(1).

**Mr. Reid:** No, Mr. Chairperson, it shall not pass, hopefully. I move

THAT section 7 be struck out and the following substituted:

#### **Essential services agreement**

**7(1)** In the event of or in anticipation of a work stoppage, the employer and the union shall attempt to negotiate an essential services agreement as soon as is reasonably possible.

#### **Employer to advise union**

**7(2)** In the event of or in anticipation of a work stoppage, the employer shall serve a notice on the union setting out

(a) the time and place for the negotiation of an essential services agreement;

(b) the classifications of employees who in the employer's opinion must work during the work stoppage to maintain essential services;

(c) the number of employees in each classification who in the employer's opinion must work during the work stoppage to maintain essential services.

#### **[French version]**

*Il est proposé que l'article 7 soit remplacé par ce qui suit:*

#### *Accord sur les services essentiels*

*7(1) Si un arrêt de travail se produit ou est prévu, l'employeur et le syndicat s'efforcent de négocier un accord sur les services essentiels dès que possible.*

#### *Avis au syndicat*

*7(2) Si un arrêt de travail se produit ou est prévu, l'employeur signifie au syndicat un avis indiquant:*

*a) le moment et le lieu où doit se dérouler la négociation d'un accord sur les services essentiels;*

*b) les classifications des employés qui, selon lui, sont tenus de travailler au cours de l'arrêt de travail afin d'assurer les services essentiels;*

*c) le nombre d'employés de chaque classification qui, selon lui, sont tenus de travailler au cours de l'arrêt de travail afin d'assurer les services essentiels.*

#### **Motion presented.**

**Mr. Ernst:** Mr. Toews' suggestion earlier was out of scope. Why is this not out of scope? I mean, this is not dissimilar. The timing may be a little bit different, but it is not terribly dissimilar to what Mr. Toews had been suggesting earlier to the committee for which he was, you know, I think unfairly dumped on.

**Mr. Toews:** Maybe I will have to revisit the other issue.

**Mr. Chairperson:** An interesting point, I think that there has been a call for the question on this.

\* (2030)

**Mr. Reid:** In this provision in this amendment that I am proposing here, Mr. Chairperson, it changes in the fact that the employer in this case or the government in most of these cases will determine the names of the employees that would be required to work to maintain essential services, and we heard one of the presentations here this evening spelling out very clearly for the government and for the committee members that there should be a removal of the names component, that there was no opposition to determining that there are job classifications that need to be filled, but I think the objection was that the specific names of individuals to do that work, that power was being left in the hands of the government to determine specific people. I think that was the objection of the presenter here this evening. That is why I have brought forward this amendment, to reflect that particular request that was made by one of the presenters.

**Mr. Chairperson:** All right, there has been a call for the question on Clause 7(1), on the amendment to Clause 7(1).

#### Voice Vote

**Mr. Chairperson:** All those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those contrary, say nay.

**Some Honourable Members:** Nay.

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

**Mr. Reid:** On division.

**Mr. Chairperson:** On division. So recorded.

Clause 7(1)—pass.

**Mr. Reid:** On division.

**Mr. Chairperson:** On division. So recorded. Clause 7(2)—pass; Clause 7(3)—pass; Clause 7(4)—pass; Clause 7(5)—pass. Clause 8(1).

**Mr. Reid:** Mr. Chairperson, I move

THAT subsection 8(1) be struck out and the following substituted:

#### Application to Labour Board

**8(1)** When a work stoppage has commenced, the employer or the union may apply to The Manitoba Labour Board for a variation of the number of employees in each classification who must work during the work stoppage to maintain essential services

(a) if there arises an unforeseen circumstance which affects the number of employees that may be required to work to maintain essential services; and

(b) the matter cannot be resolved by negotiation.

#### [French version]

*Il est proposé que le paragraphe 8(1) soit remplacé par ce qui suit:*

#### *Demande à la Commission du travail*

*8(1) Si un arrêt de travail a débuté, l'employeur ou le syndicat peut demander à la Commission du travail du Manitoba de modifier le nombre d'employés de chaque classification qui sont tenus de travailler au cours de l'arrêt de travail afin d'assurer les services essentiels dans le cas suivant:*

*a) il survient des circonstances imprévues qui touchent le nombre d'employés qui peuvent être tenus de travailler afin d'assurer ces services;*

*b) la question ne peut être réglée par la négociation.*

#### Motion presented.

**Mr. Chairperson:** Any further discussion on the amendment?

**Some Honourable Members:** Question.

**Mr. Chairperson:** Question.

#### Voice Vote

**Mr. Chairperson:** All those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Those contrary, by nay.

**Some Honourable Members:** Nay.

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

**Mr. Reid:** On division.

**Mr. Chairperson:** On division, so recorded. Clause 8(1)—pass.

**Mr. Reid:** On division.

**Mr. Chairperson:** On division. Clause 8(2)—pass. Clause 8(3).

**Mr. Reid:** I have an amendment. I move, Mr. Chairperson

THAT subsection 8(3) be amended by striking out “14” and substituting “7”.

**[French version]**

*Il est proposé que le paragraphe 8(3) soit amendé par substitution, à “14”, de “7”.*

**Motion presented.**

**Mr. Chairperson:** Any discussion? Call for the question.

**Voice Vote**

**Mr. Chairperson:** Those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

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

**Mr. Reid:** On division.

**Mr. Chairperson:** On division, so recorded. Clause 8(3)—pass.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division, so recorded. Clause 8(4)—pass; Clause 8(5)—pass. Mr. Reid could you give us some advice, sir?

**Mr. Reid:** Which one?

**Mr. Chairperson:** 8(5).

**Mr. Reid:** Oh, we are at that one.

**Mr. Chairperson:** Is it the will of the committee to revert to 8(5)? [agreed]

**Mr. Reid:** Thank you, committee members. I was reading the clause at the time and wondering why I had not made an amendment, Mr. Chairperson, but I see that I already have one here. I move

THAT subsection 8(5) be amended by striking out “14” and substituting “7”.

**[French version]**

*Il est proposé que le paragraphe 8(5) soit amendé par substitution, à “14”, de “7”.*

**Motion presented.**

**Mr. Chairperson:** Any further discussion? Question.

**Voice Vote**

**Mr. Chairperson:** All those in favour of the amendment, indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** And the Nays.

**Some Honourable Members:** Nay.

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

**Mr. Reid:** On division.

**Mr. Chairperson:** On division, so recorded.

Clause 8(5)—passed on division; Clause 8(6)—pass; Clause 8(7)—pass; Clause 8(8)—pass. Clause 9.

**Mr. Reid:** Mr. Chairperson, I move

THAT section 9 be struck out and the following substituted:

**Pay and benefits**

9 The pay and benefits of employees who must work as a result of the operation of this Act shall be in accordance with the last collective agreement.

**[French version]**

*Il est proposé que l'article 9 soit remplacé par ce qui suit:*

***Traitement et avantages***

*9 Le traitement et les avantages des employés qui sont tenus de travailler du fait de l'application de la présente loi sont conformes aux dispositions de la dernière convention collective.*

**Motion presented.**

**Mr. Reid:** Mr. Chairperson, in the legislation itself, the Clause 9 that the minister has included with the bill references notwithstanding the last collective agreement, and I am sure we all know what the word “notwithstanding” means in this respect or in our previous experiences with this word in the Canadian relationship.

This will prevent the last collective agreement from taking precedent, and this is the issue that I referenced in the opening comments with my attempt to delete the temporary terms and conditions definition at the front of this bill, because what this bill will do, will allow the government to set the temporary terms and conditions, which is pay and benefits, for employees who are required to work under the essential services agreement and does not spell out that it is the provisions of the last collective agreement that should be in force and in effect until such time as it is superseded by another agreement that would be imposed or negotiated. So that is why my intent here is to show that we need to have some recognition that the employees will continue to be paid under the terms of the last collective agreement.

Now, I hope that the government members will recognize that there should be some responsibility on your part to honour that agreement until such time as it is superseded. At least I hope that you would be willing to recognize that. With those comments, Mr. Chairperson, I will allow others to comment on this section, as well.

**Voice Vote**

**Mr. Chairperson:** Question? All right. All those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** The contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

**Formal Vote**

**Mr. Reid:** Recorded vote.

*A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 6.*

**Mr. Chairperson:** The Nays have it. The amendment is defeated.

Clause 9—pass; Clause 10—pass; Clause 11—pass. Clause 12.

**Mr. Reid:** Mr. Chairperson, I move

THAT section 12 be amended by adding “during the period the employee is required to work to maintain the essential service” after “employer”.

**[French version]**

*Il est proposé que l'article 12 soit amendé par adjonction, après “employeur”, de “au cours de la période où ils sont tenus de travailler afin d'assurer ces services”.*

**Motion presented.**

**Mr. Reid:** Mr. Chairperson, we heard from the presenters here this evening that this legislation will, I

believe, infringe upon the rights of an individual to determine whatever actions they wish to participate in on their own free time. The intent of the legislation, as it currently stands, says in Clause 12 that no essential services employee shall participate in a work stoppage against the employer, and that, I believe, could be defined in the broad sense where the employee could not participate in any activities, whether it be in going and participating in the strike or lockout picket line or involved in other activities in assistance of the union as long as it does not interfere with the provisions of the essential services agreement. So what I want to do here by this wording here is just to tighten it up on the intent of what the clause is to make sure that no employee who is required to work under the essential services agreement will be prevented on their own time from participating in any activities of their choosing. I hope that the minister will take the opportunity, if he does not agree with this, to put on the record his intent with respect to that particular clause that he has in the legislation.

\* (2040)

**Mr. Toews:** I am advised that the definition of "work stoppage," which means a strike which is defined as is defined in The Labour Relations Act, essentially means that an essential services worker or employee could not participate in strike activities, but there is certainly nothing to stop that individual from exercising his or her constitutional rights outside the context of that. This deals with strike or lockout. It does not deal with that, if somebody wants to voluntarily participate in a picket line that does not interfere with their duties as essential servants.

**An Honourable Member:** Question.

**Mr. Chairperson:** The question has been called.

#### Voice Vote

**Mr. Chairperson:** All those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contraries by nay.

**Some Honourable Members:** The Nays have it.

**Mr. Reid:** On division.

**Mr. Chairperson:** On division.

#### Formal Vote

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

**Mr. Chairperson:** So recorded. The motion is defeated.

Clause 12—pass; Clause 13—pass.

**An Honourable Member:** On division.

**Mr. Chairperson:** Clause 13—pass, on division. Clause 14—pass; Clause 15—pass. Clause 16.

**Mr. Toews:** I have an amendment to add after Section 16. Should I move it now?

**Mr. Chairperson:** No. Maybe we will pass Clause 16 and then make the amendment. Clause 16—pass.

**Mr. Toews:** I move

THAT the following be added after section 16:

#### Rules of Labour Board

16.1 The Manitoba Labour Board may make any rules of practice and procedure that the board considers necessary to carry out its responsibilities under this Act.

#### [French version]

*Il est proposé d'ajouter, après l'article 16, ce qui suit:*

#### *Règles de la Commission du travail*

*16.1 La Commission du travail du Manitoba peut prendre les règles de pratique et de procédure qu'elle estime nécessaires à l'exercice des attributions qui lui sont confiées en application de la présente loi.*

Essentially, this is a mirror image of what the board already has under The Labour Relations Act, but the chair of the board has advised the department that he feels that it is necessary in order for the board to exercise its responsibilities under the act that we give that board

the appropriate degree of independence so that they can make their decisions in respect of their responsibilities.

**Motion presented.**

**Mr. Chairperson:** Any further discussion?

**An Honourable Member:** Question.

**Mr. Chairperson:** Question. All right. Amendment—pass; Clause 17.

**Mr. Toews:** Just another related motion. I move

THAT clause 17(b) be amended by adding “at the request of The Manitoba Labour Board,” before “providing”.

**[French version]**

*Il est proposé que l'alinéa 17b) soit amendé par substitution, à “fournir les directives dont peut avoir besoin la Commission du travail du Manitoba”, de “à la demande de la Commission du travail du Manitoba, fournir les directives dont celle-ci peut avoir besoin”.*

So essentially what this does is ensure the independence of the Manitoba Labour Board to ensure that it is the Manitoba Labour Board that makes the request rather than the Lieutenant-Governor-in-Council directing the Manitoba Labour Board to do certain things. Again, it is a question of independence.

**Motion presented.**

**Mr. Chairperson:** Any further discussion on the amendment?

**An Honourable Member:** Question.

**Mr. Chairperson:** Question. All those in favour of the amendment.

**Some Honourable Members:** Pass.

**Mr. Chairperson:** Pass. All right the amendment shall pass. Clause 17 as amended—pass.

**Mr. Reid:** Mr. Chairperson, I move

THAT section 17 be struck out.

**[French version]**

*Il est proposé que l'article 17 soit supprimé.*

**Mr. Chairperson:** All right. Is there leave to revert to 17?

**Some Honourable Members:** Leave.

**Mr. Chairperson:** Leave is granted accordingly. Mr. Reid has moved that Section 17 be struck out. Any discussion, question?

**Voice Vote**

**Mr. Chairperson:** Those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contraries, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

**Formal Vote**

**Mr. Reid:** Recorded vote.

**Mr. Chairperson:** Recorded vote.

*A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 6.*

**Mr. Chairperson:** The motion is accordingly defeated.

**An Honourable Member:** On division.

**Mr. Chairperson:** Clause 17 as amended—pass, on division. So recorded.

**Mr. Ernst:** I would be interested to know about this motion by Mr. Reid that the section be struck out. Advice was received in the committee yesterday morning that such motions are inappropriate in that by achieving the same goal you simply vote against the clause.

Alternatively, the advice came that, if you wanted to introduce a motion, that is, a positive motion from which you want to vote, it required leave. Now I happen to agree that it just ought to be automatic, but we had advice yesterday that it required leave, and that today it does not. Can you explain that?

**Mr. Chairperson:** That issue was dealt with earlier, I believe, tonight, Mr. Ernst. On one of the preliminary motions of a similar nature which Mr. Reid presented, I canvassed the committee and discerned that the will of the committee was to proceed by taking a positive step to defeat the motion. That is what the clerk was attempting to indicate, and we were both speaking to that issue.

Having this matter now being raised again, what is the will of the committee?

**Some Honourable Members:** Carry on.

**Mr. Chairperson:** Carry on? All right.

Clause 17 as amended—pass; Clause 18(1)—pass; Clause 18(2)—pass; Clause 18(3)—pass; Clause 19—pass; Clause 20—pass.

**Mr. Toews:** I would move, Mr. Chair,

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

[French version]

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

**Mr. Chairperson:** Agreed? [agreed]

Schedule—pass.

**An Honourable Member:** On division.

**Mr. Chairperson:** Schedule—pass, on division. So recorded. Preamble—pass; Title—pass. Shall the bill as amended be reported? Mr. Reid, is it your will to have a vote on this?

**Mr. Reid:** Yes, Mr. Chair.

**Voice Vote**

**Mr. Chairperson:** All right. All those in favour of reporting the bill as amended, shall indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Formal Vote**

**Mr. Reid:** Recorded vote.

*A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6, Nays 4.*

**Mr. Chairperson:** The bill shall be reported accordingly.

As previously agreed, we will now proceed to consider the two private bills.

### **Bill 301—The Native Alcoholism Council of Manitoba Incorporation Amendment Act**

**Mr. Chairperson:** Bill 301. We will first hear on the report on this bill from Legislative Counsel. Do we have a counsel who is prepared to speak?

**Ms. Shirley Strutt (Legislative Counsel):** Mr. Chairperson, as required by Rule 123 of the Provisional Rules of the House, I now report that I have examined Bill 301, The Native Alcoholism Council of Manitoba Incorporation Amendment Act, and have not noted any exceptional powers sought or any other provision of the bill requiring special consideration.

**Mr. Chairperson:** Thank you very much. Mr. Martindale, do you have an opening statement on behalf of Mr. Robinson on this bill?

**Mr. Doug Martindale (Burrows):** Yes, Mr. Chairperson, I am pleased to be able to introduce this on behalf of Mr. Robinson who could not be here tonight,



and also to say that this was requested by the membership and the Board of Directors of the Native Alcoholism Council of Manitoba. I have been to their facility and I know some of their staff and I know some of the programs that they offer, and I believe that they are doing a good job with very limited resources. I am sure that they thank you and we thank the government for letting this private member's bill pass. Thank you.

\* (2050)

**Mr. Chairperson:** The bill will be considered clause by clause. During the consideration of the bill, the title and preamble are postponed until all the clauses have been considered in the proper order by the committee. Shall Clauses 1 through 8—pass; Preamble—pass; Title—pass. Bill be reported.

**Mr. Martindale:** I move

THAT this Committee recommends that the fees paid with respect to Bill (No. 301) - The Native Alcoholism Council of Manitoba Incorporation Amendment Act, be refunded less the cost of printing.

[French version]

*QUE le Comité recommande que soient remboursés les droits payés à l'égard du projet de loi no. 301 - Loi modifiant la Loi constituant en corporation "The Native Alcoholism Council of Manitoba".*

**Mr. Chairperson:** Merci, Monsieur. Is it the will of the committee to—there is a request on the floor to inquire as to the amount of the fee. Can Legislative Counsel provide that information? The estimate is approximately \$250. That information being provided, we have a motion on the floor. Is it the will of the committee to accept the motion? [agreed] So that is reported.

**Bill 302—The Grand Lodge of Manitoba of the Independent Order of Oddfellows Incorporation Amendment Act**

**Mr. Chairperson:** The next matter for consideration is Bill 302. We will hear a report on the bill from Legislative Counsel.

**Ms. Shirley Strutt (Legislative Counsel):** Mr. Chairperson, as required by Rule 123 of the Provisional

Rules of the House, I now report that I have examined Bill 302, The Grand Lodge of Manitoba of the Independent Order of Oddfellows Incorporation Amendment Act, and have not noted any exceptional powers sought or any other provision of the bill requiring special consideration.

**Mr. Chairperson:** Thank you. Does Mr. Martindale have any preliminary remarks on behalf of Mr. Evans on this matter?

**Mr. Doug Martindale (Burrows):** Mr. Chairperson, I am pleased to be able to present this in lieu of Mr. Evans, who could not be here tonight, and he put his remarks on the record in the Chamber on this bill. Thank you.

**Mr. Chairperson:** We thank the member. The bill will be considered on a block of clauses? [agreed] Shall Clauses 1 through 9—pass; Preamble—pass; Title—pass. Bill be reported.

Mr. Martindale, do you have a motion?

**Mr. Martindale:** I move

THAT this Committee recommends that the fees paid with respect to Bill (No. 302) - The Grand Lodge of Manitoba of the Independent Order of Oddfellows Incorporation Amendment Act be refunded less the cost of printing.

[French version]

*QUE le Comité recommande que soient remboursés les droits payés à l'égard du projet de loi no 302 - Loi modifiant la Loi constituant en corporation "The Grand Lodge of Manitoba of the Independent Order of Oddfellows".*

**Mr. Chairperson:** Amendment—pass.

**Bill 26—The Labour Relations Amendment Act**

**Mr. Chairperson:** The next bill for consideration is Bill 26, The Labour Relations Amendment Act. Does the minister responsible have a brief opening statement?

**Hon. Vic Toews (Minister of Labour):** No, I have made all my statements in the House and elsewhere.

**Mr. Chairperson:** Thank you, minister. Does the critic from the official opposition party have a brief opening statement?

**Mr. Daryl Reid (Transcona):** Mr. Chairperson, I think I have had a fair amount of opportunity to add my comments on Bill 26. I will reiterate once again, as I did in the House, that I believe that this bill is essentially designed as a punitive measure to get back at those labour organizations in our province that dared to stand up to this government and in fact raised issues during the 1995 provincial general election campaign and to raise public awareness of these issues, and that this government is now bringing forward Bill 26 as a punitive measure to in many ways tie the hands of those organizations from ever being able to take effective action, and at the same time recognizing that this government, while they have tied the hands of labour organizations in this province who dared to speak out, they have not taken similar actions to those that are familiar and friendly with this particular government, namely those in certain sectors of the business community and that it is undemocratic, the sections that the government is—and the actions the government is proposing through this bill.

We have a number of amendments that we will be bringing forward. We hope that the government will be looking at them very carefully, because I can tell members of this committee that we have some time to review the presentations that were made during committee, both from the business community and from the labour community, and that we would be proposing amendments to improve what is a disastrous piece of legislation.

With those few comments, Mr. Chairperson, I am prepared to move into clause by clause of Bill 26, although I would like to have a copy of the bill available to me for my information.

**Mr. Chairperson:** During the consideration of the bill, the title and the preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clause 1—pass. Clause 2. Clause 2 pass?

**An Honourable Member:** On division.

**Mr. Chairperson:** On division. So recorded. Passed accordingly.

Clause 3, now who is amending that? Clause 3 is open for consideration.

**Mr. Reid:** Mr. Chairperson, even though you have already indicated that there are ways of doing this, I feel I must, during this piece of legislation, take the appropriate actions to reflect, and

I move

THAT section 3 of the bill be struck out.

[French version]

Il est proposé de supprimer l'article 3 du projet de loi.

**Motion presented.**

**Voice Vote**

**An Honourable Member:** Question.

**Mr. Chairperson:** Question? All those in favour say yea?

**An Honourable Member:** Yea.

**Mr. Chairperson:** Contrary by nay?

**An Honourable Member:** Nay.

**Mr. Chairperson:** The Nays have it.

**Formal Vote**

**Mr. Reid:** Recorded vote.

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

**Mr. Chairperson:** The motion is consequently defeated. Clause 3—pass.

**Mr. Reid:** Mr. Chairperson?

**Mr. Chairperson:** Mr. Reid?

**Mr. Reid:** I have had my hand up once again, Mr. Chairperson.

**Mr. Chairperson:** Yes, Mr. Reid.

**Mr. Reid:** Section 3, and I do not believe we need leave, Mr. Chairperson. I am finding it somewhat frustrating, when I have my hand raised, that I am not recognized by the Chair for specific amendments, and I wish to draw that to the attention of the Chair, and no reflection on the Chair as an individual.

I wish to move

THAT section 3 of the Bill be amended by adding the following after the proposed subsection 12(2):

**Employee who is not reinstated may initiate grievance**

**12(2.1)** An employee who is not reinstated and who does not file a complaint under section 30 (complaint alleging unfair labour practice) may initiate a grievance in respect of the refusal to reinstate him or her, and section 130 (expedited procedure) applies to the grievance with necessary modifications.

**Arbitrator to consider certain factors**

**12(2.2)** An arbitrator appointed under section 130 shall include in his or her considerations the policies of the employer respecting the dismissal of employees and the circumstances of the strike or lockout.

**[French version]**

*Il est proposé d'amender l'article 3 du projet de loi par adjonction, après le paragraphe 12(2), de ce qui suit:*

***Grief de la part d'employés non réintégrés dans leurs fonctions***

*12(2.1) Les employés qui ne sont pas réintégrés dans leurs fonctions et qui ne déposent pas une plainte en vertu de l'article 30 peuvent faire un grief concernant le fait qu'on ait refusé de les réintégrer dans leurs fonctions, et l'article 130 s'applique, avec les adaptations nécessaires, au grief.*

***Obligation pour l'arbitre de tenir compte de certains facteurs***

*12(2.2) L'arbitre nommé sous le régime de l'article 130 tient compte, dans ses délibérations, de la politique de*

*l'employeur concernant le congédiement des employés et des circonstances entourant la grève ou le lock-out.*

**Motion presented.**

\* (2100)

**Mr. Chairperson:** Any further discussion?

**Mr. Reid:** In the act here the minister is proposing that the employer will have the ability to act as prosecutor and judge for any actions of employees on a picket line, and what we are suggesting here is that there has to be an appeal mechanism built in to allow this matter to be referred to the Labour Board.

Let the Labour Board determine, because it is an independent quasi-judicial body, to look at the conditions and the policies; the conditions of the strike or lockout and the picket line involved; the activities, whether or not there were provisions as a result of those picket line activities that involved perhaps some way where members of the union that were on the picket line would be incited to take certain actions either on the part of the employer or other persons and that those factors need to be taken into consideration in fairness to those people.

Without those provisions in there, the fairness factor will not be built in and those employees will lose their employment in many cases as a result of the employer being able to act as both prosecutor and judge. By these amendments, I want to install a process here that will allow for an appeal mechanism to the Labour Board.

**Mr. Chairperson:** Any further discussion?

**An Honourable Member:** Question.

**Mr. Toews:** Just for the record, I would indicate that there is in fact an appeal to the Labour Board and that the employer who refuses to reinstate an employee would have to justify, would have to satisfy the Labour Board, that the refusal was for just cause. Simply it does not allow the employer to refuse to reinstate an employee in all cases. The Labour Board would determine whether or not that is for just cause, so there is an appropriate mechanism already.

**Mr. Chairperson:** The question has been called.

**Voice Vote**

**Mr. Chairperson:** Those in favour of the amendment, indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

**Formal Vote**

**Mr. Reid:** Recorded vote.

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

**Mr. Chairperson:** The motion is accordingly defeated.

**An Honourable Member:** On division.

**Mr. Chairperson:** Clause 3—pass, on division; Clause 4—pass; Clause 5.

**Mr. Reid:** I move

THAT section 5 of the Bill be amended by adding the following after the proposed section 14.1:

**Defence**

14.2 An employer, employers' organization or union or a person acting on behalf of an employer, employers' organization or union does not commit an unfair labour practice under section 14.1 if the board is satisfied that the person or organization made a reasonable effort to prevent or stop strike-related misconduct.

**[French version]**

*Il est proposé d'amender l'article 5 du projet de loi par adjonction, après l'article 14.1, de ce qui suit:*

**Défense**

*14.2 Ne commet pas une pratique déloyale de travail sous le régime de l'article 14.1 l'employeur, l'association d'employeurs, le syndicat ou le*

*représentant d'un employeur, d'une association d'employeurs ou d'un syndicat qui a déployé, de l'avis de la Commission, des efforts raisonnables pour empêcher la faute reliée à la grève ou pour y mettre fin.*

**Motion presented.**

**Mr. Reid:** Mr. Chairperson, presenters who came before this committee last week indicated to this committee that there are times when the employers or the labour organization take certain steps to instruct people who are under their care, control and responsibility, but knowing that human personalities and human nature and people are able to make their own decisions independent of these two bodies, it seems to be reasonable to expect that there should be some counsel that could be afforded by both the employer and the labour organizations to what is and what is not proper conduct. I am asking through this amendment to allow those organizations to be able to make those comments to the employees who would be participating in a lockout or strike picket line and that this would then provide some measure of assurance that the government would not move against those labour organizations in a punitive fashion for those who have made every reasonable effort to try and stop strike-related misconduct.

**Mr. Toews:** Well, again, this is redundant. This is certainly something that any board would consider in making a determination as to whether or not there is an unfair labour practice, and so I would not support the amendment.

**Mr. Chairperson:** Any further discussion on the amendment.

**An Honourable Member:** Question.

**Mr. Chairperson:** The question has been called. The amendment—

**Voice Vote**

**Mr. Chairperson:** Indicate approval by indicating by yea, saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

**Formal Vote**

**Mr. Reid:** Recorded vote.

**Mr. Chairperson:** Recorded vote.

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

**Mr. Chairperson:** The motion is accordingly defeated. Shall Clause 5 pass?

**Some Honourable Members:** Pass.

**An Honourable Member:** On division.

**Mr. Chairperson:** Passed as on division.

Clause 6 is for discussion. We have an amendment.

**Mr. Reid:** I move

THAT section 6 be struck out.

[French version]

*Il est proposé que l'article 6 soit supprimé.*

**Motion presented.**

**Mr. Reid:** Mr. Chairperson, it is very clear that the intent of the government with respect to Section 6 of the bill, failure to consult regarding the use of union dues for political purposes, is to financially punish labour organizations, and their intent here is to remove the Rand Formula. The minister referenced in the House during his comments, and has referenced again I believe through the media, that other jurisdictions—in fact, Ontario—allow for the removal of the Rand Formula and that that is not the case on investigation.

Therefore, we believe that the government's only intent with respect to this particular matter is to punish those labour organizations by essentially tying up their hands when no alternate rules would be in place for business in the province of Manitoba. So we think that it is unfair to

have the government play that type of a role where they punish one side of the equation and that leave the free market to control whatever actions they may deem appropriate. So while the minister is, no doubt, going to talk about the democratic responsibility of labour organizations to consult, there are provisions in this bill that make it very difficult for them to consult with members. I will reference that more appropriately later under other clauses of this legislation that can be debated at that time.

**Mr. Toews:** Just in respect, I will not comment on that at all. I will just comment to say that the member is wrong, that this particular section has nothing to do with removal of the Rand Formula and, secondly, I have never said that Ontario has that Rand Formula.

**Mr. Reid:** You got it in here.

**Mr. Toews:** Well, put it onto Hansard. Quote Hansard if you have it. Quote it.

**Mr. Chairperson:** I would ask that all members route their remarks through the Chair. Any further discussion on the motion?

**An Honourable Member:** Question.

**Mr. Chairperson:** The question has been called. Moved by Mr. Reid that Section 6 of the bill be struck out.

**Voice Vote**

**Mr. Chairperson:** Those in favour, say yea.

**Some Honourable Members:** Yes.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

**Formal Vote**

**Mr. Reid:** Recorded vote.

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

**Mr. Chairperson:** The motion is thereby defeated. Clause 6—pass, on division. It is all recorded. Clause 7.

**Mr. Reid:** I move

THAT section 7 of the bill be struck out.

[French version]

*Il est proposé de supprimer l'article 7 du projet de loi.*

Straight to question.

**Mr. Chairperson:** Straight to question. All right.

#### Voice Vote

**Mr. Chairperson:** Those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it. The motion is thereby defeated.

#### Formal Vote

**Mr. Reid:** Recorded vote.

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

**Mr. Chairperson:** The motion is thereby defeated. Shall Clause 7 pass?

#### Point of Order

**Hon. Jim Ernst (Minister of Consumer and Corporate Affairs):** On a point of order, Mr. Chairman, I see the stack of amendments that Mr. Reid has. If he is going to call for a recorded vote on every one of them, then can we just have it taken as a recorded vote so we do not have to go through the charade of putting up our hands and all that sort of thing? I mean, just for practical purposes, they can record in the minutes as a recorded vote, 6, 3.

**Mr. Chairperson:** Could I offer a suggestion to committee that it would be on the same division? Would that be appropriate?

**Mr. Reid:** Well, I think if the record reflects, Mr. Chairperson, the members that we have present in the room that are on this committee during the process where I would request a recorded vote, I have no problem as long as Hansard would show that the vote would be on those numbers. So if the government have their members here, all of them, and they wish to vote against the amendments, that is fine, as long as we are able to record as well in Hansard that we would have, the members of our committee that are here, shown as being in favour of the amendment.

**Mr. Chairperson:** May the record show accordingly, is that the will of committee? [agreed]

Clause 7—pass.

**Mr. Reid:** On division.

**Mr. Chairperson:** Passed accordingly on division. Clause 8.

**Mr. Reid:** No.

**Mr. Chairperson:** I am sorry, Mr. Reid. We have an amendment on that. This is a motion of a similar nature, and is it your will, Mr. Reid, that the division—

Sorry, move it, please.

**Mr. Reid:** I move

THAT section 8 of the bill be struck out.

[French version]

*Il est proposé de supprimer l'article 8 du projet de loi.*

Motion presented.

#### Formal Vote

**Mr. Chairperson:** The question is called, as agreed.

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

**Mr. Chairperson:** The motion is defeated, on division. Clause 8—pass. Clause 9, there is a motion on Clause 9.

**Mr. Reid:** Whoa, whoa. Thank you, Mr. Chairperson, I am not finished with Section 8 yet.

**Mr. Chairperson:** Oh, sorry.

\* (2110)

**Mr. Reid:** I move

THAT section 8 of the Bill be amended by adding the following after the proposed subsection 40(1.1):

**Date for determining voting constituency**

**40(1.2)** The board shall determine a voting constituency under subsection (1.1) as at the date of the filing of the application.

**[French version]**

*Il est proposé d'amender l'article 8 du projet de loi par adjonction, après le paragraphe 40(1.1), de ce qui suit:*

*Détermination du groupe d'employés habiles à voter 40(1.2) À la date du dépôt de la demande, la Commission détermine, en vertu du paragraphe (1.1), le groupe d'employés habiles à voter.*

**Motion presented.**

**Mr. Chairperson:** Mr. Reid, any comments? The question has been called. The division as previously agreed.

**An Honourable Member:** You have to call the vote.

**Mr. Chairperson:** Oh, I see. All right. Sorry. Give me a moment there.

**Voice Vote**

**Mr. Reid:** A recorded vote.

**Mr. Chairperson:** A recorded vote. All right.

Those in favour of the motion, please indicate by saying yea.

**Mr. Reid:** The same arrangements we had previous, Mr. Chairperson.

**Mr. Chairperson:** Just for purpose of the record then, those approving the motion, please say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** And contrary, say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** Defeated accordingly.

**Mr. Reid:** On division. On the numbers.

**Mr. Chairperson:** On the numbers? Okay.

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

**Mr. Chairperson:** Defeated as on the numbers.

Clause 8—pass.

**Mr. Reid:** On division.

**Mr. Chairperson:** On division. Thank you. I was waiting for that.

Clause 9—

**Mr. Reid:** Mr. Chairperson, I move

THAT the proposed subsection 48(3), as set out in section 9 of the Bill, be amended by striking out “seven days” and substituting “five working days”.

**[French version]**

*Il est proposé d'amender le paragraphe 48(3), énoncé à l'article 9 du projet de loi, par substitution, à “7 jours”, de “5 jours ouvrables”.*

**Motion presented.**

**Mr. Chairperson:** Any comments?

**An Honourable Member:** Question.

**Mr. Reid:** This, I think, will prevent in some ways, although I believe not totally, any interference with the free determination of any employees in making the decision on whether or not they wish to belong to a particular union and that they would hopefully minimize the ability of an employer to interfere in that process or that decision.

By the current legislation, and I stand to be corrected if I am wrong on this, but I believe the current legislation by allowing seven days can allow this matter, depending upon when the application would be received, to allow this matter to go through two successive weekends without having that vote occur. So what we are proposing here by way of this amendment is to allow for the five working days which would preclude that period of two weekends which would minimize the opportunity for any outside interference in the free decision making of the employees in the proposed bargaining unit.

**Mr. Chairperson:** Any further discussion?

**An Honourable Member:** Question.

**Mr. Chairperson:** All right, the question has been called.

#### Voice Vote

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

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

#### Formal Vote

**Mr. Reid:** Recorded vote.

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

**Mr. Chairperson:** As previously agreed by members, the motion is defeated. Mr. Reid, the Chair asks—

**Mr. Reid:** Another motion.

**Mr. Chairperson:** Yes, I am waiting for it.

**Mr. Reid:** I move

THAT the proposed subsection 48(4), as set out in section 9 of the Bill, be struck out and the following substituted:

#### Where vote not held within required time

**48(4)** Where a vote is not held within the time set out in subsection (3), the board shall certify the union making the application as the bargaining agent for employees in the unit.

#### [French version]

*Il est proposé de remplacer le paragraphe 48(4), énoncé à l'article 9 du projet de loi, par ce qui suit:*

#### Scrutin dans les cinq jours

**48(4)** Si le scrutin n'a pas lieu au cours du délai imparti au paragraphe (3), la Commission accréditée le syndicat qui a fait la demande à titre d'agent négociateur pour les employés compris dans l'unité.

#### Motion presented.

**Mr. Chairperson:** Discussion?

**Mr. Reid:** I believe that because the minister proposes in this bill to allow for exceptional circumstances which—and I reference once again that I have requested regulations, draft regulations, that the minister would have with respect to this bill, to define for us what he means by the term “exceptional circumstances.” I feel it is necessary to put in place, so there is not an extensive period of time involved, that where there is undue delay in making a decision and holding that vote, there be an automatic certification process, because I do not want to have circumstances that we already know exist at the board, which is lack of funds to be a factor, or any other matter for that sake to be a factor, in allowing for an undue delay in the vote to determine whether or not the employees of the affected unit wish to become a member of a union. So that is why I reference this section, and that is why I have raised this amendment at this time.

**Mr. Chairperson:** All right. Any further discussion?



**An Honourable Member:** Question.

**Voice Vote**

**Mr. Chairperson:** All those in favour of the motion, please keep indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

**Formal Vote**

**Mr. Reid:** Recorded.

**Mr. Chairperson:** A recorded vote by the same numbers as previously agreed.

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

**Mr. Chairperson:** The motion is defeated.

**Mr. Reid:** Mr. Chairperson, I move

THAT section 9 of the Bill be amended by adding the following after the proposed subsection 48(5):

**Communicating with employees about application**

**48(6)** If after an application for certification is filed, the employer proposes to communicate with employees in the proposed unit respecting the application, the employer

(a) shall give the applicant reasonable notice in writing of the time and place of the proposed meeting, and the manner in which the communications will occur at the meeting; and

(b) shall within 48 hours after the meeting provide the applicant with a place and an equal amount of time, at the same time of day used by the employer, to communicate with the employees.

**Sharing of written materials**

**48(7)** If an employer or applicant referred to in subsection (6) distributes written material to the employees, the employer or applicant shall provide the

other with a copy of the material within 24 hours after the first distribution of the material to the employees.

**[French version]**

*Il est proposé d'amender l'article 9 du projet de loi par adjonction, après le paragraphe 48(5), de ce qui suit:*

**Communication avec les employés**

**48(6)** *L'employeur qui, après le dépôt d'une demande d'accréditation, se propose de communiquer avec les employés compris dans l'unité projetée au sujet de la demande:*

*a) donne, par écrit à l'auteur de la demande un préavis raisonnable faisant état de la date, de l'heure et du lieu de la réunion projetée ainsi que du moyen de communication devant être utilisé à la réunion;*

*b) accorde à l'auteur de la demande, dans les 48 heures qui suivent la réunion, un endroit et un montant égal de temps pour communiquer avec les employés et ce, au même moment de la journée que celui utilisé par l'employeur.*

**Partage des documents écrits**

**48(7)** *Les employeurs et les auteurs de demande visés par le paragraphe (6) qui distribuent des documents écrits aux employés se remettent mutuellement une copie de ces documents, et ce, dans les 24 heures qui suivent la distribution des documents en question aux employés.*

**Motion presented.**

**Mr. Reid:** I believe, Mr. Chairperson, this will allow for some fairness to prevail under the application process so that there would not be undue influence exerted by either party with respect to the certification process and to allow the employees themselves to hear both sides in the certification application, and that is why we have raised this amendment. I believe that it was also raised during the committee hearings by members of the public who came forward and made presentations to this committee.

**Mr. Chairperson:** Thank you, Mr. Reid.

**Voice Vote**

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

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Formal Vote**

**Mr. Reid:** Recorded vote.

**Mr. Chairperson:** A recorded vote. On division as previously agreed.

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

**Mr. Chairperson:** The motion is thereby defeated on the numbers.

Clause 9—pass.

**Mr. Reid:** On division.

**Mr. Chairperson:** Passed as previously noted on division. Clause 10.

**Mr. Reid:** My amendment is after Section 10.

**Mr. Chairperson:** Thank you. Clause 10—pass.

**Mr. Reid:** Mr. Chairperson, I move,

THAT the following be added after section 10 of the Bill:

10.1 The following is added after subsection 69(2):

**Employer to provide employees' addresses**

**69(2.1)** For the purpose of this section and section 76.1 (use of union dues for political purposes), the employer shall provide the bargaining agent with the names and addresses of employees in the unit at least once every six months.

**[French version]**

*Il est proposé d'ajouter, après l'article 10 du projet de loi, ce qui suit:*

*10.1 Il est ajouté, après le paragraphe 69(2), ce qui suit:*

*Obligation pour l'employeur de donner les adresses des employés*

*69(2.1) Pour l'application du présent article et de l'article 76.1, les employeurs remettent aux agents négociateurs les noms et adresses des employés compris dans l'unité, et ce, au moins une fois par semestre.*

**Motion presented.**

**Mr. Reid:** Mr. Chairperson, I think it is important to note that there are changing circumstances in the workplace. Not all of the employees who would be in the bargaining unit would be working onsite for the employer. Some of them could be, in fact, working out of their own homes but still be members of a particular bargaining unit; and, if we are going to have requirements of the labour organizations to do certain surveys of their members with respect to the use of dues for political purposes, it only seems fair and reasonable that the names and addresses of the employees affected be made available to allow for the most accurate consultation process to take place. That is currently not available in the bill, and that is why I am proposing this amendment.

I believe it was also raised by members of the public who came before this committee, and they suggested that, if there are going to be punitive financial measures put in place through this legislation, there needs to be some fairness established to allow for the most accurate survey of those members possible that would be contained in the bargaining unit. Since not all members of a workplace are members of the union, it only seems reasonable to suggest that the union have access to the names and addresses of those people to ascertain, since those people also pay dues, what their will is with respect to the use of those dues.

**Mr. Chairperson:** Thank you. Any further discussion?

**An Honourable Member:** Question.

**Mr. Chairperson:** The question has been called.

**Voice Vote**

**Mr. Chairperson:** All those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it. The motion is thereby defeated.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\* (2120)

#### Formal Vote

**Mr. Reid:** No, a recorded vote.

**Mr. Chairperson:** A recorded vote as previously agreed on the numbers allocated.

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

Clause 11—pass.

**Mr. Reid:** On division.

**Mr. Chairperson:** On division, passed accordingly, and so noted.

Clause 12—pass.

**Mr. Reid:** On division.

**Mr. Chairperson:** On division, so noted.

Clause 13—pass.

**Mr. Reid:** On division, so noted.

Clause 14. Now we have a series of motions here. The first motion before me is a motion by the honourable minister, Mr. Toews.

**Mr. Toews:** I move

THAT the proposed subsection 72.1(1), as set out in section 14 of the Bill, be amended in the French version

(a) by striking out “que l'intérêt des” and substituting “qu'il est dans l'intérêt public que les”; and

(b) by striking out “serait mieux servi si leur était donné” and substituting “aient”.

#### [French version]

*Il est proposé que le paragraphe 72.1(1) de la version française, énoncé à l'article 14 du projet de loi, soit amendé:*

*a) par substitution, à “que l'intérêt des”, de “qu'il est dans l'intérêt public que les”;*

*b) par substitution, à “serait mieux servi si leur était donné”, de “aient”.*

**Mr. Reid:** I wonder if the minister could read for the benefit of the committee these phrases that are in here and perhaps give us some explanation of what they mean, not being a bilingual individual myself.

**Mr. Toews:** I am exercising my constitutional right to speak English in this Legislature. Unfortunately I do not have the ability to speak French. If I did, I would. But I am told that this is simply a translation correction to reflect better the English version.

**Some Honourable Members:** Pass.

**Mr. Chairperson:** On division. The amendment is passed on division.

**Mr. Reid:** I do not agree with the clause; why would I support the amendment to it?

**An Honourable Member:** Vote against the bill, which you will.

**Mr. Reid:** I will definitely.

**Mr. Chairperson:** Order, please. The next motion that is before me.

**Mr. Toews:** I move

THAT subsection 72.1(1), as set out in section 14 of the Bill, be amended

(a) in the english version, by striking out “after the commencement of” and substituting “during”; and

(b) by renumbering the subsection as subsection 72.1(2).

**[French version]**

*Il est proposé que le paragraphe 72.1(1), énoncé à l'article 14 du projet de loi, soit amendé:*

*a) dans la version anglaise, par substitution, à “after the commencement of”, de “during”;*

*b) par substitution, à son numéro, du numéro de paragraphe 72.1(2).*

Essentially what this does is authorize a minister to order a last offer vote only during a strike or lockout. Where a strike or lockout commenced and then ceased without an agreement having been achieved, the minister would not be authorized to order a vote.

**Mr. Chairperson:** Section 72.1(1)—pass. The amendment has been passed, and it is passed—

**Mr. Reid:** I move

THAT section 14 of the Bill be struck out.

**[French version]**

*Il est proposé de supprimer l'article 14 du projet de loi.*

**Mr. Chairperson:** I am sorry, I think we have still got one more here. The previous motion 72.1(1) in 14 is accordingly passed, and the next motion from the honourable minister.

THAT subsection 72.1(2), as set out in section 14 of the Bill, be amended

(a) by striking out “or after”; and

(b) by renumbering the subsection as subsection 72.1(1).

**[French version]**

*Il est proposé que le paragraphe 72.1(2), énoncé à l'article 14 du projet de loi, soit amendé:*

*a) par suppression de “ou pendant”;*

*b) par substitution, à son numéro, du numéro de paragraphe 72.1(1).*

Again, this limits the authority of the minister to order votes.

Shall the amendment pass—pass.

**Mr. Reid:** On division.

**Mr. Chairperson:** As previously recorded. Thank you. Do we have one more? Do I have a motion?

**Mr. Toews:** I move

THAT the proposed subsection 72.1(5), as set out in section 14 of the Bill, be amended in the French version by adding “qui participent au scrutin” after “des employés”.

**[French version]**

*Il est proposé que le paragraphe 72.1(5) de la version française, énoncé à l'article 14 du projet de loi, soit amendé par adjonction, après “des employés”, de “qui participent au scrutin”.*

That is simply translation corrections.

**Mr. Chairperson:** Amendment—pass.

Does that conclude the amendments from the honourable minister?

**Mr. Toews:** Yes.

**Mr. Reid:** Mr. Chairperson, I move

THAT section 14 of the Bill be struck out.

**[French version]**

*Il est proposé de supprimer l'article 14 du projet de loi.*

**Mr. Reid:** Question?

**Mr. Chairperson:** The question has been put.

**Voice Vote**

**Mr. Chairperson:** Those in favour of the amendment, say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** Defeated.

**Formal Vote**

**Mr. Reid:** Recorded.

**Mr. Chairperson:** A recorded vote, as previously agreed, on division of the numbers.

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

**Mr. Chairperson:** The motion is thereby defeated.

We have some more, do we not?

**An Honourable Member:** I have a motion on 15.

**Mr. Chairperson:** Oh, no, we are not through 14 yet; we have a lot more on 14. The next motion on 14, please.

**Mr. Reid:** I move

THAT the proposed subsection 72.1(2), as set out in section 14 of the Bill, be amended by striking out "Before or after the commencement of a strike or lockout," and substituting "Where, before the commencement of a strike or lockout, the union does not put to a vote the offer of the employer last received by the union,".

[French version]

*Il est proposé que le paragraphe 72.1(2), énoncé à l'article 14 du projet de loi, soit amendé par substitution, à "L'employeur des employés compris dans l'unité de négociation visée par la grève ou le lock-out peut demander, avant ou pendant une grève ou un lock-out," de "Si, avant une grève ou un lock-out, le syndicat ne tient pas de scrutin portant sur la dernière offre qu'il a reçue de l'employeur, l'employeur des employés compris dans l'unité de négociation visée par la grève ou le lock-out peut demander".*

**Motion presented.**

**Mr. Reid:** This, Mr. Chairperson, was an issue that was raised by presenters in the public hearings before this committee last week, where it was referenced that if there are any labour organizations in the province that do not hold votes on the employer's offer prior to the strike action, that this would now become a requirement. I am not sure, I am unfamiliar, if there are any and I have consulted widely in this province. I have been unable to find any organization that does not take a strike vote on the employer's last offer or a vote on the issues affecting the last offer and at the same time determine whether or not strike action would be appropriate. So by this clause, we are saying that if it is not happening that that matter is put to the employees for a vote, that the employer's last offer would be put to the members of the particular union affected and that their will would prevail.

**Mr. Chairperson:** Thank you. Any further discussion?

**An Honourable Member:** Question.

**Mr. Chairperson:** Question? Le question est appeler.

**Voice Vote**

**Mr. Chairperson:** Those in favour of the motion, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

**Formal Vote**

**Mr. Reid:** On recorded.

**Mr. Chairperson:** Recorded by division, as previously agreed.

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

**Mr. Chairperson:** The motion is thereby defeated. The next motion, please.

**Mr. Reid:** Mr. Chairperson, I move

THAT section 14 of the Bill be amended by adding the following after the proposed 72.1(2):

**Definition**

**72.1(2.1)** In subsections (1) and (2), "employees in the unit" means employees in the unit on the day before the strike or lockout began, but does not include any employee who was employed to replace an employee in the event of a strike or lockout.

**Application of subsections (1) and (2)**

**72.1(2.2)** The minister shall not order a vote under subsection (1) or (2) unless he or she is satisfied that the offer is substantially different from any offer that was previously voted on.

**[French version]**

*Il est proposé que l'article 14 du projet de loi soit amendé par adjonction, après le paragraphe 72.1(2), de ce qui suit:*

**Définition**

**72.1(2.1)** *Pour l'application des paragraphes (1) et (2), "employés compris dans l'unité de négociation" s'entend des employés qui sont compris dans l'unité de négociation le jour qui précède le début de la grève ou du lock-out, à l'exclusion des personnes qui sont embauchées pour remplacer un employé dans l'éventualité d'une grève ou un lock-out.*

**Application des paragraphes (1) et (2)**

**72.1(2.2)** *À moins d'être convaincu que l'offre diffère en grande partie des offres précédentes qui ont fait*

*l'objet d'un scrutin, le ministre n'ordonne pas la tenue d'un scrutin en vertu des paragraphes (1) et (2).*

**Mr. Chairperson:** Any comments?

**An Honourable Member:** Question.

**Mr. Chairperson:** The question has been called.

**Voice Vote**

**Mr. Chairperson:** Those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

**Formal Vote**

**Mr. Reid:** Recorded.

**Mr. Chairperson:** A recorded vote on division by the numbers, as previously agreed.

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

**Mr. Chairperson:** The motion is defeated. I believe that concludes the proposed amendments to Section 14 from both sides.

**Mr. Ernst:** May I suggest, Mr. Chairman, a five-minute recess?

**Mr. Chairperson:** A five-minute recess, is that the will of the committee? [agreed]

Committee shall recess for five minutes.

*The committee recessed at 9:30 p.m.*

**After Recess**

*The committee resumed at 9:43 p.m.*

**Mr. Chairperson:** Will the committee please come to order.

Clause 14 as amended—pass.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division, so be recorded. Clause 15—whose is that? [interjection] Wait a minute, not so fast. Mr. Minister, do you have a motion?

**Mr. Toews:** Yes, I do.

**Mr. Chairperson:** May we have it, sir?

**Mr. Toews:** I move

THAT the French version of the proposed subsection 76.1(2), as set out in section 15 of the Bill, be struck out and the following substituted:

**Droit de l'employé de s'opposer**

**76.1(2)** L'employé qui s'oppose à l'utilisation de ses cotisations syndicales à des fins politiques peut en aviser le syndicat par écrit et peut exiger que celui-ci remette à un organisme de bienfaisance qu'il désigne toute partie de ses cotisations destinée à de telles fins, auquel cas le syndicat remet annuellement ces cotisations à l'organisme que désigne l'employé.

**[French version]**

*Il est proposé que le paragraphe 76.1(2) de la version française, énoncé à l'article 15 du projet de loi, soit remplacé par ce qui suit:*

**Droit de l'employé de s'opposer**

**76.1(2)** L'employé qui s'oppose à l'utilisation de ses cotisations syndicales à des fins politiques peut en aviser le syndicat par écrit et peut exiger que celui-ci remette à un organisme de bienfaisance qu'il désigne toute partie de ses cotisations destinée à de telles fins, auquel cas le syndicat remet annuellement ces cotisations à l'organisme que désigne l'employé.

I propose it exactly as written, right just like that. It is in French. It is a translation correction.

**Motion presented.**

**Mr. Chairperson:** What is the will of the committee? Mr. Reid, any discussion?

**Mr. Reid:** On division for that clause when you get to it.

**Mr. Chairperson:** On division, be so recorded. Is it the will of the committee to pass the clause?

**An Honourable Member:** Pass.

**Mr. Chairperson:** The amendment is passed on division, as recorded.

Next, I think we have one more. May I have the next amendment, please. This is an amendment of whom.

**Mr. Reid:** I move

THAT section 15 of the Bill be struck out.

**[French version]**

*Il est proposé de supprimer l'article 15 du projet de loi.*

**Voice Vote**

**Mr. Chairperson:** Those in favour of the motion, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** Nays have it.

**Formal Vote**

**Mr. Reid:** Recorded vote.

**Mr. Chairperson:** Recorded vote, as indicated on the division, by the numbers.

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

**Mr. Chairperson:** The amendment is thereby declined. Next amendment, please.

**Mr. Reid:** I move, Mr. Chairperson

THAT section 15 of the Bill be amended by adding the following after the proposed subsection 76.1(1):

**Mailing to last known address**

**76.1(1.1)** A union shall comply with subsection (1) by mailing once in each year to each employee on the most recent list of the names and addresses of employees provided by the employer a form that quotes this section.

**[French version]**

*Il est proposé que l'article 15 du projet de loi soit amendé par adjonction, après le paragraphe 76.1(1), de ce qui suit:*

**Envoi par courrier à la dernière adresse connue**

**76.1(1.1)** *Les syndicats se conforment au paragraphe (1) en envoyant par courrier, une fois par année, à chaque employé dont le nom et l'adresse figurent sur la plus récente liste que fournit l'employeur, une formule qui cite le présent article.*

**Motion presented.**

**Mr. Reid:** Mr. Chairperson, as I have indicated in my previous remarks, it seems reasonable to request that this amendment be put in place so that the unions can have the widest opportunity and the most accurate opportunity to communicate, as the government wishes them to do under this legislation, with the members that would be in the bargaining unit, not necessarily union members but all members of the bargaining unit. If the names and addresses of the employees are not available, are not provided by the employer, as I have indicated earlier, where some members of that particular bargaining unit may be employed in their own homes, for example, or outside of the particular isolated work area where they can be easily identified, then it seems reasonable to request this amendment that would allow for that list of names to be provided to the union by the employer to allow for the most accurate communication possible to determine the wishes and the will of those employees.

**Mr. Chairperson:** Any further discussion on the motion?

**An Honourable Member:** Question.

**Voice Vote**

**Mr. Chairperson:** The question has been called. Those in favour of the motion, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** Nays have it.

**Formal Vote**

**Mr. Reid:** Recorded.

**Mr. Chairperson:** Recorded vote on division of numbers as previously agreed.

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

**Mr. Chairperson:** The motion is thereby declined. The next motion.

**Mr. Reid:** Mr. Chairperson, I move

THAT the proposed subsection 76.1(2), as set out in section 15 of the Bill, be struck out and the following substituted:

**Right of employee to object**

**76.1(2)** An employee who objects to the use of his or her union dues for political purposes may so advise the union in writing and the union

(a) shall ensure that the dues are not used for a political purpose unless the employee revokes the written notice; and

(b) May use the dues for any other non-political purpose.

**[French version]**

*Il est proposé que le paragraphe 76.1(2), énoncé à l'article 15 du projet de loi, soit remplacé par ce qui suit:*



**Droit de l'employé de s'opposer**

**76.1(2)** *Les employés qui s'opposent à l'utilisation de leurs cotisations syndicales à des fins politiques peuvent en aviser par écrit le syndicat qui:*

*a) à moins que les employés n'annulent leur avis écrit, s'assure que leurs cotisations ne servent pas à des fins politiques;*

*b) peut utiliser les cotisations à toutes autres fins non politiques.*

**Motion presented.**

**Mr. Chairperson:** Any discussion on the amendment?

**Mr. Reid:** Mr. Chairperson, I think it is important here that because the government clearly through their legislation wants the union organizations of this province to communicate with all of the employees in the bargaining unit with respect to use of dues for political purposes, if that is their will and their wish, and a right that has been afforded them under ruling by the Supreme Court of Canada in the Levine case, I believe that the government should accept this amendment which would allow for those dues to remain internal to the union organization for those employees so wishing not to have their dues used for political purpose. I believe the intent of the government is not to financially, at least I hope it is not the intent of this government, to want to financially penalize the labour organization by having those dues turned over to a charity instead of remaining internal to the organization to allow for the, perhaps, in cases of mediation or arbitration or other matters, for which this legislation is now going to impose costs, and that those monies would be better left internal to assist with the payment of those costs.

**Mr. Chairperson:** Any further discussion on the motion?

**An Honourable Member:** Question.

**Mr. Chairperson:** The question has been put.

**Voice Vote**

**Mr. Chairperson:** Those in favour of the motion, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Those contrary, by nay.

**Some Honourable Members:** Nay

**Mr. Chairperson:** The Nays have it.

**Formal Vote**

**Mr. Reid:** Recorded on the number of members we have here in this committee, please.

**Mr. Chairperson:** Yes, the division or the vote shall be recorded as previously agreed by the division of the members so present in the room at this time.

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

**Mr. Chairperson:** The motion is thereby accordingly declined. I believe that concludes the number of motions or amendments on Clause 15. Clause 15 as amended—pass.

**Mr. Reid:** On division.

**Mr. Chairperson:** On division. On division so recorded. Clause 16—pass.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division shall show accordingly. Clause 17(1)—pass.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division, shown accordingly, and it shall pass. Shall Clause 17(2) pass? Now that is one we have an amendment to.

**Mr. Reid:** I move

THAT subsection 17(2) of the Bill be amended by adding the following after the proposed subsection 111(4):

**Where bargaining unit is less than 50**

**111(5)** Despite subsection (4), where the bargaining unit consists of less than 50 members, the remuneration and

expenses of a mediator appointed under section 95 shall be paid out of the Consolidated Fund.

**[French version]**

*Il est proposé que le paragraphe 17(2) du projet de loi soit amendé par adjonction, après le paragraphe 111(4), de ce qui suit:*

*Unité de négociation de moins de 50 membres  
111(5) Malgré le paragraphe (4), lorsque l'unité de négociation comprend moins de 50 membres, la rémunération et les dépenses du médiateur nommé en vertu de l'article 95 sont payées sur le Trésor.*

**Motion presented.**

**Mr. Chairperson:** Any further discussion on the motion?

\* (2150)

**Mr. Reid:** Mr. Chairperson, once again, I think that if the government was not wanting to financially penalize the labour organization, and in particular smaller bargaining units, that the cost that the minister is proposing that will be borne now by the employer and employee representatives for mediation services would be an onerous expense for a small bargaining unit, and they would not, in many cases, be able to sustain this cost. It would prevent and preclude them from taking the opportunity to provide the best representation for their members on matters which would require some mediation services. If financial considerations were an impediment to this process, I think we need to take that into consideration. That is why I have proposed this amendment here today.

**Mr. Chairperson:** Thank you, sir. Any further discussion?

**An Honourable Member:** Question.

**Mr. Chairperson:** The question has been called.

**Voice Vote**

**Mr. Chairperson:** Those in favour of the amendment, indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

**Formal Vote**

**Mr. Reid:** Recorded vote.

**Mr. Chairperson:** Recorded vote shall go as previously agreed by division on the numbers here present in the room.

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

**Mr. Chairperson:** The motion is thereby declined. Now that is 17(2). Clause 17(2)—pass.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division shall be so noted.

Now, we get into 18, and that is where there are some more, is there not? The first portion of Clause 18(1) to be considered, we have a motion from the honourable minister.

**Mr. Toews:** I move

THAT subsection 18(1) of the Bill be struck out and the following substituted:

18(1) Subsection 130(1) is amended by adding "concerning the dismissal or suspension for a period exceeding 30 days of an employee or concerning any other matter that the board considers to be of an exceptional nature" after "thereunder".

**[French version]**

*Il est proposé que le paragraphe 18(1) soit remplacé par ce qui suit:*

*18(1) Le paragraphe 130(1) est modifié par substitution, à "formule un grief sous son régime". de*

*"formule, sous un régime, un grief concernant le congédiement ou la suspension pour plus de 30 jours d'un employé ou concernant toute autre question que la Commission estime de nature exceptionnelle".*

I might just indicate that this amendment, as well as the prior amendment that I have moved in respect of limiting the right of the minister to call a vote was done as a result of consultations that I have had with the members of the Canadian Federation of Labour. I find merit both in the limiting of the right of the minister to call a vote and also to be sensitive to the fact that although expedited arbitration in the area should be on time sensitive matters, we can never foresee when expedited arbitration could, in certain exceptional cases, be required.

Therefore, I have proposed this particular motion to let the board on application determine whether something is of an exceptional nature. So this one and the amendment that I am proposing as follows were as a result of I think very valid concerns raised by the Canadian Federation of Labor.

#### **Motion presented.**

**Mr. Chairperson:** Any further discussion on the motion?

**An Honourable Member:** Question.

**Mr. Chairperson:** The question has been called.

#### **Voice Vote**

**Mr. Chairperson:** Those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay. On hearing none, the Yeas have it. The amendment shall pass.

The next motion, please.

**An Honourable Member:** I have a motion.

**Mr. Chairperson:** Okay, I think then perhaps, if yours is after the fact, I think we have some others on 18(1), so that would be a motion by Mr. Reid perhaps next.

**Mr. Reid:** Mr. Chairperson, not anticipating that the minister was going to amend section 18(1) of the act and, in keeping with the current wording that was in there, I think the minister has neglected to include a very important section that I think needs to be taken care of with respect to this legislation.

I wish to move, Mr. Chairperson

THAT subsection 18(1) of the Bill be amended by adding "or an allegation of harassment, as defined in subsection 19(2) of The Human Rights Code, of an employee" after "employee".

#### **[French version]**

*Il est proposé que le paragraphe 18(1) du projet de loi soit amendé par adjonction, après "d'un employé", de "ou des allégations de harcèlement à l'endroit d'un employé au sens du paragraphe 19(2) du Code des droits de la personne".*

#### **Motion presented.**

**Mr. Reid:** Mr. Chairperson, this was a matter that was raised in committee by way of presentation. It definitely has some grounds I believe that should be included under this legislation. Harassment can take many forms in the workplace, both sexual, racial, and any other forms that are defined under the Manitoba human rights act, and I think that it is important that we recognize that there be some inclusion for this provision to allow for the expedited arbitration process to consider harassment as defined under The Human Rights Code to be part of the expedited arbitration process. That is why I am requesting that this motion be considered.

**Mr. Toews:** Just in respect of this motion, I do not believe this motion is necessary in view of the amendment that I have raised in response to some of the representations that I have heard. Clearly there are remedies under the Human Rights Code itself, which gives a very expeditious hearing and remedy. The reason that I in fact agreed with the Canadian Federation of Labor's submission to me that exceptional circumstances should be taken into account are exactly these kinds of situations which in certain situations may include this kind of situation. I did not want to define it specifically because there are all kinds of exceptional circumstances,

and I want to leave it to the independent good judgment of the board to determine whether something is of an exceptional nature. What I do not want to see is developing a dual track for Human Rights Code violations, both under the Human Rights Code, under this act and then also, as the member for Transcona (Reid) is aware, that they can go on a civil suit through the civil courts.

So there are clearly enough remedies, but I thought that by making the amendment that I have already moved, the concern I believe that the member is raising has already been met. So I do not believe this is necessary.

**Mr. Reid:** Well, I disagree with the minister. He says that there are civil remedies available to people. Yes, that is true. There are civil remedies available to a person, but if your job is at risk or you are under tremendous stress in the workplace as a result of harassment and you are living in a condition where you are living from payday to payday, I find it difficult to imagine how any individual in that type of circumstance would be able to afford or be able to proceed to civil remedy as the minister is suggesting here.

That is why I suggest to the minister that we want to look, and maybe not just limit it to the harassment provisions or the conditions that are defined under the Human Rights Code but include that as a provision in addition to what the minister is proposing in his amendment for exceptional circumstances. That is why I reference the fact that perhaps that action can be taken here to combine the two to allow for the Manitoba Human Rights Code to be included under this section.

**Mr. Chairperson:** Question has been called.

#### Voice Vote

**Mr. Chairperson:** All those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** And contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

#### Formal Vote

**Mr. Reid:** Recorded vote.

**Mr. Chairperson:** Recorded vote shall go on division as previously agreed on the numbers of the members present in the room.

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

**Mr. Chairperson:** The amendment is accordingly declined. That concludes the presentations on 18(1). Shall Clause 18(1) as amended pass?

**An Honourable Member:** No.

**Mr. Chairperson:** Shall pass on division as indicated, and shall be so recorded.

May I have the first motion, please, for amending on 18(2).

**Mr. Reid:** I move

THAT subsection 18(2) of the Bill be struck out.

#### [French version]

*Il est proposé de supprimer le paragraphe 18(2) du projet de loi.*

**Mr. Chairperson:** It has been moved by Mr. Reid that Section 18(2) of the bill be struck out. Question has been put.

#### Voice Vote

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

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

### Formal Vote

**Mr. Reid:** Recorded vote.

**Mr. Chairperson:** Recorded vote shall be recorded as previously agreed by the numbers of the members present in the room.

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

**Mr. Chairperson:** The motion is thereby declined. Clause 18(2)—pass.

**Mr. Reid:** On division.

**Mr. Chairperson:** On division and shall be so recorded. Next motion is 18(2).

**Mr. Toews:** I move

THAT the following be added after subsection 18(2) of the Bill:

18(2.1) Clause 130(5)(a) is repealed and the following substituted:

(a) shall appoint an arbitrator to hear and determine the matter arising out of the grievance, who shall be

(i) the arbitrator provided for in the collective agreement if that arbitrator is available within the time periods prescribed in this section, or

(ii) if no arbitrator is provided for in the collective agreement or if that arbitrator is not available within the time periods prescribed by this section, an arbitrator from the list of arbitrators under subsection 117(2).

#### [French version]

*Il est proposé d'ajouter, après le paragraphe 18(2) du projet de loi, ce qui suit:*

*18(2.1) L'alinéa 130(5)a) est remplacé par ce qui suit:*

*a) nommé afin d'entendre et de trancher la question découlant du grief:*

*(i) l'arbitre désigné dans la convention collective si ce dernier est accessible dans le délais prévus au présent article,*

*(ii) si la convention collective ne désigne pas d'arbitre ou si l'arbitre désigné n'est pas accessible dans les délais prévus au présent article, un arbitre parmi ceux dont le nom figure sur la liste visée par le paragraphe 117(2).*

What this essentially does, Mr. Chairman, is that it addresses a real concern that many people have expressed about expedited arbitration. Recognizing that expedited arbitration does do some very, very important things such as dealing with time-sensitive issues, and as now the exceptional circumstances as have been recommended to me and as I have moved, one of the concerns about expedited arbitration is that it takes the arbitration process out of the hands of an arbitrator that the parties have agreed to in the collective agreement and puts it essentially in the hands of a stranger. I think that is very destructive of collective bargaining, of collective agreements, and the arbitration system generally.

So what I am proposing in this particular situation is that an arbitrator in the expedited arbitration context be appointed who has already been named in the collective agreement by the parties, and this, in my opinion, respects then the collective agreement that the parties have arrived at. There are, however, concerns that what if the arbitrator cannot do it within the time period, then it goes back to the list that the Labour Board presently chooses expedited arbitrators from, and so I think this amendment gives the best of both worlds in that respect. It preserves expedited arbitration and, secondly, it preserves the arbitrator that the parties feel is the best one to interpret their collective agreement. Therefore, I am recommending it to this committee.

**Mr. Chairperson:** Any further discussion?

**An Honourable Member:** Question.

**Mr. Chairperson:** The question has been put.

#### Voice Vote

**Mr. Chairperson:** All those in favour of the amendment, indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary? On hearing none, the amendment is passed.

The next item for consideration is 18.3.

Section 18(3)—pass. Section 19. Now, we have a number of amendments on Section 19. May I have the first amendment, please.

**Mr. Reid:** Mr. Chairperson, I have several amendments under Section 19.

\* (2200)

**Mr. Chairperson:** I believe you both have a number. I will see who is first up through the post here. We have the honourable Mr. Toews on 132.4. What is Mr. Reid's first?—132.2. Let us deal with Mr. Reid's first, it is the earlier number.

**Mr. Reid:** Thank you, Mr. Chairperson. I move

THAT the proposed subsection 132.2(1), as set out in section 19 of the Bill, be struck out and the following substituted:

**Employee may apply to board for access to financial statements**

**132.2(1)** An employee

(a) who is in a unit of employees for which a union is the bargaining agent; and

(b) who is not permitted by the union to inspect, on request during normal office hours of the union, the audited financial statement of the union for the previous fiscal year or a compensation statement of the union for the previous fiscal year, certified to be correct by its auditor, of the amount of compensation the union pays or provides in the fiscal year, directly or indirectly, to, or for the benefit of, each of its officers and employees whose compensation is \$50,000 or more;

may make an application to the board to inspect the statements.

**Board may order union to file statements**

**132.2(1.1)** On receiving an application under subsection (1), the board may

(a) order the union to file with the board a copy of each statement to which the employee has requested access; and

(b) after filing, give the employee access to the statements in accordance with section 132.4.

**[French version]**

*Il est proposé de remplacer le paragraphe 132.2(1), énoncé à l'article 19 du projet de loi, par ce qui suit:*

**Accès aux états financiers**

**132.2(1)** *Peut présenter une demande d'examen des états financiers à la Commission l'employé:*

*a) qui fait partie d'une unité d'employés ayant pour agent négociateur un syndicat;*

*b) qui n'obtient pas la permission du syndicat d'examiner, sur demande, pendant ses heures normales d'ouverture, les états financiers vérifiés de ce dernier pour l'exercice précédent ou une déclaration de rémunération pour cet exercice dont le vérificateur a certifié l'exactitude et indiquant la rémunération que le syndicat paie ou verse au cours de l'exercice, directement ou indirectement, à chacun de ses dirigeants et employés qui touchent au moins 50 000 \$ ou en leur faveur.*

**Dépôt par le syndicat des états financiers**

**132.2(1.1)** *Sur réception d'une demande formulée en vertu du paragraphe (1), la Commission peut:*

*a) ordonner au syndicat de déposer auprès d'elle une copie de chaque état financier auquel l'employé a demandé accès;*

*b) après le dépôt prévu à l'alinéa a), donner accès à l'employé aux états financiers, conformément à l'article 132.4.*

**Motion presented.**

**Mr. Chairperson:** Any discussion on the motion?

**Mr. Reid:** I believe, Mr. Chairperson, this will go a long way towards giving the employee access to the information that the minister says that is currently not being supplied to them, which we know, having

consulted many labour organizations, in fact most labour organizations of this province to find out the practices that they have, and I am told that each and every one of them that I have talked with does provide that detailed financial information to their members at the meetings and that any member so wishing to receive that information and be privy to that, information is made available to them. So what we are requesting here is that that information be made available to the employee through the union, and that if there are any problems that may be encountered with respect to some of the information, that employee can request that information be received from the board.

I do not believe, Mr. Chairperson, that there is a need to be able to punish or penalize the union by suggesting that the employee should have the ability to take that information and distribute it to whomever.

#### Voice Vote

**Mr. Chairperson:** The question has been called. Those in favour of the motion, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Those contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

#### Formal Vote

**Mr. Reid:** Recorded vote.

**Mr. Chairperson:** Recorded vote shall be pursuant to the numbers of the colleagues in the room at the present time, as previously agreed.

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

**Mr. Chairperson:** The amendment is thereby declined.

Can you give them to me in order of sequence? Mr. Reid is next. 132.4. Okay.

**Mr. Reid:** I move

*THAT the proposed subsection 132.4(3), as set out in section 19 of the Bill, be struck out and the following substituted:*

#### **Board to keep certain statements confidential**

*132.4(3) The board shall keep confidential a financial statement or compensation statement, or any part of a financial statement or compensation statement, that is filed with the board under this Part and that is clearly marked by the union or the organization or federation of unions that files the statement as confidential.*

#### **Employee to keep certain statements confidential**

*132.4(4) An employee who is permitted under subsections (1) or (2) to inspect a financial statement or compensation statement shall not disclose to any person other than an employee in the same bargaining unit or union any information obtained from a statement, or any part of a statement, that the union or the organization or federation of unions that files the statement clearly marks as confidential.*

#### **Contravention is unfair labour practice**

*132.4(5) An employee who contravenes subsection (3) commits an unfair labour practice.*

#### **[French version]**

*Il est proposé de remplacer le paragraphe 132.4(3), énoncé à l'article 19 du projet de loi, par ce qui suit:*

#### **Caractère confidentiel de certains états financiers**

*132.4(3) La Commission respect le caractère confidentiel des états financiers ou des déclarations de rémunération, en tout ou en partie, qui ont été déposés auprès d'elle en vertu de la présente partie et que le syndicat ou l'association ou la fédération de syndicats qui les a déposés a clairement indiqué être confidentiels.*

#### **Employé tenu à confidentialité**

*132.4(4) Le employés autorisés en vertu du paragraphe (1) ou (2) à examiner l'état financier ou la déclaration de rémunération ne divulguent qu'aux employés compris dans leur unité de négociation ou faisant partie de leur syndicat les renseignements qu'ils ont obtenus à partir de ces documents ou d'une partie de ceux-ci et que le syndicat ou l'association ou la fédération de syndicats qui a déposé le document a clairement indiqué comme confidentiels.*

***Pratique déloyale de travail***

**132.4(5) *Commettent une pratique déloyale de travail les employés qui contreviennent au paragraphe (3).***

**Motion presented.**

**Mr. Chairperson:** Any further discussion on the motion?

**Mr. Reid:** Mr. Chairperson, I believe that this will provide any employee, if there is any employee, the opportunity to see the financial statement and obtain the information that they are seeking. I am not clear though on whether or not it is the government's intent to want to have this information widely distributed, and perhaps that is their intent, looking at the legislation that is before us. What we are saying here is that the employee will have access to that information and that after they make a request to the board, that the employee will be able to discuss this information freely amongst the members of the bargaining unit, whether they be members of the union or not, but at the same time respecting the rights to confidentiality of the labour organization that is involved. If it is not the intent of the government to have some confidentiality in here, then the only conclusion that I can draw is that they want this information to be used by some individual or individuals intent on discrediting that particular labour organization.

What we are proposing here is that any individual who contravenes this confidentiality provision and disseminates that information in any way other than discussing it or talking about it or dealing with it, with matters of that particular bargaining unit, the person that would do such actions outside of that bargaining unit would contravene The Labour Relations Act and therefore be subject to any penalties or provisions as afforded under that act.

**Mr. Ernst:** Mr. Chairman, just reviewing this amendment, it seems to me that 132.4(5) relates to an employee who contravenes a portion of the act. Now, according to this amendment, it is Section 3 as to contravene, which does not refer to an employee at all. It should be subsection 4.

**Mr. Chairperson:** Shall the record be changed accordingly? Is there agreement to change the 3 to 4 in 132.4(5)? [agreed] May the record show.

**Mr. Ernst:** I would not want to vote against something that was incorrect.

**Mr. Chairperson:** Thank you for those edified remarks, Mr. Ernst. The question has been called, and those in favour—

\* (2210)

**Mr. Reid:** I have a question for the minister on this. Is it the minister's intent to allow the ability of employees who obtain this information either through the Labour Board or from the labour organizations to freely distribute this information to whomever they so choose?

**Mr. Toews:** As I have indicated earlier, what employees do with their information that they are entitled to is their business. It is not government business, and to attempt to restrict employees from using the information in respect of money that they find and restrict it in this kind of a way, I just find abhorrent.

**Mr. Reid:** Well, I am glad that the minister has put that on the record. It is clear that his intent is to undermine the labour organizations of this province. Thank you, Mr. Chairperson. That is all the comments I have on this.

**Mr. Chairperson:** Thank you, Mr. Reid. The question has been called.

**Voice Vote**

**Mr. Chairperson:** Those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** And the contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

**Formal Vote**

**Mr. Reid:** Recorded.

**Mr. Chairperson:** The vote shall be recorded, as previously agreed, by the members present in the room at this time.



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

**Mr. Chairperson:** The next motion to be considered, I believe, will be government motion 132.4(1).

**Mr. Toews:** I move

THAT the following be added after section 132.4, as set out in section 19 of the Bill:

**Employee may request information from union**

**132.4.1** Nothing in this Part prohibits an employee in a unit of employees for which a union is the bargaining agent from approaching the union directly requesting a financial statement or compensation statement of the union or further information about a financial statement or compensation statement of the union.

**[French version]**

*Il est proposé d'amender l'article 19 par adjonction, après l'article 132.4, de ce qui suit:*

**Demande de renseignements**

**132.4.1** *La présente partie n'interdit pas aux employés compris dans une unité à l'égard de laquelle un syndicat est l'agent négociateur de s'adresser directement au syndicat et de lui demander un état financier, une déclaration de rémunération ou tout autre renseignement ayant trait à ces documents.*

I am glad that Mr. Reid clarified on the record that there is no union that would deny this information to an employee, and I just wanted to make sure that the record and that the law do not stand in the way of the employee requesting the union for that information.

**Mr. Chairperson:** Thank you very much.

**Motion presented.**

**Mr. Chairperson:** Any further discussion on the amendment?

**An Honourable Member:** Question.

**Mr. Chairperson:** The question has been called.

**Voice Vote**

**Mr. Chairperson:** Those in favour, indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay. Hearing none, the motion shall pass and the amendment shall be approved.

Mr. Reid's motion next, 132.5(1.1).

**Mr. Reid:** Mr. Chairperson, I move

THAT section 19 of the Bill be amended by adding the following after the proposed subsection 132.5(1):

**Board may refuse certain requests**

**132.5(1.1)** The board may refuse to accept a request under subsection (1) where the board is satisfied that the request, or the number of requests, from an employee is unreasonable or frivolous.

**[French version]**

*Il est proposé d'amender l'article 19 du projet de loi par adjonction, après le paragraphe 132.5(1), de ce qui suit:*

**Refus de certaines demandes**

**132.5(1.1)** *La Commission peut refuser les demandes que des employés font en vertu de paragraphe (1) et qu'elle juge déraisonnables ou frivoles.*

**Motion presented.**

**Mr. Reid:** Mr. Chairperson, this is a matter that was raised during committee hearings where presenters indicated to this committee that they were concerned that an employee intent on disrupting the operations of a particular labour organization in this province could spend a great deal of their time searching out and providing detailed, very detailed, financial information that may be requested by one of those employees so covered under that particular bargaining unit, and that it would consume a tremendous amount of time on the part of the labour organization in fulfilling those requests. What I am proposing here is to permit the Labour Board to have the opportunity to be able to determine whether

or not those requests are unreasonable and unwarranted and then to impose reasonable limitations on such requests, and that they would have the power to make determination whether or not an employee is attempting to be in some ways disruptive, as for example, or some other reasons that may be determined by the board and may seek out that information from the employee why they are seeking out or making so many requests.

**Mr. Toews:** Mr. Chair, the board already has the power to stop abuse of its process.

**Mr. Chairperson:** Thank you. Any further discussion? The question has been called.

#### Voice Vote

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

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it.

#### Formal Vote

**Mr. Reid:** Recorded.

**Mr. Chairperson:** The vote shall be recorded as previously agreed by the number of the members present in the room.

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

**Mr. Chairperson:** The motion is thereby declined.

The next motion is one from the Crown.

**Mr. Toews:** Mr. Chair, I am going to be moving a number of motions, and I will do the one in respect of 132.6(4), but there will be a number of motions that will relate to a more substantive motion to add a clause after 132.6.

I just want to give the context of why I am doing this. Essentially, as a result of discussions and representations made both by the Teachers' Society to me and my officials, as well as the Canadian Federation of Labour, who once again assisted me in drawing to my attention a particular concern. That is, certain unions in respect of the union dues that they take in, they do not just go to core bargaining purposes but also might go to pensions, superannuation, sickness insurance or other benefits. I do not want to see the Labour Board stopping that by their order and that those would be hived off and continue to be sent to the union for the payment of those types of health and welfare schemes while they would have the power to stop the dues for collective bargaining purposes.

Again, recognizing that some trade unions and the Teachers' Society act as a professional organization and not just a collective bargaining, this is a recognition of that reality. Therefore, I will be making a number of amendments. Indeed, the next four amendments that I will be proposing are all related to that particular issue.

So if I can make this motion then:

THAT the proposed subsection 132.6(4), as set out in section 19 of the Bill, be amended by adding “, subject to section 132.6.1,” after “the board shall”.

#### [French version]

*Il est proposé que le paragraphe 132.6(4), énoncé à l'article 19 du projet de loi, soit amendé par adjonction, avant "ordonne", de “, sous réserve de l'article 132.6.1, ”.*

**Motion presented.**

**Mr. Chairperson:** Any further discussion?

#### Voice Vote

**Mr. Chairperson:** All those in favour of the motion, indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, by nay. On hearing none, the motion is thereby carried.

The next motion is consideration of 132.6(5).

**Mr. Toews:** Again, a similar type of motion.

THAT the proposed subsection 132.6(5), as set out in section 19 of the Bill, be amended by adding "or the portion of the amount, as the case may be," after "the amount".

**[French version]**

*Il est proposé que le paragraphe 132.6(5), énoncé à l'article 19 du projet de loi, soit amendé par adjonction, après "le montant", de "ou, le cas échéant, une partie du montant".*

**Motion presented.**

**Mr. Chairperson:** Any further discussion?

**Voice Vote**

**Mr. Chairperson:** All those in favour, indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary by nay. Hearing none, the motion is thereby passed.

Next motion.

**Mr. Toews:** I move

THAT the proposed subsection 132.6(6), as set out in section 19 of the Bill, be amended by adding "or a portion of union dues" after "remit union dues".

**[French version]**

*Il est proposé que le paragraphe 132.6(6), énoncé à l'article 19 du projet de loi, soit amendé par adjonction, après "ne remet pas les cotisations", de "ou une partie de celles-ci".*

**Motion presented.**

**Mr. Chairperson:** Any further discussion?

**An Honourable Member:** Question.

**Mr. Chairperson:** There has been a move to call for the question. Do you wish to speak to this, Mr. Toews?

**Mr. Toews:** No.

**Voice Vote**

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

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary by nay. Hearing none, the motion shall pass.

Mr. Toews for the next motion--yes, okay, to follow in the same sequencing that we have been following, 132.6(4) through (6).

**Mr. Reid:** Mr. Chairperson, I move

THAT the proposed subsections 132.6(4) to (6), as set out in section 19 of the Bill, be struck out and the following substituted:

**Failure to file is unfair labour practice**

**132.6(4)** A union that fails to file a financial statement or compensation statement or revised financial statement or compensation statement within 30 days after being served with an order of the board under subsection (2) commits an unfair labour practice.

**[French version]**

*Il est proposé que les paragraphes 132.6(4) à (6), énoncés à l'article 19 du projet de loi, soient remplacés par ce qui suit:*

**Défaut de déposer**

**132.6(4)** Commettent une pratique déloyale de travail les syndicats qui font défaut de déposer un état financier ou une déclaration de rémunération, révisé ou non, dans les 30 jours de la signification de l'ordonnance de la Commission que vise le paragraphe (2).

**Motion presented.**

**Mr. Reid:** In the bill itself, Mr. Chairperson, what the government is proposing to do is to eliminate the Rand Formula, that we already know has been dealt with by the Supreme Court of Canada, and the ability of labour organizations and their right to use those dues in the manner that best represents the interests of the members of the bargaining unit.

\* (2220)

What we are suggesting here, instead of the removal of the Rand Formula, as an extreme punitive measure, and what you are using here as a government is a sledgehammer to kill a fly. What we are proposing here is that where there are remedies available under The Labour Relations Act of Manitoba for unfair labour practice, that we would propose that these matters where there is and if there is a failure to file a detailed financial statement as is requested, that those particular parties would commit to an unfair labour practice and that they would be subject to the full sanctions as allowed under the law.

Now the minister knows that would involve, I believe, at least a \$2,000 fine, and the minister has the ability through means available to him to amend that level. If he wishes to propose a friendly amendment that would reflect an increase in those fine levels for those that do not comply, I would be willing to entertain such a motion to see an increase in the fine level from the current level of \$2,000 to some other level. It would be in the best keepings if the minister is intent on wanting to bring into line any organization not complying with the will of the legislation, that we use it through the Labour Board itself as an unfair labour practice, and that we do not remove the rights of those organizations to be able to obtain the dues, as is permitted to them under the laws of this province and the laws of this country and have been upheld by the Supreme Court of Canada. So we ask that this matter would be dealt with through an unfair labour practice versus the removal of the Rand Formula.

**Mr. Toews:** I cannot support this amendment. I might just indicate that every union that came before the committee indicated that there was never any problem with obtaining any financial information. So really what we are talking about is an academic exercise here, an exercise that will never occur, if one is to believe Mr. Reid's word and the word of the trade unions, that they

never refuse this financial information. I have no reason to doubt their word, but this does send out a strong signal that not only is their word to be honoured, but if they do fail to honour their word, for some totally exceptional and totally unprecedented reason, that there is a remedy.

The remedy, yes, it is the suspension of Rand Formula, which is simply, Mr. Chair, the quid pro quo. If an employee is required to pay Rand Formula dues, I submit that the union is required to disclose how those dues are spent, and a union, who for some aberration, does not provide the information that Mr. Reid says they always do, chooses not to, they can restore their Rand Formula dues very, very quickly by simply providing the information that they always do anyway. So this might be an academic exercise, but I think it is a worthy statement that this is the quid pro quo. For receiving the benefit of legislation, they also have certain obligations in respect of that money.

In respect of the Levine case, which my friend from Transcona refers to, what the Supreme Court of Canada said very, very clearly is that the rights and duties of employees, employers and unions is not something that the Supreme Court of Canada was prepared to intervene with because essentially free collective bargaining in Canada is free collective bargaining within a statutory framework. That statutory framework is defined by the various legislators, and they said this is a legislative decision, this is not a constitutional issue. So the Levine case was very, very clear on this. It is clear that the Legislature of Manitoba, in granting the right for a trade union to receive Rand Formula dues, may put conditions on that right, that legislated right, and one of the conditions is that they simply account and provide certain remedies if they choose not to account, for some totally unprecedented reasons as is suggested by Mr. Reid.

So I cannot support the provision. I have taken a look at that and I understand that there are problems in terms of an unfair labour practice process. The process that I in fact have brought forward is a simple, straightforward, measured and moderate response.

**Mr. Reid:** Well, at the same time, the minister knows that we can debate the Levine case all night here, but he must recognize that the Supreme Court of Canada decision said that the labour organizations, the unions of this country, have a right and a responsibility to their

members to take certain political actions deemed to be in the best interest of those employees that are being represented and, yet, the minister, through this legislation, is interfering in that process. So you do not support the decision. You are contravening the decision of the Supreme Court and yet you are the minister of a Crown whose sworn duty is to uphold the law of this land and the decisions that are made by those courts.

So if you want to get into a long wrangling about the decision in the Levine case, I am prepared to do that, but I can tell you that you are contravening the decision and the intent of the decision of the Supreme Court of Canada by your interference in the internal affairs of the union, and also in the activities that you are taking here to punish the unions by the removal of the Rand Formula for what should be an unfair labour practice and for which severe financial penalties are available under the current Labour Relations Act for the province of Manitoba.

Now, if the minister wishes to amend The Labour Relations Act to allow for stiffer fines for failure to comply, I told him already that we are prepared to entertain that notion, but I do not think you need to use a sledgehammer to kill a fly as you are attempting to do in this case. Financial penalties that are available currently under the act in the value of \$2,000, which can be amended by this minister, should be incentive enough for any organization wishing not to comply with the wishes of this act.

That is why I say to the minister, there is no need to remove the Rand Formula that is there. You do not need to use that sledgehammer to kill the fly. We have available severe financial penalties, and, like I said to you, if you do not think it is stiff enough, just talk to those small bargaining units and ask them if they can afford to pay that \$2,000 fine that could be levied on them now under The Labour Relations Act for the Province of Manitoba. Because I suggest, Sir, that you will find that they will comply as they should comply with the wishes of their members for that financial information and, if they do not comply, that there are stiff enough penalties there that will be a financial incentive for them to comply with the wishes of your act and that there is no need to remove the Rand Formula.

I think it is purely ideologically driven on your part and that it is the wrong decision for the problem that you

perceive to be out there. One of the questions that you have never answered for this committee or for members of the House is, who is requesting that these changes be brought in to remove the Rand Formula? Because I have consulted broadly and widely throughout the province of Manitoba to find out if any, any person, any working person of this province has ever been denied the opportunity to see financial information and to find out if they were one of the 12 people of this province to ask the minister to bring in amendments to The Labour Relations Act.

As we found out at this podium in this room when the members of the public came forward to make their presentations, none of them were consulted by this Minister of Labour for the amendments that we have before us here today. So you did not consult with anybody of the presenters that came here and, unless you know of some other individual parties that you have not indicated, I think you should put on the record now who it is that you consulted with this bill. Because we did not see any of them come before this committee here, unless perhaps it was the Premier's personal advisor, Mr. Kelly. Because that is the information that is available, that Mr. Kelly is advising the Premier. Perhaps it is the Premier that is driving this agenda and that the Premier wants to remove the Rand Formula from the labour organizations of this province. I can tell you, Sir, that that is the wrong decision.

You do not need to kill the fly, if there is a problem, by using a sledgehammer. You can use the financial penalties that are currently there under this act. I ask you, I am asking you to define and to clarify for the members of this committee who it is that has requested that you come forward with this legislation. We have got over 110,000 organized labour people in this province, people that belong to labour organizations. The organizations that came before this committee, I asked them all who came here, did you request this information? Were you consulted on this information? The reply was in the negative. So who is it that you, as Minister of Labour, consulted with on Bill 26? I need to know. I think the public has a right to know what is driving this agenda.

\* (2230)

You say it is not ideology. If it is not ideology, who is coming to you with complaints? Considering we have,

what, 470,000 working people in the province of Manitoba, of which at least 110,000 belong to labour organizations, if you want to proceed with this bill, you better be prepared to tell this committee and the members of this House, who it is that is driving this agenda. How many of those 110,000-plus people came to you and requested this information? I have been in this House for six years, over six years, and I have not had one complaint about The Labour Relations Act of this province, no one coming to me and asking for this type of legislation to be brought to this House.

I suggest to you, Sir, that you are wrong, that the only thing that is driving you for this labour legislation and the members of your committee here today and the members of your party, is an ideological bent to punish the labour organizations in this province for their actions that they took to represent their members' interest during the provincial general election in 1995. That is your intent here, to punish those organizations and, in turn, the members of those organizations. You are taking these punitive financial measures and other measures in this bill to get your pound of flesh. I think, Sir, the consequences will be reaped upon you and your party in the future as a result of this decision.

**Mr. Toews:** Just in response to some of the statements of the member for Transcona (Mr. Reid), first of all, it is ridiculous to think that this is done in any punitive way. It is just simply ridiculous. Do you think that for one moment, Mr. Chair, that I would bother going through all these various amendments to punish the trade unions when the simplest thing that this party could do is simply abolish the Rand Formula and have the unions go cap in hand to their members to collect their union dues, like it was before 1976, and the way that Mr. Sid Green suggested it should be, before he brought in Rand Formula in this province, something he admits was a mistake? It is simply ridiculous ranting by this member to suggest something as ludicrous as that. To suggest I would go to these lengths to go to a measured approach is just beyond belief.

Just very, very simply, Mr. Chair, the unions have a choice. The unions can continue to collect their legislated dues if they so choose to, if they comply with the condition of disclosing what they do with those dues. That is a choice. It is not the government killing the fly with the hammer. It is the union saying, we will disclose

that information and thereby get the benefit of Rand, or we choose not to give that information, and then go back to its membership and get the dues on a voluntary basis. It is as simple as that. It has got nothing to do with ideology. It has got something to do with responsibility and the true purpose of the trade union which is to represent its members and not simply to feed money into a machine that has no accountability back to its members.

**Mr. Chairperson:** The question has been called. Those in favour—oh, I am sorry, Mr. Reid.

**Mr. Reid:** I thank the minister for his generosity. He has made the statement once before and he has made it again here tonight. I find it abhorrent that this minister would make such a statement that he and he alone has the power to remove and abolish the Rand Formula and to abolish sections of The Labour Relations Act. You, Sir, are not a dictator. We have a legislative and a democratic process—

#### Point of Order

**Mr. Toews:** On a point of order, I might just indicate that in no time in my statements did I say that I had the power to do anything of that. I simply suggested, do you think that I would go to these types of lengths when the government could in fact take the bill, if that was truly their motivation, and abolish Rand Formula.

I just wanted to put it on the record. I know the member has trouble with hearing from time to time, but I know that the members of the public have no problem with reading my comments.

**Mr. Chairperson:** The Chair would find that this is not a point of order but rather a dispute on the facts, and I would invite Mr. Reid to continue.

\* \* \*

**Mr. Reid:** Thank you, Mr. Minister, for your generosity in not abolishing other sections of The Labour Relations Act. Is that what you want us to do, to bow down to you and say that we are very pleased that you did not abolish other sections in here and we should be thankful for what you have given us through this legislation? Because that is what you want us to do here today. That is the context of the comments that you made by saying that you could

have gone a lot further, and you had the power to do it, but you showed generosity to the working people of the province of Manitoba. How kind of you. I think, Sir, you misunderstand that we have a democratic process in this province, and what you are attempting to do through this legislation, through Bill 26, is undermine the principles of democracy in the province of Manitoba and as our practice in our country of Canada.

You have undermined that principle in this legislation as you have done on several other pieces of legislation, several of which you tabled in this Legislature, including Bill 73, including Bill 49, including Bill 54, and we can go on and on about the undemocratic way that you and your government have acted to the working people of this province. You have shown great disrespect for the democratic process, and we will not let you forget that you are undermining that process and you do not respect democracy in this province and that you are attempting to undermine that democracy again in the unionized workplace by the provisions that you have here. This is not a democratic piece of legislation. You are attempting to circumvent and to undermine and to destroy in a very subtle way the labour organizations of this province, and we will not go to you on bended knee and say that we are thankful that you did not take further steps with respect to the labour legislation of this province, because we will not kneel to you, Sir. We do not have to do that. We are a democracy here, you are not a dictator, and we say that this legislation is the wrong step.

You are only doing this legislation to punish the labour organizations, including the teachers who, for the first time, will be brought under The Labour Relations Act for the province of Manitoba and have to report the detailed financial matters to their members and at the same time not provide for them other provisions under The Labour Relations Act for the province of Manitoba. So it is very obvious that you want to do this in a punitive way. The teachers were one of the groups that did the extensive advertising on the issue of public schools funding for the province of Manitoba, and you are attempting by way of this legislation to punish those teachers.

You are punishing the public sector unions, who took a strong stand to protect public sector services in the province of Manitoba. You are punishing them for taking the stand that they did, and you are punishing others, including health care workers, for the stand that

they took to protect the vital health care services in the province of Manitoba. You are not doing this for democratic reasons. You are doing this to be punitive, to seek your pound of flesh, but I tell you, Sir, that there will be a day of reckoning for this and this bill that you have brought forward.

**Mr. Chairperson:** The question has been called and I would put it to the members of the committee. This is the motion on 132.6(4), a motion by Mr. Reid, Failure to file is an unfair labour practice.

#### Voice Vote

**Mr. Chairperson:** I invite those who are in accord with this motion to indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Those who are contrary by saying nay.

**Some Honourable Members:** Nay.

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

#### Formal Vote

**Mr. Reid:** Recorded vote.

**Mr. Chairperson:** The recorded vote shall go as previously agreed.

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

**Mr. Chairperson:** It is representative of the members who are in the committee room at the present and shall be so recorded.

We are next to consider an amendment by the Honourable Mr. Toews on Section 19, amending 132.6.

**Mr. Toews:** This is the substantive motion that I indicated I would be moving in consequence of the previous motions that I have made, and I move

THAT section 19 of the Bill be amended by adding the following after the proposed section 132.6:

### Consideration of professional, insurance and other benefits

**132.6.1** If, in the case of a particular union, the board is satisfied that a portion of the union dues deducted from the wages of employees in a unit of employees for which the union is the bargaining agent is used to maintain the professional status of those employees or is used in respect of pension, superannuation, sickness, insurance or other benefits for those employees, the board shall limit an order under subsection 132.6(4) to apply only to that portion of the union dues that is not used for such purposes.

#### [French version]

*Il est proposé que l'article 19 soit amendé par adjonction, après l'article 132.6, de ce qui suit:*

#### *Cotisations professionnelles et autres avantages*

*132.6.1 Si, à l'égard d'un syndicat en particulier, la Commission est d'avis que la part des cotisations syndicales retenues sur le salaire des employés compris dans l'unité à l'égard de laquelle le syndicat est l'agent négociateur est utilisée pour maintenir le statut professionnel de ces employés ou à l'égard d'un fonds de pension, d'un régime de retraite, d'une police d'assurance-maladie ou de tout autre avantage dont bénéficient ces employés, elle restreint l'ordonnance rendue en application du paragraphe 132.6(4) de façon que celle-ci ne s'applique qu'à la part des cotisations syndicales qui n'est pas utilisée à ces fins.*

**Mr. Chairperson:** Any further discussion on the motion?

\* (2240)

#### Voice Vote

**An Honourable Member:** Question.

**Mr. Chairperson:** Question. Question has been called.

Those in favour of the motion, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** And those that are contrary, by saying nay.

Fine. On hearing none, the motion shall pass accordingly.

The next motion is one by the honourable Mr. Toews, which is to amend 19 of the bill, referring to 132.8.

**Mr. Toews:** This particular motion is a motion which essentially allows some additional time to the unions to file financial and compensation statements with the board, and accordingly I move

THAT the following be added after the proposed section 132.8, as set out in section 19 of the Bill:

#### Extension of time

**132.8.1** Notwithstanding section 132.2, the first disclosure may be made at any time before February 15, 1997.

#### [French version]

*Il est proposé d'ajouter, après l'article 132.8, énoncé à l'article 19 du projet de loi, ce qui suit:*

#### *Prorogation de délai*

*132.8.1 Malgré l'article 132.2, la première divulgation peut avoir lieu à tout moment avant le 15 février 1997.*

**Mr. Chairperson:** Any discussion on the motion?

#### Voice Vote

**An Honourable Member:** Question.

**Mr. Chairperson:** The question has been called.

Those in favour of the motion, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Those contrary by nay. On hearing none, the motion is passed.

Clause 19 as amended—pass.

**An Honourable Member:** On division.



**Mr. Chairperson:** Passed on division and shall be so recorded.

Clause 20—pass.

**An Honourable Member:** On division.

**Mr. Chairperson:** Shall pass on division and shall be so recorded.

Clause 21. Do we have any further amendments?

**Mr. Toews:** This particular motion again is as a consequence of the earlier motion that I made, and it relates to extending the time for filing, and I move

THAT section 21 be amended by striking out "January 1, 1997" and substituting "February 1, 1997".

**[French version]**

*Il est proposé que l'article 21 soit amendé par substitution, à "1er janvier 1997", de "1er février 1997".*

**Mr. Chairperson:** Any discussion?

**Voice Vote**

**An Honourable Member:** Question.

**Mr. Chairperson:** The question has been called.

Those in favour of the motion, please indicate by saying yea.

**Some Honourable Members:** Yes.

**Mr. Chairperson:** Nay by contrary. On hearing none, the motion shall pass.

Shall Clause 21 as amended pass?

**Some Honourable Members:** No.

**Mr. Chairperson:** By division?

**Formal Vote**

**Mr. Reid:** Recorded vote.

**Mr. Chairperson:** Recorded vote. There shall be a vote recorded as previously agreed by representation of the members here present in the Chamber, or in the committee room.

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

**Mr. Chairperson:** Mr. Toews, on a renumbering motion.

**Mr. Toews:** I move

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

**[French version]**

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

**Mr. Chairperson:** Any discussion. None.

**Voice Vote**

**Mr. Chairperson:** Those in favour of the motion, indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Contrary, if any.

**An Honourable Member:** Nay.

**Mr. Chairperson:** All right.

**Formal Vote**

**Mr. Reid:** Recorded.

**Mr. Chairperson:** Recorded vote, and the vote shall be recorded as indicated as previously agreed by representation of the members present here in the Chamber, in the committee room.

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

**Mr. Chairperson:** Preamble--pass; Title--sorry. Stop. Back to Mr. Reid.

**Mr. Reid:** On division.

**Mr. Chairperson:** On division. The preamble shall pass on division and shall be so recorded. Shall the title pass?

**Mr. Reid:** No. On division.

**Mr. Chairperson:** All right. The title shall pass on division and shall be so recorded. Shall the bill as amended be reported?

**Mr. Reid:** No. I have some questions I would like to ask of the Minister of Labour because there are some provisions of the act, and I have requested draft regulations for this bill and other bills that this Minister of Labour has tabled. The Minister of Labour is going to allow for the Labour Board to take into consideration exceptional circumstances for extending the holding of a secret ballot vote in the process of certification. I would like for the minister to define for me what he means by "exceptional circumstances."

**Mr. Toews:** Well, I leave that to the board to determine. The board is a judicial body. I do not want to interfere improperly. I believe that the board will consider all appropriate circumstances and determine whether or not in any case in which it has to rule on the phrase "exceptional circumstances," it will, in fact, come up with an appropriate ruling.

I know that some members from time to time feel that one should restrict these tribunals. I have looked at that issue, and in this particular case I think that the wording as presented is adequate, and I trust the judicial capabilities of that board.

**Mr. Reid:** I want to ask the Minister of Labour, will funding or lack thereof, of resources available to the Labour Board be one of those exceptional circumstances?

**Mr. Toews:** Generally speaking, lack of funding is not an exceptional circumstance, and I have instructed my deputy to continue discussions with the chairperson of the

Manitoba Labour Board to ensure that the board has a reasonable amount of money to carry out its necessary duties.

**Mr. Reid:** Does the minister mean by making that statement that, since the Labour Board has already stated for the minister's ears when the minister was present in their company that they are having difficulty under the current funding arrangements that this government affords to them, having difficulty meeting their mandate--is this minister proposing to have some alterations, some increase of funds, to allow the Labour Board to operate and fulfill the mandate of Bill 26, Bill 73 and other pieces of legislation this government has tabled that will place burdens upon the Labour Board resources?

**Mr. Toews:** I recognize that there are particular challenges that will arise as a result of this legislation, and I will be making submissions to my colleagues in government to ensure that the board receives an appropriate degree of funding.

**Mr. Reid:** Can the Minister of Labour tell me why in the fall of last year he travelled the province meeting with various labour people throughout this province saying that there would be no changes to The Labour Relations Act of this province and then come forward in the spring of '96, just a few short months later, with Bill 26?

**Mr. Toews:** Almost from the day that I started this position, I told labour union leaders and others that, generally speaking, I believed that the act in respect of the relationship between employers and unions was fairly balanced. That was my own personal view, and, to a large extent, I agree with that opinion. Where I find the act is very, very deficient are those areas that I have moved in to amend it to ensure that there is an appropriate degree of balance between the power of a trade union and the individual employee.

So the legislation goes to remedy that balance to ensure that employees in fact can direct their unions to carry out their wishes. Every union leader that I talk to, I made that clear. I made that clear to Mr. Desjarlais when I sat down and talked to him in the union hall in Thompson. I made that clear to Bernie Christophe when I sat with him and his table officers in Kenora. I have indicated it time and time again to anyone who would listen that that was my intent.

If the member feels that there should be additional changes to the act in respect of the balance of the employers and the unions, I will look at that. But at this time we will see how these particular amendments work to address what I consider the greatest challenge, and that is the area of imbalance between the employee and the trade union. So I do not know what especially the member is referring to, but that has been my position. I have been consistent from the beginning in that respect.

**Mr. Reid:** Well, the minister will recall quite clearly his meeting with Mr. Desjarlais, and, of course, Mr. Desjarlais, who represents the Steelworkers 6166 in Thompson, was standing at this podium here, Sir, in this room telling the minister and reminding the minister of the words that he spoke to Mr. Desjarlais, that there was no need to make changes to The Labour Relations Act. In fact, if I can quote the words of Mr. Desjarlais when he appeared before committee, he called this minister a bald-faced liar because this minister did not live up to his words that he had spoken to Mr. Desjarlais in the fall of 1995 and that this minister then came forward with Bill 26, totally contrary to the word that he had given to Mr. Desjarlais.

\* (2250)

How can you, Sir, in good conscience, sit there and say that you are not going to make changes to The Labour Relations Act of this province, go around the province and tell the working people of this province and then come forward with Bill 26? How do you balance that out?

**Mr. Toews:** Well, Mr. Chair, I went to Thompson with my deputy minister. My deputy minister sat during those meetings. I explained all those amendments and those proposals in a very general way to Mr. Desjarlais. Mr. Desjarlais basically, while not agreeing, did not seem to think that these were radical proposals. However, about three or four weeks later he attended in my office and had another view of the proposals that I made to him, and suddenly his story changed. Now I do not know what happened in the interim, but, certainly, it would have been consistent with what I have been telling other labour leaders. For some reason, perhaps, Mr. Desjarlais, on reflection of the statements that I made, felt that the statements that I made were no longer as agreeable to him as they first appeared to be.

**Mr. Reid:** Well, then, perhaps the minister can explain because he is going around the province and talking to the working people of this province, saying that there is no need to make changes to The Labour Relations Act and a few months later goes back on his word. We also have the comments that were made by the previous Minister of Labour who stated in September of '94, when being interviewed, that there was no need to change The Labour Relations Act. So we have two successive ministers of Labour saying the same thing, and then within months you totally reversed your position. How do you expect to have any credibility with the working people of this province and with the labour organizations of this province if you state one thing to them in private meetings and then you come out and do something totally opposite? How do you expect to have any credibility with those people?

**Mr. Toews:** Well, I do not know whether you inadvertently made a distinction between labour leaders and working people. I assume that working people are also labour leaders, because I do respect them as well, and I am sure that was only inadvertent on the member's part. Labour leaders are also working people.

What I in fact indicated at that time, as I have indicated to every single labour leader that I have ever spoken to, I said that the balance vis-à-vis employers and unions, generally speaking, as far as I am concerned, was a fair balance, generally speaking, and I certainly never made any indications that I would not be proposing any amendments. In fact, when I sat down with Mr. Desjarlais at my very first meeting, I outlined to him--and my deputy minister was sitting right beside me when I made those statements to Mr. Desjarlais--and I indicated that this would be the direction I was moving in. I also said the same thing to Mr. Bernard Christophe, and we had a long discussion, he and his table officers, in respect of every single one of these amendments that I have brought here, not specifically but generally. That was as early as last fall. I know Mr. Christophe wanted to speak to me on those matters, and I accommodated him by going out to Kenora and meeting at his annual meeting or table officers' meeting or whatever it was. So, for the member to continue suggesting these kinds of things, there is nothing that I can do to change his mind, but I think that I will have to continue respectfully to disagree with his version of the facts.

**Mr. Reid:** Can the minister tell me, is he, his department or his cabinet colleagues or his government contemplating any further changes to The Labour Relations Act?

**Mr. Toews:** Well, you know, Mr. Chair, it must be a lot like, I am reminded of the MTS thing, and I do not want to get into the MTS thing here necessarily, but in 1908 MTS looked like a natural monopoly. Indeed, one of the favourite topics of the member for Transcona, railroads in the last century seemed to be a natural monopoly, and railroads would never change and rail jobs would always be there and things never change, and then, surprise, surprise, the world changes and you have got to make changes to keep in touch with those changes.

You know perhaps, prior to 1976, if one asked Mr. Sid Green whether he was ever going to bring in Rand Formula as legislation he would have said: No, I do not see any need for it. Yet for some reason he did. Circumstances change; people may have influenced him; union leaders may have told him it was a good idea and he succumbed in a weak moment, as he seems to suggest he did. [interjection] Well, I know even Sid must have his weak moments, but I have the highest respect for Mr. Sid Green. Again, I have not chosen to go that he has suggested that I ought to have, and my colleagues in government have not chosen to go that way, and, you know, I do not have a crystal ball. I do not know what is going to happen tomorrow, but what I will do is to assure the member that when I act, I act in the best interests of all Manitobans.

I believe that what I am doing here is not harmful to the trade union movement. I believe that this will, in fact, strengthen the trade union movement. This will give the trade union movement a credibility that there will never be any question that a trade union represents a certain group of employees.

I have nothing in that respect to say that what I am doing here is destructive of the trade union movement. I believe that the trade union movement has a future in Canada, and it is a feature as a partner with business, as a partner with government. That is the way we should be moving.

**Mr. Reid:** I am not going to let this pass, because it is this government that has been in office for the period of

time that we have seen the worst reduction in rail jobs, I believe, in the history of this province. It was this government that brought in the reduction of the fuel tax and got absolutely nothing in return. You did not even ask for a quid pro quo to allow for the protection of jobs and gave away millions of dollars of tax revenue that the province obviously needs, and you gave it back to the railways and got no job protections and we have lost thousands of jobs since then. So let not the Minister of Labour talk about railways and say that things are great and wonderful in the rail industry and they will never change. We told you at the time there were changes occurring, and if you want to protect employment in this province, you had better take the steps necessary to get something in exchange for the fuel tax revenue that you were giving up. You chose not to do that. That was a conscious decision on your part.

That is why I asked this Minister of Labour the question: What changes are you contemplating? And what you are responding here today is that you may be contemplating further changes to The Labour Relations Act during the term of this government. That is the only conclusion that I can draw from the answer that the Minister of Labour gave. With that, Mr. Chairperson, I will conclude my remarks.

**Mr. Chairperson:** We were discussing the point of, shall the bill as amended be reported? Agreed?

**Some Honourable Members:** Agreed.

**Mr. Reid:** No.

**Mr. Chairperson:** And that is on division.

**Mr. Reid:** It is on the vote.

**Mr. Chairperson:** The question to the committee is: Shall the bill as amended be reported?

#### Voice Vote

**Mr. Chairperson:** Those in favour of reporting the bill as amended, say Yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Those contrary, say nay.

**Some Honourable Members:** Nay.

The vote shall be recorded as previously agreed on division, represented by the members present in the room.

**Mr. Chairperson:** In my opinion, the Yeas have it.

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

**Formal Vote**

**Mr. Reid:** Recorded vote.

**Mr. Chairperson:** That concluding the business of the committee tonight, committee rise.

**Mr. Chairperson:** Recorded vote.

**COMMITTEE ROSE AT:** 10:58 p.m.