Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

Chairman
William Jenkins, M.L.A.
Constituency of Logan

8:00 p.m., Tuesday, June 8, 1976.

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THE LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON INDUSTRIAL RELATIONS
8 p.m., Tuesday, June 8, 1976

Chairman - Mr. William Jenkins.

MR. CHAIRMAN: The Committee will come to order please. Mr. Art Coulter on Bill No. 16.

BILL NO. 16 - THE WORKERS COMPENSATION ACT

MR. COULTER: Bill No. 16, The Workers Compensation. Well, Mr. Chairman and gentlemen, we're very pleased with the many amendments that are being brought into the present Act to update it and to clarify some points particularly with regard to the question of sex. Probably I should start at the beginning of the bill and refer to these as we see them.

The very first item recognizing common law wives is changed to common law spouse, and wife changed to person. This would appear to include a husband as well as wife, common law, for eligibility of benefits. We think that that is good. We don't know where all this leads to with regard to The Human Rights Act, but when you get into No. 2 we find that for some reason you're still using the masculine gender there and this section here really rearranges definitions of dependants, particularly partial-dependent persons. It seems to be at variance with the amendment that we just spoke about in No. 1 as it deals exclusively with masculine gender. We wonder whether this is an oversight or not or whether it shouldn't be written in just a little different way. To do that I would think that small g. dependants means those persons of the family of a worker instead of workman who were wholly or partially dependent upon "that person" instead of "his" earnings at the time of death. It's got "his" death but I think we can take it that it's the death of the person we're talking about, who but for the incapacity due to the accident of the "worker" instead of "workman" again would have been so dependent but a person shall be deemed not to be partially dependent upon the earnings of another person unless "one" was dependent partially instead of "he" was dependent partially on the contributions from the other person for the provision of the ordinary necessities of life.

I think you might look at that to try to bring it in line with the intention, I'm sure, that was provided in No. 1 to get away from whether it's a woman or a man. The same thing would follow here I think. They can be dependants of a woman as well as dependants of a man. We have many women in the workplace now so that I suggest that you look at that.

The other sections 4 and 5 are bringing in voluntary ambulance drivers the same as voluntary firemen. That's a good thing. Getting down to 7 with respect to the same voluntary firemen, raising the minimum from $250 to $400, those are all in line with the new values that we now have in the Act - the voluntary ambulance people the same way.

We go on right down to the bottom item No. 11 and that is the one that removes farm labourers from being excluded from the legislation. Here again we have to appreciate the fact that you're now bringing these people under the legislation. I think that it's long overdue. It starts to deal with the questions that were raised the other day with regard to whether a person should have to earn more than $1,000 before he becomes injured to get benefits. Really that could hardly be a criteria for saying whether a person warrants benefits or not. I don't think that you should accept anything of that nature.

The cost of this may be somewhat imposing on farmers. I think, though, that you might look at maybe some other way of collecting these assessments that could be agreed to by the agri-business sector. It might be based on product. There has to be some means of equity in deriving the money required to pay for these benefits and I think that that might be one way that you might look at to raise it. There's no question that you shouldn't have second-class workers, one that works for a few days or a week or a month, then being disentitled, and others that are working a bit longer would qualify. I think that this is a step in the right direction and I hope you go all the way.

(MR. COULTER cont'd)

No. 12 sets out that in cases where an individual has the right to make a claim in two jurisdictions, once he has commenced a claim in the other jurisdiction then he cannot later claim in Manitoba. We see this as a dangerous thing. We would sure like to know the purpose of the section. If a person makes an attempt in another jurisdiction rightly or wrongly and if it is not suitable there, surely it shouldn't stop him from proceeding in Manitoba if he has otherwise a rightful claim in this province. I think there has to be some real compelling reason why that clause is in here to put into the Act. I think it's a dangerous one and one I don't think that should be accepted by the committee without some real serious reasons for it. We've got along without it for many years. You might be putting it in to protect the Compensation Board in some extreme cases but you might be eliminating a legitimate claim otherwise that would be considered if this was not there. I suggest that you look pretty closely at that section as to really whether it's warranted or not.

No. 13 dealing with Section 21(4) changes "suspension for immorality" to "living as though married." We've had objections to this section being in the Act previously. The changing of the wording really doesn't alter our objections or the situation and we suggest that that should be looked at again as to whether that section should be in the Act at all. We question it. As a matter of fact we suggest it should not be there in this day and age.

No. 14 deals with Clause 21, subsection 5. It is amended by striking out the word "wife" and substituting therefor the word "spouse." "When the workman is not residing in Manitoba and the spouse is likely to be a charge on the municipality." Again this amendment deals only with masculine gender. Here I think that you have to look at that again as to whether that's appropriate. But in looking at this question of spouse, checking dictionaries, we see that spouse is husband or wife through marriage and it should show recognition of that. But in going a little deeper in the dictionary the old English says a spouse was a male and spousee was the female. I just wonder whether the true intent here needs to be clarified or whether you're satisfied. --(Interjection)-- Well as long as you're satisfied that the intent is that it be either man or wife then we think that the section here should be looked at with regard to it referring here pretty well to the masculine gender.

Sections 15 to 20 all deal with raising allowances for widows, invalid widowers and children. We appreciate this adjustment and I'm sure that they are going to be accepted by the individuals that are in need of them. That's well worthwhile.

Item No. 21, Section 25 (1) and 25 (12), 25 (13) amend to provide compensation for spouse rather than widow or invalid widower. The same comment as 14 that we mentioned before. But I guess that that will be accepted.

Item No. 22. Here again we insert the word "spouse" for "widow" and increase the allowance from $650 to $750. We agree that that is good and it deals with the common law wife the same way as a "spouse."

No. 23, though, deals with Clause 27 and this is where a widow has been on pension remarries and heretofore she was allowed a cash payout of the equivalent of 24 months at $150 a month - that's two years which totals $3,600. Now the monthly amount is $400 and if you're using the same time span that would be a cash payout of $9,600. However, you still use the same limitation of $3,600. We wonder whether that's justified under the principles that were adopted before, that the widow should have at least two years in compensation payments as a cash settlement instead of the equivalent of 9 months under this particular change. So we suggest that you look at that one and see whether that's really equity or playing the game as it was played before. We suggest it's not and we would hope that you look at that.

No. 24 increases the minimum of $250 per month to $400. This is for permanent total disability. There's a number of these. We agree that they're all proper and appreciate them in raising the date as before January 1st, 1974 to January 1st, 1976, that makes that adjustment.

Now Item No. 26, Clause 31(2) deals with increases for past pensions. Here again we appreciate the fact that this is really an indexing of pensions to cope with the cost of living; 22.9 percent for those that have been in existence prior to January 1, 1974,

(MR. COULTER cont'd) . . . . . and 10.4 for the year later. But we're disturbed again at the fact you're excluding those that earn pensions less than 10 percent. We can't find any real reason or thinking as to why individuals with 8 or 9 percent or even 5 percent of a pension are denied an adjustment upwards because of the cost of living. Surely if the percentage disability rating was established originally to reflect a disability related to earnings then that is getting further and further behind by omitting them in having the periodic adjustments. They were missed last time. I know that previously those at 10 percent were excluded and the words "of less than 10 percent" were changed at the last session, I think it was, that really brought in a large group that were at 10 percent. But we still have a number at less than 10, and surely in this day and age with the computer the adjustment on these things shouldn't be that difficult for the Commission to figure out and provide that adjustment to these people. Otherwise I think that they can feel that they have not been dealt with fairly and as I say again, there is no justifiable reason that we can see why they shouldn't be taken care of in the same and like manner. They shouldn't be considered second class citizens.

Items 27 and 28 are all raising the $250 to $400, and getting to the next one, item 29, Section 34(1) finally brings in the provision whereby the Commission can now look at pre-existing condition cases that were on record prior to July 11th, 1972. We do appreciate here the fact that you are at the same time recognizing that if such a case were approved that the compensation could not be made back any further than July 1st, 1972, because you never know what that is. But I think that there's only a handful of these cases that we know of.

If I may say so, Mr. John Huta is one of them. We've looked at his case many many times and the board has consistently said that the legislation of 1972 prohibited them from looking at his particular case. Now there may be other ramifications to that particular case but I think that this at least opens the door for the Commission to look at those. We do appreciate this amendment to the Act that really gives those people an opportunity to be heard at least once again on the merits of their case as it would be if it was under present day conditions, and recognizing pre-existing conditions being enhanced by an accident.

I think we can skip right down to No. 34 Clause 91(a). The Act is amended to provide that the assistance officer may assist claimants other than at board hearings. Now this does, to some degree, meet our request for legislation to provide for workers compensation advocates. It is hoped that this individual will be fulfilling that function. The only thing that we are a little disappointed in that the amendment didn't go all the way to give him a title that would be recognized as providing a function to claimants who now feel - and you've heard many of them here before you at this sitting and many others - a feeling that there's nobody over there on Maryland Street that is interested in their case, willing to help them and consequently they feel that they've been hard done by. I think that the very fact that you have such a person titled and identified as providing a function for the claimant that it would go a considerable way to easing the minds of those people that are now somewhat disturbed. I might say many of them become neurotic because of the fact that they are frustrated in that they don't see justice being done. I have more to say on that a little later on because we've done a considerable amount of study in that area, but I'll go through the other sections.

I don't think that there is very much more other than 35 brings in agricultural and horticultural people as well. That's good, the same as the farmers. The cost here again being amortized over seven years is an acceptable one notwithstanding the objections of the CNR in the light of having to absorb the cost of this which we say is passed through in any case and it's far better there than it is in the general revenue of the province.

Now item No. 37, we would like some clarification on because I haven't been able to find exactly the purpose of this particular section. We were wondering whether this refers to the repeal of pre-existing limitations because you're referring back to 1972. At the present time to our knowledge there is no section 34 in the present Act because it's been repealed. So we were wondering what you're referring to here in this section. Is there an answer to that?

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: This is the section which in 1972 limited the pre-existing conditions to accidents which occurred after the coming into force of an Act. We are just taking it out so that that restriction on it applying to those accidents after 1972 won't apply any more.

MR. COULTER: Well we were right then in thinking that's probably what it was but we didn't get looking back in the old legislation to find out.

Increasing for dependants of deceased to apply after this Act has received Royal Assent is the usual procedure. The pre-existing going back to 1972 we've said again is understandable and we accept that. The rest I think is okay.

Now I've said before that we're concerned with the need for a workers compensation advocate and we have made representations before on this question and suggested that in Saskatchewan they have such provision. Whether you do it by changing this bill now to provide the title - I would suggest that you do that if you can in all conscience for the reasons I've said - because I think it would really serve a real useful function particularly to the people that are feeling now denied even though the assistance officer now might be available to him. If I may, to the extent that the assistance officer was used before on matters before the board, we found that it provided very little help to the claimant. I was very disappointed, as a matter of fact, in the performance or the degree that the assistance officer has been prepared to go into a case to help a claimant. We suggest that if this person is going to be available for all measures of the Act then let's see that he's a full-time person, that it's well known that he's there for that purpose and that he be given some instructions to work positively towards the benefits that the claimant is entitled to. We think that this is very important because we're satisfied - and you've heard many complaints here, people got up here, sad cases of being disturbed, of feeling that they do not get a square deal, there's no appeal, this type of thing. As a matter of fact we have, in the last year, gone at great lengths to pursue the present procedures that the board now have in dealing with cases and particularly in using medical panels.

Section 54(1) was a section that was brought in - there's 12 subsections to it - were brought in in 1972 with no warning or no indication why it was being done. There was a practice under the previous legislation of having medical boards of reference as provided for under regulations and we are thinking seriously that that whole section dealing with medical panels could be well withdrawn. We don't think that it is helping the situation at all. As a matter of fact it is firming matters up that do not help the claimant in many respects. We have gone through a fair exercise here that I want to relate to you while we're here so that you can appreciate the extent we've gone into with some of our concerns and some of the recommendations that we are making.

I might say we have consulted legal people as well on the question of denial of natural justice and they have recommendations to make. While we had every intention of going into this with great detail with the Minister prior to this committee dealing with it, we didn't do that, we didn't have the opportunity. I'm not quarreling with the Minister of not accommodating us because we do appreciate the troubles that he has had personally. However we think that there should be something done either at this session to recognize a problem and try to rectify it by amendments at this time. If that doesn't seem to be feasible because of the speed-up and the urgency of getting things over with, really there needs to be another medium to which this matter could be sent to or taken up with whether it's a Cabinet Committee or whether it's a Committee of the House or whether it's just with the Minister himself. We are not going to be too difficult in dealing with that but we think it requires a lot of attention.

Now we did deal with a specific case and I'm not going to refer to that case other than the procedures that we went through and what we found in that case to relate to you the problems that we see in the system. We've said before that the system really is one which causes many claimants to become neurotic, we've had that display here time and time again, and seriously this is one of the things that I feel more strongly about myself because of the concern I have for individuals who seem to be rejected. Whether they are rejected properly or not is really beside the point. If they are going to be rejected it should be done in a system where they can appreciate that they've had fair attention given to their case, that there has been a degree of justice done and seemed to

(MR. COULTER cont'd) . . . . . that it should, for appearance sake regarding impartiality, the medical review panel should hold their hearings away from the board's facilities on neutral ground, that the panel be only provided with the medical reports of the board's doctors and that they should not be involved in any way. It has also been suggested that the panel should be provided with some administrative person that would assure that the panel members would understand the Act and the rights of the claimant under the Act and see that they did address themselves in that respect.

In addition we have suggested that workers should be provided with an advocate that is knowledgeable of the legislation and its administration for the protection of the claimant and to see that he is given fair treatment before that medical panel. Now we know that the medical panels have the right to draw their own procedures and they have to date, at least, not allowed representatives of the claimant before them. There is nobody there to question their findings or the method in which they are dealing with the question, and we'll go into the question of cross-examination a little later with regard to the legal aspect of it.

One of the main criticisms of the present procedure is that there is no visible indication that there is anybody working on behalf of a claimant and that he is facing a bureaucracy that is trying to cheat him out of the benefits he feels he is entitled to. This leads to the individuals becoming neurotic and, as we have said many times, victims of the system. They seem to have nowhere to go; they feel that everybody is against them and they are left with their problems and insecurity because of the disabilities resulting from an industrial accident that prevents them from earning a normal livelihood.

How then does one sustain one's family, their home with proper provisions? How do they maintain their credit which is a usual obligation on a family man and at this juncture he is receiving no benefit. In fact in some cases it's a complete destruction of the individual and we've seen that as well. It is for these reasons that we feel very strongly that the system has to be changed and changed drastically.

One means of doing this, we suggest, is to remove completely this section that was put into the Act in 1972 and to employ workers' advocates to work on behalf of the claimants. We have been advised that in Alberta that Alberta had some such medical review provision in their legislation which they have now removed some two years ago and since then things have worked much more smoothly. They provide for a review committee that do hold hearings which can obtain other independent opinions if felt necessary - and that's other medical opinion. As a result they have very few cases going as far as their Board for further review. And if I may at this point, this is one of the criticisms of the system here, that the administrative function is done behind closed doors. They have a review committee here but it doesn't hold hearings and in Alberta that committee is now holding hearings to which representatives of the . . .

A MEMBER: A good Tory province.

MR. COULTER: Yes and they do provide some good things too. If the representative of the claimant is asking for same, they can get additional medical opinion to be brought before the committee and there's a hearing held on that evidence as well as that of the previous medical evidence and the representative of the claimant is there to be able to examine the fact of the various reports and to some extent there they have that opportunity to see whether the thing is done in a fair manner or not. Here everything is behind closed doors.

We refer to the present system as a kangaroo court and we say that sincerely, we believe it, and that may be unfair to people administering the Compensation Act the best way we see it, that's the way many claimants see it and there has to be a change.

We have mentioned before that the present system is really a denial of natural justice and we have documented the case and I'm not going to refer to that here tonight because we shouldn't deal with specific cases, but that list of factors we say that is faulty in the present system was forwarded to our legal counsel to consider as to whether there is in fact a denial of natural justice and whether in spite of the fact that the legislation provides that no case should go to court, as to whether there is any leave through this principle to that being done. And I might say that the report that we got, which I'm going to relate to you here, doesn't agree with our suggestion that this whole principle of

(MR. COULTER cont'd) . . . . .medical review panels be deleted. The first section makes reference to the fact that in addition to medical panels there are neurosis panels and the neurosis panels, in those cases the report of the Board is binding on all parties, the Compensation Board and the claimant as well. And while we haven't used that at all, we're a little fearful of proceeding that far and doing that, that would close the door completely, while there are factors we think that a basic claim should be recognized on the facts of an accident and disability arising out of that accident, whether it's pre-existing or not, that that should be found first before the question of if there is further damage, which would get into the neurosis question, to be dealt with by that type of a panel. But as I said we haven't proceeded with that because we don't want to lock up the case without getting the case dealt with on its merits.

Then his report says that I further notice that in section 51(11) a panel may determine its own rules and procedures. "As a result the medical review panel, a neurosis review panel established pursuant to section 54 of the Act has the right to determine where it may meet, whom it shall invite to the meetings, whom it shall not invite to the meetings and may determine what evidence it will hear and what evidence it will not hear." We suggest that that's a pretty dangerous thing without some regulations providing some guidelines for such an important panel functioning without the question as to whether it's really dealing with the thing properly.

Under section 51(1) of The Workers Compensation Act, the Workers Compensation Board has exclusive jurisdiction to determine all matters and questions arising out of the Act and its decision is final and conclusive and not open to question or review in the courts. No proceedings by or before the Board shall be reinstated by injunction, prohibition or other process or proceeding in any court or removal by judiciary or otherwise into any court.

Notwithstanding section 51, there is a view that if the Workers Compensation Board or the neurosis review panel in exercising its power denied natural justice to any claimant a court would probably interfere and quash the decision. However, I am not certain that in respect of medical review panels since its decisions are not final and binding on the Board, although they will have an influence on the Board - and we've mentioned here that we haven't seen one instance where the Board has altered and gone to any other decision than that directed by the medical panel - so it really is in fact the final word. We have a hard time getting the Board even to consider a reconsideration of a matter once the medical panel has made a decision. A court would interfere on a claim for denial of natural justice. The law relating to administrative bodies, those functions are administrative only and not judicial in the sense of making final and binding decisions which may affect the right of parties, is not totally clear. Some legal decisions have held that if a particular body takes any steps which may have an impact on the final decision, the courts can review the decisions of that body while other legal decisions hold that one cannot attack a body which does not make final and binding decisions and therefore its decisions are not reviewable in a court of law.

In addition it should further be noted that an administrative body such as the Workers Compensation Board has extremely wide powers and the legislation which establishes it is specifically designed to permit it to have such wide powers without interference from the courts; and this is something we have appreciated over the years. As you well appreciate, it is only by an application to the court that one could attack a decision of the Workers Compensation Board on the grounds of denial of natural justice.

Trade unions generally approve giving administrative bodies wide powers and not making them subject to the courts. However, giving administrative bodies such wide powers has disadvantages, one of which is the difficulty of attacking decisions of administrative bodies such as the Workers Compensation Board where one does not agree with the decision of the Board or the manner in which the Board has proceeded to arrive at its decision. Therefore it is extremely important that any administrative body that is given such wide powers have as members of the Board persons who are familiar with the legal rights of people and sensitive to the legal rights of people and who will at all times permit a fair hearing to take place.

As you well know, doctors do not have the same experience with labour boards, arbitration boards and the courts as do many trade unionists. As a result doctors

(MR. COULTER cont'd) . . . . . generally do not have a great appreciation for legal procedures and therefore may lack sensitivity to the rights and needs of claimants. It is therefore a view that where the Workers Compensation Board refers a matter to the medical review panel or to the neurosis review panel, it is essentially that the members of the panel be totally familiar with the basic principles of the Act so that in making their medical decision they will know where the onus of proof lies and how the presumption in respect of liability operates under The Workers Compensation Act.

The above remarks are made because it is the view, his view, that there is nothing in the legislation per se which one could be critical of on the issue of denial of natural justice, therefore the legislation per se is valid and as such cannot be legally attacked. However, the issue that appears to arise from your letter of April 9, 1976, is the manner in which the medical review panel conducts its hearings; clearly without an intentional desire to disregard claimants' rights, the medical review panel appears to give decisions without appearing to take into account the position of the claimant. I would suggest the Manitoba Federation of Labour in making its submission to the Provincial Government consider the following matters:

1. I see no objection to the establishment of medical review panels where there is a dispute between the Board doctors and the medical doctor of the claimants. It appears to me that the question in dispute relates primarily to a medical problem and that the Workers Compensation Board requires independent medical opinions in order to determine the issue. If you remove the independent medical review panel from the Act then the Board is free to determine the medical status of the claimant without independent medical advice and will probably tend to rely on the decisions of the Board's doctors. And we say that that is not necessarily so, it wasn't so in the past, that there was independent medical advice or opinion brought in before and it still can be without the Board. In order to avoid this reliance on Board doctors, the independent medical review panel has value to the Board. I have been advised that from time to time in the past medical review panels have disagreed with the Board's doctors and that the Workers Compensation Board has accepted the decisions of the medical review panel instead of Board doctors' opinions, therefore I would recommend that the independent medical review panels be maintained. However, one should consider the methods by which the medical review panel operates and perhaps make suggestions for the improvement thereof.

One suggestion is that in cases where a dispute arises between the Board doctors and the claimant's own doctor and/or when the Board desires a medical review panel to assist the Board, from the list supplied by the MMA, the claimant will select one doctor and the Board will select another doctor and the two nominees will select a third doctor from the list and that is the way that arbitration boards are normally structured. The claimant may then feel, having selected a doctor from the list, that his position before the panel will be asserted with greater force. In Saskatchewan they have a permanent chairman and the claimant has the right to select two doctors off a list that is supplied by the Medical Association that is competent and prepared to act in these cases, so the individual there has a feeling that he has had some part to play in the decision as to who should take part in the medical panel. But that's not the case here, the whole three of them are imposed on the claimant.

2. I agree that the medical review panel should not meet at the Workers Compensation office but wish to point out that wherever the Board meets it could be subject to undue influence. However, for appearance sake it might be advisable that the medical review panel meet on neutral ground, and we've made that suggestion to the Chairman of the Board.

3. The medical review panel when meeting shall invite the claimant, his doctor, the claimant's representative, as well as the Board doctors to the hearing. All information in respect of the hearing should be openly admitted to the panel so that each side will know the evidence that the other side is submitting to the panel. If the Workers Compensation Board file is to be submitted to the panel, the claimant should have an opportunity to examine same beforehand and have the right to comment on the contents of the file which is being submitted to the panel. At the hearing the claimant or his or her representative should be entitled to question the staff doctor on his opinions, and of course the staff doctor should be entitled to question the claimant's doctor on his opinions. In

(MR. COULTER cont'd) . . . . . addition, the representative of the claimant should be free to ensure that all relevant information is brought to the attention of the medical review panel. Of course the panel would have the right to physically examine the claimant if they desire to do so and to do all necessary things medically in order to obtain the complete medical picture of the claimant's condition. There should be an absolute prohibition of any information coming to the medical review panel or neurosis review panels without such information being provided to the claimant or the claimant's representative. This prohibition perhaps should be written into the legislation. That is not provided now. A representative of a claimant cannot get any information from the medical files of a claimant's case. It should be written into the legislation so that it will be made very clear that the doctor sitting on the panel will not directly or indirectly obtain information from the Board doctor or other sources without the information being provided openly before the hearing of the panel where the claimant and his representative are present.

Prior to the medical review panel being convened a written statement as to the principles of the Workers Compensation Board should be submitted to the panel for its consideration. This written joint statement would set out the principles of the Workers Compensation Act and should be prepared by the Manitoba Federation of Labour in conjunction with the Workers Compensation Board. It would be a simple document setting out the principles of the Act which a member of the medical review panel would be able to read quickly and easily so that he will become fully familiar with the basic principles of the Workers Compensation Act. In addition, there should be a statement setting out the basic principles that the medical review panel or neurosis panel is not to receive any information or medical opinion indirectly or informally from anyone but that all information is to be received in an open hearing before the medical review panel. Therefore the doctors on the medical review panel or the neurosis panel are not to talk to the Board's doctors prior to or after the hearing to obtain information which the claimant or his or her doctor or representative may not know. The only information that the review panel will receive will be that which is put before it at the open hearing and before the medical review panel or the neurosis review panel. I would suggest that this principle be set out in the legislation and incorporated into the provisions of The Workers Compensation Act under Section 54.

6. The medical review panel or the neurosis review panel should be obligated by legislation to set out the reasons for its decisions, which decision and reasons must be forwarded to the claimant and his or her representative.

7. I strongly agree with the suggestion that an advocate representing the claimant before the Workers Compensation Board and before the medical review panel, in my view the advocate should not be an employee of the Workers Compensation Board but of the Department of Labour and should not be directly or indirectly controlled by the Workers Compensation Board. The advocate should be independent of the Workers Compensation Board and his function should be to assist the board and the medical review panel in obtaining all the necessary information to assist them in carrying out their duties. The advocate should have power to examine all files of the Workers Compensation Board and the right to speak to all doctors employed by the Workers Compensation Board or retained by it, and the right to subpoena persons and/or documents for hearings before the review panel so that the advocate may provide the very best of assistance to the claimant.

As you know the job of an advocate would be a very demanding and skilled job and would require a great deal of ability and experience in order that this function be performed successfully. To appoint a person who has no training in investigation and no experience in appearing before panels representing commissions or who do not have the ability to understand medical opinions could do more harm to the claimant than not having an advocate at all. Therefore, the key to the success of this kind of change in The Workers Compensation Act is that the advocate be a person of great experience and skill.

It appears to me that if the nature of the hearing is modified to provide for (a) an open hearing, and (b) the claimant's right to an experienced advocate to assist him in the presentation of his case and to question the opinions of the Board doctors, the claimant will feel that he is getting a fair hearing and that the medical review panel is obtaining all of the information it needs before making its decision.

(MR. COULTER cont'd)

I recognize that in making the above mentioned suggestion I am advocating a more cumbersome and complicated procedure for the medical review panel and/or the neurosis panel than presently exists. However, I can think of no other procedure which is available to ensure that the fair consideration of all of the evidence will be made by the medical review panel and to assure to the claimant that he will be obtaining fair hearing. What I am in fact suggesting is open rather than closed hearings, proceedings similar to those which presently exist before the labour board and arbitration boards.

That, Mr. Chairman and gentlemen, is a pretty lengthy report or series of recommendations that we're seriously placing before you as a means of trying to improve the system and to get away from problems that do exist.

Now, we have and I've mentioned before about the Alberta system, that they've done away with the medical panels and they have a sort of a two-tier system in the Compensation Board itself, the review committee has open hearings and that might be one solution. But in that case in Alberta after that open hearing the individual still has a right to go to the board for a further appeal and an open hearing before the Board.

Now in dealing with this matter we have discussed it with a number of doctors and we have got some pretty strong opinions by some medical practitioners that the present system is rotten - that's the term that is used, the term used "kangaroo court" has been used by medical practitioners, to us. The other comment that the present system of medical panels is really a protective system for employers, which is a pretty strong one. I'm not going to go into the medical aspects of the particular case I have, but they're pretty strong. We're satisfied that the claimant in the case that we are pursuing has had two medical panels, but you might as well forget it and going back to another one, because it was our feeling at least that once one medical panel has made a decision with respect to medical facts and the way one panel sees it that the other one is not going to contradict that one unless it's really pressed very hard. We say, and the doctor that we had presenting the case the second time around was satisfied and he stated this quite clearly, that if those same doctors that were dealing with a question on the medical panel was before a Court of Law which could be the case of - there was an accident outside the compensation board, but a similar type where the employer was obviously negligent - that there would be a suit for damages and the court no doubt in the doctor's mind would find the company liable, and the doctors on cross-examination by lawyers before a court, that they would sure turn turtle on the position taken in closed hearings in the present case. Those are pretty serious charges but we can present them specifically to the Minister and any other group that you wish to extend that to and we are suggesting here that there is much to be done at the Compensation Board. While the administration is a fine one, that we have really no fault to find with the individuals that are performing their duties, we do find fault though with the system that they're left with no carry on these cases and deal with the matter and we are suggesting seriously that a real change be made. We think it can be made administratively. I don't know whether you need a change in the Act to say that the procedures of a medical panel will be determined by regulation which would be an easier way or an assured way to see that the Lieutenant-Governor-in-Council would set some regulations basically that would provide the opportunity for justice to be done in a hearing. I think that that would be the simplest way to deal with it.

We suggest though that it is time that something be done about it. You've had many people here with real sad cases. Mrs. Ross, for instance, has been to me and I've looked into that to some extent, and I just hesitate to take that under the present system to a medical review panel, although I'm convinced in my mind that that man is entitled to compensation. But the way it's done in a kangaroo court setup now I have no faith that the right decision would come out. That's a terrible thing to say, but I seriously say that. That with my experience and going into it in detail and depth, not only in one case but many cases, and conferring with our labour representative on the Compensation Board that he is completely frustrated and disturbed with the present system, and we're saying here tonight, Mr. Minister, for God's sake let's see that there's some changes made. We know that the Compensation Board is left to a great degree to operate on its own without ministerial interference, but I think at this occasion it requires

(MR. COULTER cont'd) . . . . . something be done by this committee to open the door or some acceptance by the Minister that something will be done shortly to correct the present situation. I leave that with you in all sincerity that we have a real serious problem. Many people are falling victim of the system, becoming neurotic and this is a sad sad situation. I think that the Minister and his Executive Assistants, from time to time we do confer with one another and we feel very very sorry for a number of these people. When we say a number of people, there's really not that many, but there are some where the man's own doctor doesn't represent the claimant adequately to start with or he may have dealt with the individual's injuries in a cavalier manner, or in a light manner, might be a more delicate way to put it, and in fact there was more damage done than he was prepared to recognize at that time so subsequently is a little reluctant to come back and say that we really erred in sending the man back to work, that he had more damage done. In the case that we're referring to there's no question that we have the evidence and medical opinion as to what has happened, the damage was severe. In the case that I'm referring to there was two accidents, one in Ontario and one in Manitoba some years apart, and the man after working 20 years for the CPR had an accident, fell down from a ladder, from eight feet, because a railway car was pulled out from underneath him - and the Minister should know what a car shop is like in the railway - and he wasn't warned. He fell and broke some four oak rungs of a ladder and had damage to his back and hip, and in spite of that he hasn't got any compensation recognition at all even to the slightest degree of disability.

The other accident in 1941 was a serious accident, he was in hospital for some six weeks with a body cast from his chest down to his knees, and he got back and worked, but he worked 20 years at the railway never missing a day. He wasn't a slacker. After the accident he was bruised and hurt. He was instructed back to work. He went back to work. He didn't resist going back to work and things degenerated from that point on, but it was never recognized by the Compensation Board. That's the type of thing - and I've talked to a number of doctors, I've given them all the reports on this thing - any reasonable doctor or any reasonable person would put the things together to say that this man through the fact that he had two accidents, both covered by compensation and now totally disabled - no question about being totally disabled - shouldn't be entitled to some compensation. That's the fact that's going on today. It just cries out for change and we plead with you here and the Minister to see for God's sake, let's get some changes made so that we don't have so many of these people coming up to hearings of this nature crying and really disturbed at the fact that they're not getting fair treatment, when we're satisfied they're sure as hell not getting fair treatment. Thank you very much.

MR. CHAIRMAN: Thank you, Mr. Coulter. Mr. Sherman.

MR. SHERMAN: Mr. Chairman, just one question, through you to Mr. Coulter. That was a pretty comprehensive brief or presentation that Mr. Coulter made to the committee. I'm sorry that I unfortunately had to miss part of it but I could tell from what I heard that it was very comprehensive and I wonder if Mr. Coulter would file that with the committee.

MR. COULTER: I sure will.

MR. SHERMAN: Thank you.

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

MR. DILLEN: Mr. Coulter, you spoke in your presentation on almost every paragraph of the proposed amendments to the Act, and let me see if I get this clear in my own mind; I'm assuming from your presentation that you view the present amendments that are being made as simply band-aiding up an outdated Act.

MR. COULTER: An outdated piece of legislation?

MR. DILLEN: Is that the assumption?

MR. COULTER: No, I wouldn't say that. I think that there's much to be said for the legislation and the procedures, the administration, I've said that. Really we find not too much trouble. 95 percent of the cases are dealt with adequately. They have done much administratively to improve the payment to claimants right off the bat without waiting for doctors' reports to come in. I think under the present administration there is a real improvement in the last number of years. I find no real fault with it, other than this whole question of review and appeal, whether we cannot provide a system - and we

(MR. COULTER cont'd) . . . . . know that there's a cry-out to have the appeal go to the courts and we have said time and again we don't agree with that because it's costly, it's time-consuming, yet when you look at it, and we know some other jurisdictions have gone to the courts as an appeal procedure, we don't wish to suggest that at all. As a matter of fact we're very adamant in the fact that it shouldn't go that way. But let's improve the system that we have whether you do away with the medical panels and rely on independent medical reports, one, two additional doctors, as a matter of fact, wouldn't be out of the way, and have those examined in an open hearing where the claimant and claimant's representatives had an opportunity to make sure that the evidence was properly before the people that were making the decision.

MR. DILLEN: One statement in your presentation that I wrote down here, and you just correct me if I'm wrong, is the system need to be changed and changed drastically, I think are the words that you used.

MR. COULTER: Yes, I'm dealing with the review procedure and the so-called appeal procedure that needs to be reviewed drastically.

MR. DILLEN: Has the Manitoba Federation of Labour, Mr. Coulter, ever considered the advisability of establishing some form of social insurance system in Manitoba that would include automobile insurance, present sickness and accident insurance schemes, workers' compensation contributions from consolidated revenues and a number of the present assessments on companies into one fund that would provide the kind of coverage that is necessary to meet the needs of today's injured workman and also to eliminate, as a matter of course, all of the lengthy time-consuming procedures that are presently involved in applying for and obtaining workers compensation.

MR. COULTER: Well we sure have. As a matter of fact I went to New Zealand the beginning of March and had a look at that - that's one of the reasons I said I wasn't here at the last meeting of the committee when they were hearing submissions. But the system over there covers those three factors, the people, industrial accidents, motor vehicle accidents, and those that are occasioned in the home, anywhere else, on the playing field, recreation activity, any accident resulting in any way is covered, but they still maintain the payment for that group that are industrial accidents, as an assessment on industry. They pay for those that are a result of automobile accidents from assessment on automobiles and licenses, and general revenue to take care of the others that happen in the home of some other place than at work. But that doesn't get away from the necessity there, as well as here, to review in fact as to whether there was an accident, the degree of the injury and the disability, the assessment of it. But they've got some pretty fine provisions and one of them, two of them as a matter of fact is that they - and I just probably forget the proper terms that they do use - but they have a cash settlement for a person who loses some body function, and then they have another one that, I think that one is six or seven thousand dollars cash payment, and another one of up to $10,000, which is on top of the seven, if the individual is injured to the extent that he is missing the pleasures of life, and paraplegics for instance would get $17,000 cash right out to assist them in rehabilitating themselves to a different type of life. A different type of home they have to live in and different means of transportation in re-establishing themselves in a way that will be able to allow him to exist in spite of those particular disabilities, and then they have the monthly compensation as well in addition to that.

But I'm sure that the Federation will be making further representations on those things to the government probably next year. We have to go into them with more study. We appreciate the fact that the Minister already has been doing some study in looking into that and I think it could improve the system. We have Autopac now that's covering some of these things and I don't think that that is brought together in a systematic way of dealing with it. It is still a hodge-podge as to how the claimants are dealt with and it could be a real improvement.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, just by way of information, not necessarily a question although it is a question: Are you aware, Mr. Coulter, insofar as the New Zealand Accident Compensation Act of 1973, a copy of which I have here, that following along your statement, plus the fact that I have exhibited some interest in what's going on

(MR. PAULLEY cont'd) . . . . . down yonder, and of course as you know as well as I do, as the result of the defeat of the previous government in Australia, the people there are not going to receive similar benefits of New Zealand, but that's really beside the point. But the fact is, and this was revealed in the House, that we have coming on staff trained personnel to assist us in taking a look at the basis of the legislation prevailing at the present time in Australia, rather New Zealand. And just as soon as we get organized it would be my intention to direct an appeal to not only the Federation but all interested persons, manufacturers, and so on, to join with us in a deep and intense study of this particular proposition. It might be an idea to ask the Woods Committee, which have proven their competence in many areas, if they would undertake a detailed study of the question raised by Mr. Dillen, because there is no question of doubt that the time is ripe for something to go on past what we now know as workers compensation.

MR. COULTER: I think that would be . . .Mr. Chairman, and we'd sure be willing to participate.

MR. CHAIRMAN: Are there any further questions of the committee? Mr. Steen.

MR. STEEN: One question, Mr. Coulter. Did you bring home any brochures or any information from New Zealand as to how that plan operates?

MR. COULTER: Yes, I have, the initial commission report studying it and the pamphlets they are using now for public information. I've brought back the most recent report of the commission itself which is very enlightening, and I might say that in spite of a change of government that they are still going ahead with this program and it's well received by the public and there is no question or no possibility it's going to be altered. --(Interjection)-- Well I don't know exactly what extended program you're referring to but it doesn't --(Interjection) -- That's right.

MR. CHAIRMAN: Any further questions?

MR. PAULLEY: May I also, too, ask Mr. Coulter because he had an advantage that I envy, did you happen to have an opportunity of meeting Lord Woodhouse while you were down there, a judge, he's quite a character.

MR. COULTER: No.

MR. PAULLEY: Mr. Chairman, I have no questions to ask of Mr. Coulter insofar as his presentation is concerned. I appreciate his approach to the suggested amendments to our present legislation. I think that I have indicated to him by reference to the workers or the Compensation Act of New Zealand, we'll look into that. As far as the other aspects are concerned, I think it would only be fair for me to say that at the present time, I would not feel that I am in a position to alter the recommendations contained in the amendments but I note that one of the members to the committee has received a copy, or asked for a copy of your presentation and I'm sure all members of the committee will be receiving it, and all that I can say to you, the same would be studied and as you know representations have been made to me by the Compensation Committee for a meeting in the very near future and that will be carried through.

MR. COULTER: We would like though, Mr. Minister, if it's possible to provide the title Workers Compensation Advocate instead of the Assistance Officer. I think it would be far more . . .

MR. PAULLEY: A rose by any other name, as far as I'm concerned, Mr. Coulter.

MR. COULTER: Well I think that in itself would go a long way . . .

MR. PAULLEY: Your suggestion is what?

MR. COULTER: Instead of referring to the individual as an Assistance Officer refer to him as a Workers Compensation Advocate.

MR. PAULLEY: Yes, that's quite acceptable as far as I'm concerned. I don't know about my colleagues. I think that it would be, and I thought that I had noted a little difference in your brief to the actual legislation, or if it's not in the legislation I think we should take note of it. I thought that at the start of your brief you mentioned an adviser to the commission. It would not be my intention that the adviser, once established, would be an adviser to the commission, would be an adviser to an individual and responsible under the general directorship of the Department of Labour, well divorced.

MR. COULTER: He would have the independence but he could look into all matters of the commission, the medical records, the doctors, and talk to the commissioners, you know.

MR. PAULLEY: We're on beam.

MR. COULTER: Very good.

MR. CHAIRMAN: Any further questions with the committee? Hearing none, thank you.

MR. COULTER: Thank you very much, gentlemen.

MR. CHAIRMAN: Mr. Shafransky.

MR. SHAFRANSKY: Just one question. Mr. Coulter, you advocated that there should be, as I understand, a review board in regard to the workers' compensation in the case of industrial accidents and people who do feel that they are aggrieved by the present board, you talked about a review board. Who would constitute the review board?

MR. COULTER: We mention a review committee. There is a review committee now of administrative people in the Compensation Board now that deal with the review of a claim, and they have the same thing in Alberta. The only thing they've asked that committee to have an open hearing, and that committee can ask for additional medical opinion to come before it and they actually provide the function that a medical panel does only it is the administrative people that are holding the hearing and make the report on that as to whether they accept the claim or not. The medical people have the input but the administrative people make the decision, and they say in Alberta that that can be done here tomorrow if you wish to do it. There's no bar to it. As a matter of fact section 54 now provides that quite handily. It's just a change in the administrative procedure but that is provided in Alberta instead of medical review panels the way we have them structured here now. They've done away with those two years ago because of the time consumed to get a medical panel of three together, the rigidities I guess that they found in the system, and they've opened it up now and they're most happy with it in Alberta.

MR. SHAFRANSKY: Thank you. Mr. Chairman, I apologize just in case this question was asked before but I had this question in mind and I wanted to hear . . .

MR. CHAIRMAN: I thank Mr. Coulter for his exhaustive brief before the committee. --(Interjection)-- I'm not being facetious when I say that because I think Mr. Coulter should be congratulated because he has made representations on all six bills before this committee, and he has done evidently a lot of work. When I say "exhaustive" --(Interjection)-- Well it's exhaustive and comprehensive.

Mr. Walter Jackson on Bill 57. Not here. Mrs. N. Galevich. Not here. Mrs. O. Neufeld. Not here. Mr. Frederick Bennett. Not here. Mr. Harry Zasitko. Not here. Pastor Arie Van Eek.

MR. ARIE VAN EEK: Some copies of my brief, Mr. Chairman, for the committee.

A MEMBER: What bill?

MR. CHAIRMAN: He's on Bill 57. Just give them to the Clerk and he will see that they are distributed. I think the briefs have been distributed, Pastor. If you wish to proceed, you may start.

MR. VAN EEK: Mr. Chairman, Honourable Mr. Paulley, and members of the Industrial Relations Committee. I am, as indicated, a Minister of religion. I exult in the freedom to exercise my calling in church and society within the bounds of responsible attitude and practice to other individuals in society.

As I understand it, every organization in our country is voluntary. One may join a group upon his own choice to identify with the principles, practices and objectives of said group. Thus, in democracy no one person shall lord it over another and every responsibility is a trust placed on one by another or others. The key to responsibility is stewardship. This is a Judaeo-Christian principle that's imbedded in the covenant concept of human relations. It is in denial of the basic personal freedom of voluntary association that the labour movement in North America has moved away from that freedom of choice to the coercion of the closed shop representation of workers by one union per trade in one shop. The desire has been to be strong in opposition to another power. This adversary system is based on the assumption of a basic abiding conflict of interests of labour and management/capital.

Present mounting unrest and disruption of services by labour and management warrant the conclusion that the built-in antagonism and confrontation of the adversary system does not offer room for resolution of conflict for harmony and peace in labour

(MR. VAN EEK cont'd) . . . . . relations and for at least four reasons. It does not offer us that opportunity.

First of all the enterprise, instead of being a work community in which management and labour co-operate as full and equal partners to serve society with necessary goods and services, is seen instead as an object of ownership with the purpose of generating profits for the "owners" so-called.

The second reason why the present system doesn't work is that workers instead of being recognized as responsible creatures called to use their God-given talents in the services of their fellowmen, are treated as mere production factors, cost items on par with tools and machines. They literally belong to the trade union.

The third reason for failure of the present system is that trade unions instead of being voluntary organizations, of like-minded persons and serving to deepen the understanding of their members with respect to their work, are instead rental agencies from whom the enterprise obtains its human production factors for a certain fee.

And finally, the present system doesn't work because work itself instead of being understood as a divine mandate to stewardly and responsibly develop the earth, is considered instead to be an inevitable evil, necessary to make a living. Only the material standard of living is in dispute and work itself is flattened out to be a matter of collective money earning.

Mr. Chairman, if our society is to open up to people the possibility of being free, responsible, moral agents, both the enterprise and the trade unions as they now operate, are abnormalities which ought to disappear.

Instead, all components of society ought to be represented in the decision-making that affects them and in this manner, we propose, the enterprise must be transformed into a work community in which management and labour have their own rightful and mutually respected place and task. Labour should co-determine and be co-responsible for the affairs of the enterprise. Government, the public or consumers, falsely so-called, and labour unions should also have a say in the affairs of the enterprise. Labour unions must become communities of like-minded workers who, from their own life perspective can learn how to become meaningful partners in the enterprise.

Such a type of labour union would be a true voluntary organization. Wage and price setting must become nation-wide processes for each major industrial branch, automotive, steel construction, etc., parties participating in determining wage and price levels must include industry, management and workers both, government, public and labour unions. Meanwhile as voluntary agents of change the enterprise, the union and their memberships ought to be forbidden by statute from exercising the disruptive coercion of the strike weapon. Instead components to the enterprise ought to establish internal industrial relations committees which annually determine policies for the whole local enterprise in consideration of component members' well-being in the setting of broader responsibility to fellow members of the body politic or the state.

Furthermore, hiring and promotion of workers ought to take place only on the criteria of training, skill, competence and record of past performance. If none of the above structural implementations toward peace and harmony in industrial relations are incorporated into Manitoba's Labour Relations Act, my plea is that you allow Canada's creative agents, the human person, created in the likeness of Sovereign God, the freedom to live by his convictions and to implement these according to his own conscience and beliefs.

My lowest option alternative to true freedom for all in the world of work is the retention of Section 68(3) of the present Act as that was lately interpreted and upheld in Manitoba Court of Appeal on January 5, last. Mr. Chairman, the brief was prepared before we had access to the present reading and amendments before your committee, and in the last three months we have attempted to gain a hearing before your body before you had done such extensive work as is now before the committee.

Our promotion of that which we have read to you is admittedly very very far-reaching. We have shared it in substance, in conference with the Minister who thought that our ideas were perhaps more socialist than some who are socialistically inclined. We assure you that as far as our vision on the matter is concerned, this is an attempt at gaining a truer, broader and more lasting peace in a world that is admittedly very

(MR. VAN EEK cont'd) . . . . . much being disrupted. As we see the present Act and the one coming up for amendment, it does not really come to grips with the problem that is being structured into the Act and the way we have been operating our society, namely, that the tacit assumption under which all sectors of society labour is, that everybody's in it for himself.

I shall desist from wearying you further. You have a lot of work to do.

MR. CHAIRMAN: Thank you, Pastor Van Eek. We have some members of the committee who have signified that they wish to ask questions. Mr. Shafransky.

MR. SHAFRANSKY: Yes, Pastor Van Eek.

MR. VAN EEK: Mister is real good, Sir.

MR. SHAFRANSKY: You have mentioned that you are referring to some amendments that are before us. Are you referring specifically to the amendments within the bill as proposed?

MR. VAN EEK: The deletion of 68(3), I addressed myself to the old Act because I didn't have the text of the proposals before you, Sir.

MR. SHAFRANSKY: No, but you indicated as of last Saturday you were aware of the amendments that would come before us, and I was just wondering if you are aware of some other amendments that are being indicated or . . .?

MR. VAN EEK: Yes. My plea is for the retention at least for that freedom of choice which you gave in the last couple of years under 68(3) as lately interpreted in a Court of Law. I really, in the brief itself, am asking for a total revamping because the present Act still structures the antithesis or the antagonism or the adversary system right into it, in that there is no sitting together of the various factions in the production process.

MR. SHAFRANSKY: Mr. Van Eek, you indicate throughout that the adversary as you see it is the union.

MR. VAN EEK: No, no, no. I mentioned management and union, or management-capital on the one side and the union on the other.

MR. SHAFRANSKY: So what is your solution as you would see it other than what you indicated here?

MR. VAN EEK: That we have within every plant or enterprise, be it construction or whatever, a committee consisting of representatives of management, of capital and of workers - and I may not understand the complex well enough to have done justice to every component - but that every component that has an interest in what's going on in the factory or in the construction or whatever trade be represented and that they together around a table determine, seek to come to a conclusion as to what is equitable for all with a very high emphasis on the worth of each individual and a playing down of capital interest, profits and the like.

MR. SHAFRANSKY: So you would adhere to this statement of concern regarding the proposed repeal of Section 68 (3) Manitoba Labour Relations Act that would put the Winnipeg Free Press which advocated . . .

MR. VAN EEK: And the Trib.

MR. GREEN: Yes, don't discriminate.

MR. SHAFRANSKY: Pardon?

MR. GREEN: And the Tribune . . .

MR. SHAFRANSKY: I didn't see the Tribune. I just got this out of the Free Press. So you advocate that there is a group of people who are very concerned, and they are the ones most concerned about Christian principles and everybody else is not in your opinion adhering to those, whatever beliefs there are, that anybody that is opposing to it is not a Christian.

MR. VAN EEK: Sir, I'm not sitting in judgment of anyone. Let's address ourselves to the issue.

MR. SHAFRANSKY: It's not a question or whatever . . .

MR. VAN EEK: No, the issue is not whether you're a Christian or not. The issue is whether you and I are willing to abide by Biblical principles that guarantee properly adhered to, that there will be mutual understanding, mutual respect, communal resolution of problems, instead of the built-in adversary system that has done so much harm in our society.

MR. SHAFRANSKY: I'm glad to hear that you say, you are speaking of communal understanding, but is that the case in today's society?

MR. VAN EEK: Sir, we are addressing ourselves to the reality that people are by nature inclined to be selfish. That's inherent in my belief. I think that's a Biblical understanding of the nature of man. But we may not yield to your and my selfish desires. We must constantly communally seek to overcome our own bias to selfishness and to the perpetration of self-interest if possible even by guaranteeing that self-interest through what is deemed to be law.

MR. SHAFRANSKY: You are speaking what I believe in, and as something that I really can't understand how anybody who can speak from these various positions, as you'd indicated that you already support his statement supported by the various groups here listed in the Tribune. I really don't see what your arguments are. You speak like a socialist.

MR. VAN EEK: Okay.

MR. SHAFRANSKY: You speak like a person who is concerned as I am concerned about people, but you indicate here this is a serious loss of human civil rights. No one should be forced to support within his finances a union to which he is in genuine conscience opposed.

MR. VAN EEK: Right. Right.

MR. SHAFRANSKY: For many Mennonite Christians and for a large portion of the broader Canadian Christian communities the adversary concept accepted almost universally by both unions and many management people is a very serious concern.

MR. VAN EEK: Right.

MR. SHAFRANSKY: But all of the presentations that have been made have been made in that position to the unions as if the unions have no particular concern.

MR. VAN EEK: No. I am not addressing myself in contradiction to unions. I'm addressing myself to your body which is not addressing itself to the raison d'être of the unions et al. You are building into the law, Sir, this structure of opposition of the other guys trying to please you, you must try to please the other guy. The assumption is always that two parties are out to get each other, and that is so damaging to peace and to a productive and, you know, constructive life.

MR. SHAFRANSKY: I would agree with it if you are talking about it in that argument. The fact is that the same people who advocate, you know, they're opposed to supporting any union, the fact is that they have never yet refused to take the gains as a result of a union negotiating through a collective bargaining, gains for the people within the union, bargaining unions.

MR. VAN EEK: I think you know and I know, Mr. Chairman, I'm sorry I don't address you each time. I mean to, Mr. Jenkins.

MR. CHAIRMAN: I'm Mr. Chairman, not Mr. Jenkins as far as this committee's concerned.

MR. VAN EEK: Okay, right. Mr. Chairman, I think the last speaker knows that he is guilty of a seriously over-simplified statement. It is simplistic to say that my increase in wages is dependent on the union's negotiations for me. The union uses the structure that has been created by law. It's not the only means of getting justice. There are other ways of getting a fair share in this community and this society. I know of thousands of workers, Christians and others, who get together with people who sign the pay cheques.

MR. SHAFRANSKY: Yes, there are people in South Africa who also adhere to ...

MR. CHAIRMAN: Order please.

MR. SHAFRANSKY: Mr. Chairman, I'm asking . . .

MR. CHAIRMAN: Well, I wish you would get to the question, please, Mr. Shafransky. We're not dealing with South Africa. We're dealing with Manitoba, and if we can keep the question relative.

MR. SHAFRANSKY: But the witness before us indicated that he is aware of the people who are very much working in the interests of all people, but there are other areas of the world in which . . .

MR. CHAIRMAN: No. Order, order please. We are not dealing with other areas of the world.

MR. SHAFRANSKY: Well . . .

MR. CHAIRMAN: Order please. I think that we should stick to Bill 57 which is an amendment to The Manitoba Labour Relations Act. I am not interested in what is in the newspapers . . .

MR. SHAFRANSKY: Mr. Chairman, I . . .

MR. CHAIRMAN: Order please. I'm not interested in what is in the newspapers. That is the free right of citizens and I don't object to that as a politician and as a member of this committee. I may leave this Chair before Pastor Van Eek leaves the podium to ask him certain questions. But in the meantime the questions that I will ask will be pertinent and to the brief that he is presenting. I wish that you would do the same please.

MR. SHAFRANSKY: Thank you, Mr. Chairman. I believe that we are politicians and here is a group that purport not to be politicians but they are being very political in their . . .

MR. CHAIRMAN: Order please. Order please. Mr. Shafransky, I would like the questions pertinent to the brief that Pastor Arie Van Eek has made before this committee. He is here as a free volunteer citizen of society to make his presentation before this committee. I admit that sometimes even the Chair gets a bit exercised by some of the briefs that come before this committee, but I try to keep my cool and I would ask you to do the same.

MR. SHAFRANSKY: Mr. Chairman, I'm attempting to keep my cool. We are dealing with Bill 57 and there have been references made, and I would refer to this particular statement of concern - and I have a concern . . .

MR. CHAIRMAN: Order please. I saw the article that you have in question. I don't see Pastor Van Eek's name on that piece of literature. I'm sorry. I don't recall anywhere within the brief that Pastor Van Eek made any reference to . . .

MR. SHAFRANSKY: Mr. Chairman, the . . .

MR. CHAIRMAN: Order please. Order please. I'm not going to argue with the member. Now I ask you again to make your questions pertinent to the brief that has been before the committee. I don't think that's asking too much.

MR. SHAFRANSKY: No, Mr. Chairman, I agree with you. But the fact is that the witness indicated that he subscribes to this Act, that he agrees with it in principle and I see certain things which are offensive to me as an individual. I don't in any way wish to infringe on anybody's rights. These are the things that I would like to have the witness before us express and explain to me how is this a serious loss of human and civil rights, that a person belonging within a bargaining unit having the gains of the collective agreement, taking the gains of the collective agreement, yet not feeling that he should contribute towards the union dues of which are as a result of the bargaining unit bargaining on behalf of a group of people, I cannot see where this is an infringement on anybody's civil rights. I am asking the witness to give me an answer how one who wishes to accept the benefits of a collective agreement has not decided that any gains that are made are going to be turned over to a charity as he wants to have the union dues turned over to a charity, yet will take the benefits of anything that is derived at as a result of collective bargaining.

MR. CHAIRMAN: That's your question, is it, Mr. Shafransky?

MR. SHAFRANSKY: That's right.

MR. CHAIRMAN: Fine.

MR. VAN EEK: Mr. Chairman, the benefits gained cannot be credited solely to the union. It is not of the choice of the conscientious objector that the union represents him. Some whom I know have turned down the increase in wages which complicates matters greatly for the individual. I know of others where the union has simply said, we'll leave it to that same conscience of yours to do with the gains what is in your judgment for the good of that society of which you want to be a constructive member. I may at the risk of the ire of some of you, Mr. Chairman, suggest that among the conscientious objectors of whom I have personal knowledge are people, the fact is all of those whom I know that have objected to paying union dues to a union with which they were in disagreement, give between 10 and 20 percent of their gross income to various charities, of which their church is without question, one. But certainly not the only one. We seek to be constructive. We do not seek to be scabs. We can assure you that the last thing that

(MR. VAN EEK cont'd) . . . . . anyone seeks who is a Christian and committed to principles to the extent of being willing and able to risk the ire, the ostracism, the ill-will that was shown to some people here as late as last week even, that such people are not in it for the money.

MR. SHAFRANSKY: Well, Mr. Chairman, I have contributed to a church and I'd just like to find out when these people contribute - I know that if I do it on a payroll deduction I have a slip for income tax purposes. If I contribute above that to a church, I can get a receipt from that church for income tax purposes. If I contribute union dues, whatever share it is, I get a slip as a deduction. I'd like to know, these people who are contributing, and I'd like to know for a fact whether they use that as an income tax deduction or not. --(Interjections)-- I did. I did.

MR. CHAIRMAN: Order please.

MR. PAULLEY: Mr. Chairman, on a point of personal privilege if I may.

MR. CHAIRMAN: Mr. Paulley on a point of privilege.

MR. SHAFRANSKY: No, if the people . . .

MR. CHAIRMAN: Order please.

MR. PAULLEY: Mr. Chairman, on a point of personal . . .

MR. CHAIRMAN: Order please. A point of personal privilege or a point of order takes precedence, you know that Mr. Shafransky. I don't want to argue with you. I will hear the Minister out and I will make a ruling.

MR. PAULLEY: One of the purposes of these committee meetings is to hear the viewpoint of those who appear before the committee to give to committee the advantages of their opinions of the changes contemplated by legislation. It is the duty, in my opinion, of the members of the committee to seek from representatives appearing before the committee those opinions but not to conduct an argument as to the validity or otherwise of the position that is taken by the party appearing before the committee, because it's historic of course that we could argue for days on end but we as a government have a list of proposals before this committee that we adopted that we decided that we would forward for the consideration; we gave the public in our democratic system of society the right to appear. And I think that that is the manner in which we should conduct ourselves.

MR. SHAFRANSKY: Mr. Chairman, I appreciate the comments of the Honourable Minister . . .

MR. CHAIRMAN: Speaking to the point of privilege, Mr. Shafransky.

MR. SHAFRANSKY: I appreciated the comments but I just simply want to find out. I say personally I have used any union dues that I paid to the Teachers Society as a deduction from taxable income. Anything I contributed above that I was able to use that as a deduction from taxable income, and it seems to me that it would be an unfair situation . . . I'd like to find out for a fact whether those dues which are now given to a charitable organization and in no way aid the union which is helping to establish working conditions, better wages, if those dues which are being deducted and given to a charitable organization are subject to the income tax deductions on the same basis that I have been able to claim them. Maybe a legal counsel can give me the answer but . . .

MR. CHAIRMAN: Well perhaps the Chair can attempt to give you an answer. It is my understanding of The Income Tax Act - and I don't profess to be an expert on The Income Tax Act - that union dues are fully deductible as a taxable deduction or a taxable exemption. Charitable deductions are based on . . .

MR. SHAFRANSKY: Three percent.

MR. CHAIRMAN: . . . an ability of so much of your - and perhaps, I'm searching for the words and perhaps Mr. Cherniack could, who is the former Minister . . .

MR. CHERNIACK: . . .taxable income . . .

MR. CHAIRMAN: That's right. As such, that I think would be the situation in a situation as such. Now if Pastor Van Eek wants to answer . . .

PASTOR VAN EEK: Mr. Chairman, there is no such thing as dividing one's pay cheque into that which would have gone to the union and that which does go to other causes. One simply gives within the confines of the permission of the federal law to charitable organizations that are registered as such and subject to scrutiny annually, and one gives, declares what he has given with proof furnished, and that portion given to

(PASTOR VAN EEK cont'd) . . . . . whatever cause so recognized by the Federal Government is subtracted . . .

MR. CHAIRMAN: If it is within the confines of the Federal Income Tax Act.

MR. SHAFRANSKY: So all the benefits are to the disadvantage of the union which is negotiating on behalf of all the working people within a unit. Thank you.

MR. VAN EEK: Mr. Chairman, I may respond by saying that the appellants or the conscientious objectors are usually saying, we do not agree with all the objectives that the union stands for, the practices it stands for, the so-called gains it seeks to obtain for the workers. To force us to pay union dues is in effect taking away the freedom that section 68(1) guaranteed of abstaining from membership. But we do not want to be scabs and say we will keep the benefits, we are prepared, and by law compelled, under the present system to give the equivalent of union dues to a cause mutually recognized to be worthy of such donation. It is the employer, the union and the employee objecting, who together decide on where the money goes.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Van Eek . . .

MR. CHAIRMAN: Would you come to the microphone please, Mr. Cherniack, so that you may be recorded for posterity.

MR. CHERNIACK: Well maybe we'll need posterity in this. Mr. Van Eek, on whose behalf are you presenting this brief?

MR. VAN EEK: On my own behalf, Sir, and as a gospel minister I preach what is implicit and explicit in these documents as often as scripture passages exposited, warrant that kind of application.

MR. CHERNIACK: The reason I asked the question, you kept saying "we say, we think" and . . .

MR. VAN EEK: Well I'm talking about people, I'm talking about people who would be hurt for the repeal of section 68(3) under the current Act, Sir.

MR. CHERNIACK: You're speaking on behalf of those people that you believe agree with the statements you're making.

MR. VAN EEK: Right.

MR. CHERNIACK: But you were not delegated to do this . . .

MR. VAN EEK: By no means, Sir, those who have made appeal are not an organization.

MR. CHERNIACK: Mr. Van Eek, I'm trying to understand the extent of your objection here. I read at the bottom of the second page where you speak of the enterprise, a union and their memberships ought to be forbidden by statute from exercising disruptive coercion. You're now bringing in compulsion. You're now saying that statutes, which means government, shall have the absolute power . . .

MR. VAN EEK: Yes, Sir.

MR. CHERNIACK: . . . to decide what is in the interests of the enterprise, the union, etc.

MR. VAN EEK: Yes, Sir.

MR. CHERNIACK: That to me envisions the rights of government, Legislature, by statute, ordering the person to work against his will.

MR. VAN EEK: Sir, I have not the liberty at my will to go down the highway, Henderson Highway where I live near, to go at a speed of 55. In fact somebody tells me if you want to use the damning word "coercive," somebody coerces me to mind my business in the interest of the safety of my fellow, you know, fellow citizens of Winnipeg, or whoever may be occupying the road. It is the business of government to see to it that the freedom of individuals, in association with others always, you know, to enhance that, to enhance that by law. It is the task of government to uphold the freedom of the individual and enhance it as much as possible and to work for the common good. And we say, I do not have the right to be coercive in the society. You as governing persons are called upon by God and elected through the representative system - the best yet devised - to enhance that communal and personal freedom by such law as is necessary to restrain yours truly from disrupting the other person's liberty and the pursuit of his happiness - to borrow a phrase from another culture - and that is what you're doing all the time. And we're saying you ought to take that what is your responsibility also in hand with respect to the enterprise where people work.

MR. CHERNIACK: Mr. Van Eek, did I understand you to say that we are called here as legislators by God to make decisions in the interests of the people?

MR. VANEEK: Yes, Sir.

MR. CHERNIACK: Do you accept that the decisions we make in the Legislature are such as are designed in the best interests of people?

MR. VAN EEK: Sir, I live by that law once made but I use every democratic opportunity also guaranteed by that law to make new presentation in an effort to help those who are called to that responsibility to understand that not eveything that human minds conceive is necessarily divine. It is human.

MR. CHERNIACK: But you are aware that we have an adversary system in government itself.

MR. VAN EEK: And I'm saying that it is not necessarily sacrosanct.

MR. CHERNIACK: No, but nevertheless God determined that we would have that right . . .

MR. VAN EEK: No, no, no.

MR. CHERNIACK: . . .to meet and decide.

MR. VAN EEK: You're not quoting me, Sir, nor are you taking the scriptures.

MR. CHERNIACK: But you said God sent us here to do this . . .

MR. VAN EEK: That's not determinism . . .God called you. I think I used . .

MR. CHERNIACK: Oh, God called us. All right. In the way that God called us to deal with this

MR. VAN EEK: But you're on slippery ground when you start theologizing.

MR. CHERNIACK: I'm not for a moment intending to work on your hypothesis. I want to understand however the extent to which you developed your theory. And I now accept the fact or believe that you accept the decision that is made by the Legislature, once made.

MR. VAN EEK: I do, Sir.

MR. CHERNIACK: All right. Now you speak - and I look now at the top of the second page - workers are treated - I'm just skipping something - workers are treated as mere production factors, cost items on par with tools and machines. Who treats them that way?

MR. VAN EEK: I can only cite experiences, Mr. Chairman, which I had and as a pastor they are limited in the nature of the case but I do have . . .

MR. CHERNIACK: Oh now you are on our ground maybe.

MR. VAN EEK: No, I'm talking too about my dealing with people who are being aggrieved in the workaday world.

MR. CHERNIACK: Oh.

MR. VAN EEK: Thunder Bay, I worked there for four years and there were people among those whom I minister to, and they came of their own free choice and associated with us you understand. People were aggrieved there daily because the only way they could get a job on the docks is if they . . . in the Union Hall were told by one you go here and he goeth, and by another you go there and he goeth, sort of thing. They were not hired on the basis of skill, performance at the job, education or any such qualifications; they were hired on the basis of their willingness to affiliate with a union. And when they objected and said I'm working here under protest, there were ways and means.

MR. CHERNIACK: Well, Mr. Van Eek, the way you're describing the way these people were selected, it denies the statement you make, that they are treated as production factors, cost items on par with tools and machines, because I interpret that statement by you as saying that they are judged on their productivity, on their skill, on their experience, on their ability. That's how they would be judged as cost items on par with tools and machines as production factors. You're denying that, you're saying that some union picks them on the basis of adherence to the union, which is not a cost item on par with tools, etc. Which do you mean?

MR. VAN EEK: I mean that under the present system, and I'm not only addressing myself to the union in this instant you understand that in the present system a person really doesn't have the freedom to associate with whom he will and to work at what he's best at.

MR. CHERNIACK: Can we come back to my question.

MR. VAN EEK: Well . . .

MR. CHERNIACK: Who treats them as mere production factors, cost items on par with tools and machines?

MR. VAN EEK: Such enterprises as have the compulsory check-off and the compulsory one union representation.

MR. CHERNIACK: Would you not say that an enterprise which might have no union, an open shop, would still likely or possibly, or in some instance, be managed or operated by an operation which treats workers as mere production factors, cost items on par with tools and machines?

MR. VAN EEK: In fact the union movement arose out of that abuse.

MR. CHERNIACK: Well then you're saying . . .

MR. VAN EEK: And may I say more though, Sir?

MR. CHERNIACK: Yes by all means.

MR. VAN EEK: Because this is a slanted picture you understand of my position.

MR. CHERNIACK: Yes.

MR. VAN EEK: The thing is the unions arose out of the kind of abuse I'm here alluding to, Sir. What we must say further to it though is that the option you give as the alternative is not my option. We are not anti-union, we are anti-abuse by management, union, capital, and whatnot, and what we're pleading for, you know, is for a very high view of man - I called him a couple of times the image bearer of God - and we're pleading that no distinction be made on man's level of education, cleverness in the way of management, and so on, but that every human being be able to work at his optimum potential in whatever he's good at, without regard as to whom he's willing to associate with. You ought not to be given a job in the government on the basis of your willingness or unwillingness to associate with my church. That establishment we've done away with, you know.

MR. CHERNIACK: So, Mr. Van Eek, then are you saying that because of this selfish nature of man and the fact that certain enterprises - if I may use the term that is not maybe in your biblical terms - but exploited people, trade unions came about.

MR. VAN EEK: That's what I just finished saying.

MR. CHERNIACK: And that therefore it became necessary because of this situation that you described that trade unions should play a role in an effort to overcome this exploitation. And now you say that there's a certain limit beyond which it becomes dangerous. Is that limit the closed shop?

MR. VAN EEK: That limit is certainly the closed shop in most instances. In an instance where all the workers are really of agreement as to the basis, the principles and the objectives of their representative union, fine and dandy, they have that right. But if anyone disagrees be he communist, Christian, or whatever, the label is not important . . .

MR. CHERNIACK: It could be the same the way you describe your principles.

MR. VAN EEK: The label is not important but there must be opportunity for any person of whatever conviction, short of damaging the communal life that is Canadian, that is Manitoban, that is City, etc., to exercise his skills without prejudice arising from his association or refusal to associate with anyone.

MR. CHERNIACK: But, Mr. Van Eek, you did reach the stage, I think, of saying that where a 100 percent of the workers are in full agreement then a closed shop is acceptable.

MR. VAN EEK: They shall determine that.

MR. CHERNIACK: Well if they shall determine it, then does the majority determine it?

MR. VAN EEK: No, Sir.

MR. CHERNIACK: No. So that you're really opposed to a closed shop.

MR. VAN EEK: I think I've stated it and you have capably picked it up, Sir.

MR. CHERNIACK: Yes, well you sort of made it appear as if you weren't in certain circumstances . . .

MR. VAN EEK: I'm saying . . .

MR. CHERNIACK: But that is really. . your objection is to the closed shop which means compulsory membership in a union, otherwise no work.

MR. VAN EEK: Right.

MR. CHERNIACK: And that then is a factor in determining whether or not a person may work, is whether or not he belongs to the union, because you object to any unions to which a person . . .any organization to which a person is required to belong. Could you tell us what other organizations you oppose?

MR. VAN EEK: I have told you I do not oppose unions, I oppose the principle of closed shop.

MR. CHERNIACK: Yes but you are also describing the danger in unions. What other organizations do you see that have a closed shop to which you are opposed?

MR. VAN EEK: Sir, I tried to stay on the principial level and there were some references made last Saturday when I was in your committee rooms to other associations. May I attempt at a definition that is inclusive. I would say I am opposed to any association that would bar a person from exercising his chosen vocation, skill, trade, whatever, on the grounds of that person's refusal to join that association.

MR. CHERNIACK: All right then, what other efforts have you or your church or the people for whom you speak made to get your point of view across in relation to any other organization that you know of that is in conflict with your principial approach to this.

MR. VAN EEK: All right. May I preface my remarks, Mr. Chairman, by saying that my church or those people that come to my church are by far and away, most of them being in positions of workers, skilled workers, labourers. The few people of ours that belong to professional associations are getting individual counsel, pulpit exhortation that applies to no one section but to all, espouse this very thing, that we must not compel another to do anything against principles he holds dear. The only power I have, as a church now, not as an individual but as a church, is persuasive power - the Sword of the Spirit, the scriptures call it - that is the only thing which the medical doctors in my church may exercise with respect to the conscience of fellow doctors, and they are constantly being exhorted to see what they as medical practitioners do in terms of the parameters prescribed by the simple dictum of our Lord, you must love your neighbour as much as yourself. That obtains for all associations.

MR. CHERNIACK: Mr. Van Eek, I wonder if you would . . .

MR. CHAIRMAN (Mr. Shafransky): Mr. Cherniack, we are not having just a two-way conversation, there is the rest of the committee, you will refer to the Chair.

MR. CHERNIACK: Mr. Chairman, oh, you mean you want me to address you...

MR. CHAIRMAN: That's right.

MR. CHERNIACK: Yes, Mr. Chairman, I'll be glad to help you learn how it is that one conducts himself here.

MR. CHAIRMAN: Thank you very much.

MR. CHERNIACK: May I ask Mr. Van Eek, if I interpret what he just told me as being a statement, that other than in a general way from the pulpit, does he criticize any compulsory organization, and that he does not make an effort to oppose in legislative committee or elsewhere any other organization which has compulsory requirements for membership. That's my interpretation of what he said.

MR. VAN EEK: Mr. Chairman, your interpretation may in fact be correct because of what I said. I have not been alerted to members of our church infringing upon the rights and liberties of others through an association in which they espouse membership. This is not by design, this is the nature of the make-up of my congregation, Sir, and I must reiterate what you may not be alert to as far as the nature of my church is concerned, that we don't go around pontificating about all sorts of issues or people that are not relevant to the audience under my hearing, Sir. If the problems are relevant to the people in the pew, we address ourselves to them. You are not going to hear me criticize the government on some obscure bill which doesn't affect the livelihood or freedom of any of the members.

MR. CHERNIACK: Of your own particular church.

MR. VAN EEK: Of my audience, indeed.

MR. CHERNIACK: Which is your church?

MR. VAN EEK: That's right.

MR. CHERNIACK: So you feel it's your duty to represent those that are in your

(MR. CHERNIACK cont'd) . . . . . church but not the principal people generally who are affected by . . .

MR. VAN EEK: No, sir, that is a reduction from what I have said, I do not intend to accept as my own. We address ourselves to every issue to which the Bible speaks but when you are talking about the particularization of any principle, then we must limit ourselves to that which is relevant instead of damning other people while saying happy and good for all of us that we are not involved. One must in the Christian church always fight the tendency to congratulate one's self upon a certain level of attainment which some other poor duffers have not attained.

MR. CHERNIACK: Mr. Chairman, I'd like now to ask Mr. Van Eek about the closed-shop principle which I believe is not before us. I believe that there is not a closed shop proposed in the legislation, as I read it.

MR. PAULLEY: No, it says present legislation and there is no reference to it as I understand to the closed shop.

MR. CHERNIACK: My understanding is there is no compulsory membership requirement. There is a requirement dealing with payment of dues or their equivalent.

MR. VAN EEK: Right.

MR. CHERNIACK: So that there is no requirement in the proposed legislation to order a person to belong to a union. That's correct, isn't it, Mr. Van Eek.

MR. VAN EEK: That is right, sir, . . .

MR. CHERNIACK: And you are objecting to the support which they will be required to give to the union?

MR. VAN EEK: If I may, Mr. Chairman. In point of fact the one provision allowing one to show cause why he doesn't wish to belong to a certain union is completely negated by the intended deletion of this factual, the effective withholding of one's support from that union by the money talks, and the present amendment before the House simply is going to emasculate that little bit of justice that was achieved under the former reading.

MR. CHERNIACK: Mr. Van Eek, we are still in agreement that this proposed amendment will not force a person to join a union. Are we not?

MR. VAN EEK: No, sir.

MR. CHERNIACK: We are not?

MR. VAN EEK: In fact, sir, if you say to me, if I am a plumber, I don't need to belong to the plumbers' union but I must pay the dues, you have in effect told me that I must belong. That is to say I must assume corporate responsibility for the actions of that union, political, social, economic, all the various ways to which that union works.

MR. CHERNIACK: Mr. Chairman, this is very important to me to understand because Mr. Van Eek you seem to be saying that by paying the equivalen of dues - now they are not dues because to me membership dues are dues payable by a member, but where the requirement here is not to belong to the union, which I believe means not to be a member, but to make a payment like a tax. Now you are saying that by making a financial contribution you are now bound by all the Acts of the union whether or not you agree with them and whether or not your name is on the list of membership or whether or not they call you a member. Is that what you are saying?

MR. VAN EEK: Sir, I am saying a very simple thing, and that is that I only support such causes with my money as I agree with, and that in point of fact me giving money to the Sally Ann or to the Red Cross or whatever, in fact constitutes me saying I agree with you at least in such measure as gives me the urge to support you. And I am simply saying that you are making a fine point of law which in common parlance doesn't cut any ice.

MR. CHERNIACK: Well, Mr. Van Eek, I'm not interested in dealing with frozen matter or otherwise. I want to have a clear understanding that you are saying that by making a contribution, compulsory, against your will, with every right in the world to make a public statement that to buy a newspaper ad saying I don't agree with the objectives of the union to which I am compelled to make a contribution, that you are still responsible for all the decisions that are made by the union. That's what you told us. Is that the way you believe?

MR. VAN EEK: I am responsible for my decision with money to support whatever the union pleases to do with those funds.

MR. CHERNIACK: Yes, that's if you make the decision. But if the decision is made for you you're not responsible are you?

MR. VAN EEK: Sir, I am still responsible, I am the spender of the money. If you force me to do that, I do that under protest and I say this is a grievous injustice because you have robbed me of my freedom of choice in the matter.

MR. CHERNIACK: Right. When you are driving down that highway at 65 miles per hour and you are stopped for doing something which you did, then you feel that although you may disagree with that decision of the Legislature that you should not go beyond 55, that's therefore a grievous removal of your right, your freedom to act as you . . .

MR. VAN EEK: I think the analogy is faulty, sir.

MR. CHERNIACK: Tell me.

MR. VAN EEK: Yes, I think the analogy is faulty. I am not competent as an individual, I am not competent to judge what is safe speed on Metro 42 north, I must leave that judgment to others. I think I am competent of judging where I want my money to go.

MR. CHERNIACK: All right then. You do pay taxes, you do pay income tax, you do pay compulsorily the costs needed to finance medicare which pays certain sums . . . are you in favour of the medicare program?

MR. VAN EEK: In principle, I am not.

MR. CHERNIACK: But you are required to support it?

MR. VAN EEK: Yes, sir.

MR. CHERNIACK: Do you feel that's a grievous invasion of your rights?

MR. VAN EEK: That's a matter of degree, isn't it?

MR. CHERNIACK: You do feel it's a degree of invasion?

MR. VAN EEK: I say it was an invasion. I recognize too, sir, that there were inequities under the free enterprise system because that doesn't happen to be my bag either, as you gather from the paper.

MR. CHERNIACK: What paper?

MR. VAN EEK: The thing before you.

MR. CHERNIACK: Oh, I lost interest . . .

MR. VAN EEK: No, no, not the newspaper.

MR. CHERNIACK: Oh, this paper. All right. Well, Mr. Van Eek, when your tax money is spent to pay for munition for war effort, is that a grievous invasion of your . . .?

MR. VAN EEK: Yes, we do that under protest.

MR. CHERNIACK: How do you protest it?

MR. VAN EEK: The power of the sword, the word.

MR. CHERNIACK: Oh, by the word.

MR. VAN EEK: By the word.

MR. CHERNIACK: Well then would you not by the same token have the same ability to protest the requirement to pay the equivalent of union dues and thus be excluded from being part and parcel of the decision-making process of the union.

MR. VAN EEK: Sir, I am using that power right now. I shall avail myself of that until you force me to live under protest. To live under protest is something of a denial of the democratic freedom that the UNO and the BNA Act and the various statutes of the province seem to say they want to guarantee. I don't know them all, I am not being facetious. I don't know them all. I want to be cautious because you seem to think that I'm an authority on everything and I don't really want to come . . .

MR. CHERNIACK: But you are an authority on your opinion?

MR. VAN EEK: Right on.

MR. CHERNIACK: Mr. Van Eek, then I come to ask . . .

MR. CHAIRMAN: Mr. Sherman on a point of order.

MR. CHERNIACK: I have one more question.

MR. SHERMAN: Well I want to raise a legitimate point of order here.

MR. CHERNIACK: Of course you wouldn't raise any other kind.

MR. SHERMAN: No. And of course your decision will prevail, Mr. Chairman. But let me put it to you, that although Mr. Cherniack is a member of the Legislature, he

(MR. SHERMAN cont'd) . . . . . is not a member of this committee. This committee has a certain amount of work to do, and this committee has heard, with all respect to Pastor Van Eek - I'm speaking on my point of order, Mr. Chairman, with all respect to Pastor Van Eek, this question of conscientious objection was explored thoroughly by the committee through a host of persons and representations appearing before us on Saturday and appearing earlier this week.

MR. CHAIRMAN: Mr. Sherman, you are speaking on a point of order. I believe you expressed the point of order is that Mr. Cherniack has no right to speak. The fact is . . .

MR. SHERMAN: No, I'm not.

MR. CHAIRMAN: That's what you expressed originally . . .

MR. CHERNIACK: Mr. Chairman, on a matter of privilege. I think I'm being attacked. I think I'd like to hear out Mr. Sherman.

MR. CHAIRMAN: Proceed, Mr. Sherman, on your point of order.

MR. SHERMAN: That was not my point and it's no attack on Mr. Cherniack. What I am asking is whether, since Mr. Cherniack is engaged in a very interesting conversation with Pastor Van Eek in which everyone is extremely interested I am sure, but Mr. Cherniack is in this conversation and in this examination of this particular principle for the first time, the committee is not. The committee has heard numerous representations, not precisely the same as Pastor Van Eek's but on this particular point of conscience.

MR. CHERNIACK: What's the point of order.

MR. SHERMAN: The point of order is that the committee has work to do, there are people here who have been waiting to make representations for some time, since Saturday morning when you were first here, Mr. Chairman, and I suggest to you that I think Mr. Cherniack has been afforded wide license and wide time and I would respectfully submit that he help to expedite the business of the committee and not prolong his conversation on grounds that have already been covered.

MR. CHAIRMAN: Mr. Sherman, that is not a point of order. Any member of the Legislature has the right to ask questions. The witness before us, Mr. Cherniack has the floor to ask questions and he has not been making speeches as you have but he is asking questions of the witness on the brief that he presented before us.

MR. SHERMAN: Mr. Chairman, on a point of privilege. No one is making any speeches. I'm raising a legitimate point of order relevant to a conversation that Mr. Cherniack is having with the delegation who is not a witness but is appearing here as a representative of a delegation.

MR. CHAIRMAN: Mr. Sherman, that is not a point of privilege neither is it a point of order. Mr. Cherniack is asking the witness questions. Mr. Cherniack, proceed.

MR. BARROW: We have no interest . . .

MR. SHERMAN: We are interested.

MR. CHAIRMAN: Order please. Mr. Cherniack.

MR. CHERNIACK: Thank you, Mr. Chairman. I'd like to ask Mr. Van Eek then, I'm coming to the conclusion of where I was leading, whether he does not feel that in view of the fact that this amendment is not a closed shop, is not a requirement of membership, that since he accepts the right to object violently to making a payment which he may be required to make, whether he will not agree that in doing so he cannot possibly be accused of being part and parcel of the decision-making process of that union.

MR. VAN EEK: Mr. Chairman, I don't believe that anybody interprets his paying of union dues to be in fact participation in the decision-making. I don't think anybody looks on paying dues that way. We may adopt, I think, a much simpler interpretation of what in fact takes place. One supports actions by dollars, and if one is opposed to such action he withholds dollars. In my church people have a simple way of protesting sometimes that doesn't really speak of being imbued by the spirit of God, and that is if they don't like what the preacher says, they withhold their monthly cheque.

MR. CHERNIACK: But you don't do that in the case of taxation . . .

MR. VAN EEK: No. But we are asking for what is a right to which anyone should be entitled regardless of his personal convictions, to the left, to the right or in the middle. We say let the unions stand or fall by the same kind of principles by which other associations stand or fall and have a free and voluntary association. Why must

(MR. VAN EEK cont'd) . . . . . they coerce me into support, they obviously want the money because that for them is a strength and we say that ought not to be the source of strength.

MR. CHERNIACK: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Patrick.

MR. PATRICK: Mr. Chairman, through you, I wish to also ask a question of the witness. I think Mr. Van Eek raised some interesting points and some of the points in the brief, if you go through the brief, can be well taken. You oppose the adversary system and in your brief you indicate that labour unions must become communities of like-minded workers who from their own like respective can learn how to become meaningful partners in the enterprise. Can you explain that - unless I get the wrong meaning - if what you mean by the phrase is what's happening in Europe where there's a much better relationship between the employee and employer relationship, for instance, in the Scandinavian countries, or Switzerland, Europe and Austria, where there is almost no strikes and what you have is you have an employee representative on the board of corporations as a director on a corporation so there appears to be much better understanding. Is this what you mean or I'm getting a wrong meaning of your interpretation?

MR. VAN EEK: No, Mr. Chairman, in point of that, this is the sort of thing I'm alluding to; it doesn't serve as my perfect model, I do not know exactly how well it works. I think I'm coming at it from the perspective of what the Bible says my relationship to you ought to be.

MR. PATRICK: So I am interpreting the brief and your statement in the brief correctly, that you mean a better communication relationship between employee-employer. My other question to the witness, Mr. Chairman, can you tell us how can this be accomplished, because in some of the European countries, labour legislation is federal legislation, this is provincial, and I think it would be difficult to legislate that type of thing or that type of legislation. Can you give us some indication how this could be brought about that you have this - I know you've made a point that the man is selfish or it's the nature of the man to be selfish and greedy, and your point could be well taken. I can't disagree with you. But can you give us some indication how can this perspective be brought about that you would have meaningful partners in the enterprise of employee-employer, which is taking place in some jurisdictions and the results are that it has the best success of anywhere in the world, in the western world.

MR. VAN EEK: Well, Mr. Chairman, within the limitations of again risking to speak as someone who is in labour relations and not a pastor who seeks to deal with very basic fundamental principles that ought to govern life, I may say that the least that can be required as a fundamental beginning is that we, as I said, outlaw the adversary way of approach and that we establish in the enterprises where things that people do are happening, representation on the part of every component, the workers, those who have invested their money, those who have managerial skills, consumers that they all have a say in the determination of the policies that affect the life of all of those parties, too, again in that enterprise, there would be some sort of an internal industrial relations committee. I don't know, the handles are not important to me but all those who are involved in the effects of the decisions made ought to have a say in the decision-making process. Now you can start to drive me further and say: how many of this sector, how many of that? I shall have to defer to people who know a great deal more about that but who are working in this kind of an enterprise.

Western Europe, Mr. Chairman, where I was born in Holland if you will, Western Europe could not have been rebuilt on the way things are happening in Canada, which I love profoundly the last couple of years. And I submit that there is a serious deterioration in the commonality that made us sing "O Canada". There's a lot of cynicism abroad and I suggest to you, at the risk of being called a preacher, that that cynicism is being fed by a system that picks one man against another. That's why I'm here.

MR. PATRICK: Mr. Chairman, it's a good point of view but again you didn't answer my question. How do you think that this could be brought about in our country where you could have, say, full partners in an enterprise, meaningful partners from labour-management? Do you think that this can be brought about? Or would you like to see it legislated, and you don't like legislation.

MR. VAN EEK: The business of one group or sector forcing another in a corner where it doesn't wish to be is possible and must be, if you will, outlawed, and provision be made for meaningful discussion around the table.

MR. PATRICK: Mr. Chairman, I have another question. You're opposed to paying dues. If the dues were say $3.00 a month or whatever they were, $5.00 a month, say if you were prepared to pay double that amount, but if you had your choice to have your dues directed to a choice of charity or church, well let's say charity, not church.

MR. VAN EEK: Double to charity . . .

MR. PATRICK: You would agree to have double that amount and your members to pay double the amount what the dues are. So I want to be convinced that it's not that you want to get out of paying dues.

MR. VAN EEK: As I say, you have to believe my word for it . . .

MR. PATRICK: You'd pay double the amount whatever the dues are as long as you have a choice of . . .

MR. VAN EEK: I'll give you an illustration --(Interjection)--

MR. PATRICK: Or through tax, yeah.

MR. VAN EEK: Mr. Chairman, if I may give you an illustration. Most of the people who are sitting under my hearing are paying for the education of their children out of labour with wages in school that does not derive the benefit of funds from the public purse. I pay double tax. I pay for the school taxes of District 9, I also pay the tuition for my children going to schools where I have a say in what curriculum, what hours, what teachers, what discipline, what liaison with the parents. The whole ball of wax. It cost me, Sir, $2,400 this year.

MR. PAULLEY: Because you're the central authority.

MR. VAN EEK: Because I am the central authority, because I am the one that makes that choice.

MR. CHAIRMAN: Mr. Patrick. Any further questions, Mr. Patrick? Mr. Jenkins.

MR. JENKINS: Mr. Chairman, I feel very lucky that you even recognize me after . . . this is just to show Pastor Van Eek just how democratic this committee is, and I'm prepared to live by the rulings of the Chairman, but I realize that this is a matter of extreme conscience for you, and you must also realize before I ask you the question that this is an extreme matter of conscience for me. You will grant me that.

MR. VAN EEK: Of course, Sir. I have no reason to doubt your integrity, this is our first meeting.

A MEMBER: You don't know him at all.

MR. CHAIRMAN: Order please. That accusation is not called for.

MR. JENKINS: I suggest that you ignore the remarks of my honourable friend here, and I'll ignore his.

I'm interested in your brief and I'm interested in some of the suggestions that you have made. Now you made on suggestion, Sir, that by the abolition of subsection 63(8) which in the Act of 1972 gave basically the freedom of choice under certain circumstances. You are also aware that under the present clause 23 subsection 68.1, that we are abolishing within the Province of Manitoba the closed-shop agreement.

MR. VAN EEK: That's why I'm here, Sir.

MR. JENKINS: We are now abolishing the closed-shop agreement. I ask you right now, that you have no compunction, I mean no aversion to us withdrawing 68.1 of the present Act, not the Act that's before you here but the present Labour Relations Act of Manitoba. You know when you talk about a closed shop, a union shop and an open shop. Do you know what that means?

MR. VAN EEK: Yes, I don't know if I have the text clearly before me but it ...

MR. JENKINS: The closed shop is one whereby you must within a certain number of days or weeks become a member of that trade union in order to have employment. We have, by the amendment of the Honourable Minister of Labour has proposed here, taken this section out, which has to all intents and purposes, and I have not yet heard one trade union representation.

MR. CHAIRMAN: Mr. Jenkins, would you use the microphone please.

MR. JENKINS: Oh, sorry, Mr. Chairman. I have not heard one trade union

(MR. JENKINS cont'd) . . . . . representation here in the days that I have been Chairman of this Committee, and I still am, but I'm here now asking the questions because I . . . Not one trade union has said that they are opposed to this change in the present Labour Relations Act of Manitoba, which makes it possible for people not to belong, not to have to belong to a union. You're not opposed to that?

MR. VAN EEK: No, Sir, that's quite in accord with the principle of individual choice on personal conviction.

MR. JENKINS: Now you further stated under questioning from Mr. Cherniack that you felt, and I think other people have felt, by the very fact that you are compelled by law to, you know what's happening now with the abolition of 68(3), the Rand Formula, which Justice Rand brought in in 1945 in the automobile dispute down in the Windsor area, that those who benefit from the negotiations of a collective group of people would pay for those services which would go to servicing of those people. That is what the Rand Formula, that is what the abolition of 68(3) means. You understand that?

MR. VAN EEK: Yes, Sir, I think I do.

MR. JENKINS: And you say also by the fact of that that you are compelled by the Rand Formula, because that's what will apply, that this makes you a member, in your opinion, by your conscience, you and other members, makes you a member of that union. Is that right?

MR. VAN EEK: I want to be understood, Sir, and I want to understand you with reference to the connotation you give to membership. I will . . .

MR. JENKINS: No, no. I didn't give that connotation to membership. You gave it, it's my understanding, other members from the Plymouth Brethren, Mr. Jantz on Saturday gave this connotation; if that's the connotation that you believe by you being forced to contribute union dues for the upkeep and the servicing of membership within that union, which includes negotiations, various other grievance procedure, everything else, this makes you a member to all intents and purposes by your conscience a member of that Union. Does it?

MR. VAN EEK: That makes me a subscriber to the policies of that union unless I would register in writing my protest, and then I'm still a member under protest.

MR. JENKINS: All right. Now by the same token, you are a good law abiding citizen. You said that you . . .

MR. VAN EEK: Try to be.

MR. JENKINS: . . .drive down Henderson Highway at 55 miles an hour, whatever the law of the land or the province or the city, whatever it is, states that you're - and I hope you never exceed the speed limit because I don't want to see you get a speeding ticket.

MR. VAN EEK: That's the worst of my sins.

MR. JENKINS: But you say that you obey the law. You obey the law of the Province of Manitoba, taxation law? You obey the federal taxation law? School tax? Now you know that the government in Ottawa is a Liberal Government. Is that correct? And the taxation policies that they bring forward are those that are determined by the Federal Liberal Party. Do you feel in your opinion that that makes you under protest, under protest a member of the Liberal Party of Canada? Also you might go back here to Manitoba where we, we as a government, a Democratic Party, set certain taxation measures that you as a good law abiding citizen - and you pay your taxes, I'm sure you do because I've never heard of you being prosecuted in the courts for non payment of taxes, but going back again, maybe you're a member under protest of the New Democratic Party provincially and the Federal Liberal Party. Are you?

MR. VAN EEK: Mr. Chairman, I don't think that's a correct statement of the fact. I am a citizen by my choice not by birthright. I am a citizen by choice. I am not a member of the Liberal Party. I pay taxes for the orderly execution of such things that are the business of the government, not the Liberal Party, the government, and if I don't agree with their policies, foreign affairs, or whatever, I have the right of protest, which I am here exercising.

MR. JENKINS: But you don't have the right to withhold those taxes?

MR. VAN EEK: No, no.

MR. CHAIRMAN: Order please. Mr. Jenkins, would you ask questions specifically on the brief that is before you.

MR. JENKINS: Thank you, Mr. Chairman, I have no further questions from the witness. Oh, I have one more question. No, from the delegate. I'm sorry, Mr. Chairman, and I must call you to order . . .

MR. CHAIRMAN: I'm calling you to order.

MR. JENKINS: No, I must say, Mr. Chairman, that people appearing before this committee, I have never called them witnesses because we don't summon them, they are here as free delegations and I humbly apologize. The Member for Crescentwood is quite right that I was in error in calling you a witness. You are a delegation and I accept you as a delegation. You're here on your own free will. We have not summoned you here to give testimony under oath or any other thing whatsoever. --(Interjection)-- We're happy to have you. That's quite true.

MR. CHAIRMAN: Do you have a question?

MR. JENKINS: You made me forget the question I wanted to ask you.

MR. CHAIRMAN: Thank you, Mr. Jenkins. There are no further questions.

MR. JENKINS: No, I do have. I do remember now, Mr. Chairman, and I think that . . .

MR. CHAIRMAN: Order please. Mr. Jenkins, do you have another question?

MR. JENKINS: I do have a question to the delegate, Pastor Van Eek, and I don't doubt your sincerity, I've said that before and I accept it, and you say that you feel that the adversary system that which we operate within our society today, is such that you cannot accept this adversary system. Would you be willing to see written into the Manitoba Labour Relations Act by law a legislation that you would be able to not pay your union dues because of conscience but also not to accept the donation to charity, but also the raises and improvements and working conditions that your parishioners, people that you are speaking for, would also turn those over to a charitable organization.

MR. CHAIRMAN: Mr. Van Eek.

MR. VAN EEK: Mr. Chairman, I think Mr. Jenkins, whom I may now address as Mr. Jenkins, is forcing me to live by the dollar as it was pegged in whatever year. If you, Sir, would write into law that I may accept no increase in salary or payment for services, wages, whatever, exceeding the rate of the increase in the cost of living, Sir, I should be jumping for joy because everyone, and I mean everyone, would benefit. And I think that would be fair; not what you suggest that I live back in 1954's wage rate, or something like that.

MR. JENKINS: But you state that you don't agree with the adversary system, yet the adversary system that we are operating under, now unfortunately that's a system that we live under, the adversary system produces the wage increases that you as a pastor will get because your parishioners will have much more money to be able to increase your wages. I don't say that you are in an adversary system with your parishioners, but how can you in all good conscience accept the iniquitous - I believe that was one of the words that was describing trade unions - unclean organizations who would get this increase. Now if in all good conscience you people feel that these organizations who gain these increases in wages, working conditions, pensions, vacations with pay, all these things. . . --(Interjection)-- I don't know what the Member for St. Johns just said, I missed what he said . . .

MR. VAN EEK: But he's not got the floor.

MR. JENKINS: But these things are gained by the adversary system. How can you in all good conscience accept them? Now if you would say that you would not accept these things, then I would say I will give it to you in legislation. But I have not heard one group, one group of people who have had this conscientious or religious objection to the Rand Formula, state that.

MR. VAN EEK: Mr. Chairman, the last speaker, Mr. Jenkins, is mixing apples and oranges. There is such a thing as a labourer being worthy of his hire, that is not necessarily determined by the unions. I am urging that that should be determined by all those who are busy in the enterprise, Sir. That is, not only management. We all know what sort of things that has led to. And I purposely refrain from the psychological effect loaded words which Mr. Jenkins now wants to load on me, and I don't accept them . . .

MR. JENKINS: I'm not trying to impute any motives to you.

MR. VAN EEK: No, no, but you're trying to impute, I'm sorry, those words on me.

MR. JENKINS: No I'm not trying to.

MR. VAN EEK: I have not used words like iniquitous or any such thing.

MR. JENKINS: No, no, I'm sorry. I didn't accuse you of that. I said that the delegations that appeared on Saturday, and I'm not imputing that sort of motive to you, no way, under no circumstances, Pastor Van Eek.

MR. VAN EEK: Mr. Chairman . . .

MR. CHAIRMAN: Order, Mr. Jenkins.

MR. JENKINS: I want to ask you one more question . . .

MR. VAN EEK: But do you understand, Sir.

MR. CHAIRMAN: Order, Mr. Jenkins. The delegate before us is wishing to answer a question that you had asked.

MR. JENKINS: Oh yes.

MR. VAN EEK: Mr. Chairman, I don't want to be going away from here having someone interpret me to say that I'm out to get the unions. We're saying . . .

MR. JENKINS: I never said that.

MR. VAN EEK: We're saying, we're saying . . .

MR. JENKINS: Now you're . . .

MR. CHAIRMAN: Mr. Jenkins, order please.

MR. VAN EEK: I want to make sure I'm understood.

MR. JENKINS: No, no. Mr. Chairman.

MR. CHAIRMAN: Mr. Jenkins . . .

MR. JENKINS: Mr. Chairman . . .

MR. CHAIRMAN: Mr. Jenkins, you will have an opportunity to ask your question.

MR. JENKINS: I did not impute that motive to Pastor Van Eek and Pastor Van Eek called me - and quite rightly so - he suggested that I some way or another had imputed motives to him.

MR. VAN EEK: No, no.

MR. JENKINS: I don't want him to impute motives to me.

MR. VAN EEK: No, I didn't say impute motives. You laid a couple of words on me that I'd sooner not use. Okay. Just words. --(Interjection)-- No, no, you're not accusing me of wrong.

MR. CHAIRMAN: Mr. Van Eek, proceed.

MR. VAN EEK: Mr. Chairman, my concern in the brief is not simply to say that the unions don't have a right to exist, my contention is that the adversary system into which union, management, capital, the whole human enterprise in Canada is locked up, is destructive of the peace we seek and proclaim. And I'm addressing myself then, Mr. Chairman, not only to the union.

MR. JENKINS: I have just one more question.

MR. CHAIRMAN: Mr. Jenkins.

MR. JENKINS: To you, Professor Van Eek or Pastor Van Eek, you say that you were born in Europe and you know something of the system of how . . .

MR. CHAIRMAN: We cannot hear you, Mr. Jenkins.

MR. JENKINS: You know something of the system of how they operate in industrial relations. Are you aware - and this is part and parcel of the question that Mr. Patrick asked - that in Sweden today, in the coming up general election, what the Swedish Social Democratic Government of Sweden has advocated, and it's going to be one of the platforms that the election is going to be fought on, is a 50-50 basis of management and union operating the business. Are you aware of that?

MR. VAN EEK: No, Sir.

MR. JENKINS: Thank you.

MR. CHAIRMAN: Mr. Banman.

MR. BANMAN: Thank you, Mr. Chairman. Through you to the delegate to sort of sum this up. What you are basically saying, and what I gather from throughout your whole brief, is that you are not basically saying that if somebody wants to join a union that's his prerogative but also the converse of that, if somebody by conscious religious beliefs does not feel that he can join a union, that person should be given that opportunity.

MR. VAN EEK: I am saying both, Mr. Banman.

MR. BANMAN: Now do you feel that the present legislation the way it is, and the way it has been interpreted by the courts several months ago, is going to cause a major exodus of people out of the labour unions that are presently involved in the labour movement in Manitoba? In other words have we opened the floodgates?

MR. VAN EEK: I think not, because procedure of having to establish one's case before the Labour Board is a deterrent for many people and certainly would sift out those who seek to be enterprising for their own personal gain.

MR. BANMAN: So you think that the Labour Board would be well equipped to handle and determine whether the person really, by own personal religious beliefs, is truly a conscientious objector? In other words, that they would serve to . . .

MR. VAN EEK: Well, you know, the way history of the present Act has gone, and particularly subsection 68(3), the interpretations given were not in line with what the Act provided for. It should be adequate, properly understood, that such a body test a person on the genuineness of their conviction, the sincerity with which the individual holds that. I've been present at a couple of these hearings and most of the people that, well the witnesses that made the appeal were forthright, they established their case pure and simple, and it would seem to me it was not hard to adjudicate it, it really didn't seem hard. We went or the Board went wrong in some of its adjudications in saying, well in the interpretation that I as a religious officer had to verify, that a certain individual held his conscientious objections in good faith, and that then the Board turned around and exacted from me a statement to the effect whether or not that person could remain a member in good standing in my church if his appeal were denied, and I said, yes, we will not penalize him for a decision that the Board makes.

MR. BANMAN: So really what you're saying is that the personal aspect of course, as far as the expression of personal belief, is the important criteria . . .

MR. VAN EEK: Not criteria.

MR. BANMAN . . .and not the criteria of belonging to a particular . . .

MR. VAN EEK: No. Association has nothing to do with it, ought to have nothing to do with it.

MR. BANMAN: In other words, what you're saying is, religion is a very personal thing.

MR. VAN EEK: It is a personal thing.

MR. CHAIRMAN (Mr. Jenkins): Any further questions?

MR. BANMAN: Thank you, Mr. Chairman.

MR. CHAIRMAN: I'd like to take this opportunity to thank you Pastor Van Eek.

MR. VAN EEK: If you insist, Sir, I'll come for the cum laude at your hands some day.

MR. CHAIRMAN: Mr. J. Steele. Is Mr. Steele here?

MR. STEELE: Mr. Chairman, Honourable Mr. Paulley, and members of the committee. I'm appearing here as a private citizen. I suppose I could be termed as one of those complacent individuals who has been listening to and reading things and get to a point where a straw breaks the camel's back, and more and more people are starting to make themselves heard. I'm completely unfamiliar with the goings on of the committee, apart from what I've learned since starting here at nine o'clock Saturday morning. Had I known it would take this long I might have started just to attend now. But I'm glad I didn't; it's interesting to see what has gone on.

I was concerned and my concern caused me to write a letter to the Premier. I delivered that letter to the Premier by hand, in his office, around noon on Friday. I was at home and it was approximately 6:30 in the evening when there was a knock on the door and the Pink Lady delivered a reply to me from the Premier. This impressed me quite a bit and I'd like someone here to convey to the Premier my thanks for the reply to my letter. Because he replied, I felt that I was now obligated to make an appearance here and that is why I am here.

I think first of all in order to express my concern, I should read the letter which I sent to the Premier. And I state:

"I have just become aware" - it's attention to, Dear Mr. Premier -"I have just become aware of a situation which to me does not ring of the trueness of freedom, or

(MR. STEELE cont'd) . . . . . justice or even fair play. I refer to the fact that the White Paper issued by your Minister of Labour last December did not contain all the proposed amendments to The Labour Relations Act which are now evident in Bill 57. By doing this free citizens of Canada resident in Manitoba, whether they be government, opposition members, members of associations, or individuals, have had no opportunity to debate the issues or to submit briefs for or against the proposals. I refer specifically to" - and I outlined 119.1, rather than read that I'll just carry on.

"Surely this is not the way a freely elected government in a democratic society has to operate. Why would your Minister be afraid to have his proposal exposed to debate rather than at the last speed-up minute try to ramrod it through? It would seem that any decision on the matter is made by the Labour Board and not the courts and that there is no appeal on the decision, which is binding on both parties and enforced by the courts with no right of appeal. Is this the freedom that so many people fought and died for in two world wars?

"On the other hand if your Minister is attempting to bolster up union membership, why does he have to use these tactics? If union membership is a panacea of the working individual, why then are the majority of workers in Canada still non-union? Why are people not flocking to join the unions? If we have a just society, or trying to have, where are the politicians which are arguing for the free Canadian or the Manitoban who does not want to join or even support a union? It seems that your legislation is partial to the unionist. Is the non-unionist a second class citizen? These people also fought and died for their freedom.

"In all fairness and with all regard for the freedom and justice which is our heritage and our pride, I object to the lack of notice and a chance to make representation on this matter and ask you to correct the situation."

The reply which the Premier sent me, and as I said which I received at 6:30 by special messenger, indicated that there was in fact going to be the meeting on Saturday, and I attended, and one part of this letter which I hesitate to call a lie, but it is certainly an untruth if I understand the Queen's English. I will read - this letter by the way is signed by a Mrs. Margaret Costantini, the Administrative Officer for the Premier. The statement says:

"The Premier also asked me to draw to your attention that the new amendment is merely an amendment to Section 36 of the existing Labour Relations Act covering mergers of bargaining units, etc. and is substantially the same."

My concern in this was that if there are two companies which have common management or common shareholders and one is union and one is non-union, surely someone is providing employment for two categories of people. Yet as I read this legislation, the Board in its wisdom can say that these companies are in fact associate companies, and I read it then that the non-union people will be represented and must belong to the union that is in the union shop. That is the way I read it and I understand it. If I'm wrong, I'd like to be corrected.

The fact that the people elect not to join a union, I think that is their right. I'm concerned with the erosion of our freedoms; these people elected not to join a union. It was interesting to me to listen to the news this evening, and I didn't catch the whole of it but I did understand it to say that there is some problem in the CNR right now with regard to the union where 18,000 people, the majority of whom have organized themselves and have retained legal counsel to fight the encroachment of this union on whatever they are attempting to do. And that was reported on the CBC news tonight. And as I have indicated, my concern was that I just felt that there was erosion of our freedom, that in this day and age that it doesn't seem to me that there is anybody standing up for the person who doesn't want to belong to a union. Our legislation seems to be for the unionist, and I am in no way anti-union. I am critical of union, I am critical of management, I am critical of non-union people. I would like to think that, as Mr. Coulter indicated, what's good for the goose is good for the gander.

It was interesting to me when Mr. Coulter was referring to unorganized people in service stations, that he referred to them as second-class citizens, inferring to me that just because a man doesn't belong to a union he's a second-class citizen. And I don't think this is so. And it is these things that are concerning me.

(MR. STEELE cont'd)

It concerns me a little bit when I hear people sort of relating unions to professions and telling me that professions are restricted in what they do and that you can't do this unless you belong, that you are a member of it.

Well as a citizen I'm tickled to death that an architect has to be registered to operate in this province and that the Statutes of Manitoba say that he will receive a certificate and a seal from his Association. Because if the building falls down at least we have something to go on. Doctors have malpractice suits against them, and that we can take all the professions, but when a plumber hooks up the wrong pipe you can't have malpractice against him.

I have had occasion where we have had people do work and it has been done incorrectly and you have to pay the man to take it apart and you have to pay him to put it back together and you have to pay for the material which has been destroyed. I just feel that what I was reading in this about the 119.1 concerned me and it caused me to write a letter and, Mr. Chairman, that is why I was here to say that I think that perhaps I'm speaking on the basics, things which are perhaps too basic. I'm not that involved in all the higher aspects of the government. But I think that we have lost a lot of the sight of a few basic principles that this country was brought up on, which I was brought up as a child, and I think all of you were brought up on. Thank you.

MR. CHAIRMAN: Thank you, Mr. Steele. We may have some questions that some members of the committee may wish to ask. Any questions? Mr. Steen.

MR. STEEN: Mr. Steele, you make the comment in reference that you're very pleased that the Architects Association hands or grants out certificates or seals to competent architects. I guess one could go on and say that the Department of Labour gives the plumber or the electrician a certificate saying that he has passed some basic training and therefore that is protection for you and I as the public. Then the argument has been put forward by the Minister of Mines and Resources, and he tries to draw a parallel between the Architects Association and the Law Society, which he is a member of, and other professional groups and the union. Have you a comment along those lines?

MR. STEELE: What I was referring to it is my understanding that every professional organization in Manitoba, there is a statute which governs them and that the individual who is going to practice under that particular profession receives a seal, whether he be an architect, a professional engineer. . . .

MR. STEEN: Dentist, doctor.

MR. STEELE: Whatever. These people are not allowed to practice in any other province unless they go through and pass certain examinations pertinent to that particular province. So that I think that in this way the governments of the provinces are looking after the welfare of the people because these people have a very direct connection with our daily lives, whether they're building bridges or building buildings or operating in an operating theatre, or whatever it might be, they're professional people and they're doing this and they should be under some sort of licence.

But the plumber who gets trained in Manitoba can go and operate in any province he wants to. The plumber, as it was evidenced not that long ago, can hook up the wrong pipe, can cause death. The electrician can cause fires, but you can't have a malpractice suit against them. You've got to prove that it was incompetence and it was criminal negligence, and all the rest of it. But our professions are not treated so lightly. I don't think that it's fair when people are making comparisons to compare a union with a professional group.

MR. STEEN: That was going to be my second question.

MR. STEELE: There was discussion going on about whether an employer should be able to say anything to his employee about joining a union. But there's nothing in there to say that one union can't come in and start arguing and saying, "You'd better not join that union, join our union," and I believe they call that a rating. I think that that's caused an awful lot more trouble than some employer just saying: "Well, look fellows, you'd better look into the history of that union and just see what it's done in the past and see if that's the best one for you."

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Thank you, Mr. Chairman. Mr. Steele, is your basic discomfort with Bill 57, the provision with respect to 119.1, the provision respecting associated businesses?

MR. STEELE: Yes, as I read it, if an individual had two businesses, one, say, union and one non-union, it is the whim of a board as to whether or not they are associated companies, and the person has no Right of Appeal to say, well, no this is not so. He is told they are, period. That is as I read it.

MR. SHERMAN: So the aspect of appeal is one of your concerns, too.

MR. STEELE: Yes, I think this is one of our basic freedoms.

MR. SHERMAN: With respect to 119.1 is your basic unhappiness with the provision as it's spelled out or do you simply feel that you haven't had sufficient time to discuss with the Department of Labour the ramifications of the provision?

MR. STEELE: Well, that together with the fact that if I, under the laws of Manitoba, incorporate two separate companies, they're two separate entities but they have common ownership, I accept the fact that the Department of National Revenue - and I have no objection to it - says as far as the Income Tax is concerned you're going to be treated as one because it's income into the same pocket. I've no argument with that. But when the Department of Labour says, "Well, the government of which I am a member says that you have two separate entities, but I say you haven't." There's inconsistency here.

MR. SHERMAN: Do you feel that differences like that could be resolved that there might be some points of view that the Department of Labour would express on one side of the question and some points of view that you would have would think would have some effect on their thinking if that particular section could be studied further? Or do you feel . . .

MR. STEELE: Yes. If I was convinced that the people who belong, who were working in the business that was not organized, was not unionized, would not have to join the union, would not be coerced, or they still maintained their freedom to remain outside of the union, then I would have no objection.

My objection is that as I read it, the Board will then treat both these companies as one entity and that the union therefore will represent the other people who don't want to belong to a union. This is the part that I object to, the forcing of people into unions. I can't help but feel, and with all due respect to the Honourable Minister of Labour, I can't help but feel that our membership in unions is increasing because we're legislating people into them, and I don't think this is free choice. As I say, Mr. Minister, I am not anti-union. I am fair play. What's good for the goose is good for the gander, as Mr. Coulter said.

MR. SHERMAN: All right, thank you, Mr. Steele.

MR. CHAIRMAN: Any further questions? Hearing none, thank you, Mr. Steele.

MR. STEELE: Thank you.

MR. CHAIRMAN: The next delegation is Mr. Stanton.

MR. STANTON: Mr. Chairman, gentlemen. Because of the rather late hour I'll forego the pleasure of congratulations on all the things that you've done that I might agree with or our group might agree with, and I'll only zone in on those things with which we disagree.

Secondly, I have to apologize for the fact of being this late on the program, and being here also since Saturday, I'm going to repeat ground that you've heard a half a dozen times. But obviously we think it's important that we state our case.

In 1974 the Minister of Labour called for general recommendations for changes to the Labour Relations Act. At that time our Association presented our thoughts even though at that point we couldn't know exactly what was going to be legislated.

In December 1975 the Minister of Labour issued what has come to be known as the White Paper. In his letter outlining the information he emphasized that the proposals contained therein were not to be considered as firm government policy. That we have to acknowledge. Our Association responded to various items in that position paper. However, neither the invitation for recommendations in 1974 or the White Paper in 1975 provided any real advance opportunity for the public sector to comment specifically on the items which now appear in Bill 57, as no one could be certain what clause or amendments would be recommended until we were able to see the actual proposed legislation.

(MR. STANTON cont'd)

Our Association was not able to obtain a printed copy of Bill 57 naturally until after second reading, and that was last Wednesday afternoon. We were not able to determine until Thursday from the office of the Clerk of the House that the Industrial Relations Committee would be meeting Saturday morning. Therefore, like other delegations who have appeared ahead of us we must express concern and disappointment with what appears to be a definite rush to have this legislation passed in the House.

The problem is further intensified by the fact that two other bills in this area have been brought forward at the same time.

I would like today to begin by emphasizing some of the points we made in our answer to the White Paper.

The Winnipeg Builders Exchange represents 275 firms involved in the construction industry in this province. Included in this group are general and trade contractors as well as manufacturers of supplies to the construction industry. A significant number of these firms are not party to collective agreements, somewhere close to 40 percent. Therefore, our association when examining proposed legislation changes must take into account the rights and privileges of both the union and non-union members of our group.

One of our major concerns with the White Paper was a statement by the Minister that revisions were intended to encourage the growth of collective bargaining in this province. Our association is convinced that it is the responsibility of the Government of Manitoba, regardless of which particular party is in power at the time, to protect equally the rights of all Manitobans.

It is our strong belief that the government, and that includes the Department of Labour, is charged with the responsibility of providing equal and fair treatment for all employees regardless of whether or not they belong to a union. The Statement of Intentions by the Minister of Labour infer the bias in favour of those employees who are union members. To this we disagree. We feel that those people who are on the outside of a union are first-class citizens, whether they're on the management side or whether they're in the labour force. This, in effect, infers a type of second-class citizen if we take the Minister's view. Again I state we disagree.

Section 6(2). Under the current Act it is considered to be an unfair labour practice in Section 7(1) if an employer shall participate in or interfere with the formation, selection or administration of a union. What is proposed in Section 6(2) is that the employer shall be considered to be guilty of an unfair labour practice if he even indicates that he objects to the unions, or prefers one union, or that his attitude will change if a union is certified.

Gentlemen, if I didn't have a union shop, which I have, obviously my policy would change. If I had paternalistic attitudes to try and protect the employees then I would take a different stance, because from that day on I would have to negotiate everything I gave, and I would give the least I could under an adversary system. I disagree with the statement that's been made tonight, that contributing to unions is not strengthening their hand.

There's a significant difference in this terminology of participating or interfering as opposed to the term "indicates". As we pointed out in our comments on the White Paper it must be recognized that it is the employer who has the greatest amount of overall experience in his business. I might say that with tongue in cheek but hopefully it's true. Who risks his capital to continue his business? Who has the responsibility for locating the markets for his products? Who has the responsibility for raising all the financing? Who must provide the reserves to where there are economic turndowns? And who in the end takes the economic risk in order to make sure that this operation succeeds? Surely then the employer must have an equal right to his employees. All I ask is an equal right. For God's sake don't make management second-class citizens.

We recognize that coercion, intimidation and similar practices by the employer are unacceptable and it would seem that these are clearly covered under Section 7(1) in the old Act, or of the present Act, by the term "participate in or interfere with." However the use of the term "indicates" prohibits even the passing of general information of what I would class an educational nature. I think we have a right to advise our employees or educate our employees on what might be best for them. We're not saying anti-union. We're saying "advise" them. Because surely in many cases the entry into

(MR. STANTON cont'd) . . . . . some unions - and I'm not picking on any specific union, you can all read the papers, it's happened in other parts of this country - can mean that business is going to go down the hole. Gentlemen, we have that problem in this province today with companies that the government has a direct involvement with, where they are having bankruptcies, and believe me I don't believe it's entirely management's fault.

Remedial payments. Under Section 22(6) subsection (d) we find that an amendment has been proposed to which we object strongly in the White Paper. We objected strongly rather. The proposal is made that where an unfair labour practice is proven a cash award is to be made to the employee, even though he had not suffered any loss or diminution of income or termination of employment. My God, that smacks of "Big Brother" if I ever saw it. Somebody ahead of me has spoken about losing our freedoms. Now you're going to tell employees that you'll give them a bonus if they inform on the boss? Gentlemen, I can't agree with it.

We object strongly to the proposal that an employee is to be awarded a bonus payment when he has not suffered a loss. We agree that a fine is in order where there are violations of the Act, but recommend that such fines be handled in the same manner as others provided under this Act. The proposed amendment would amount to an assessment of damages in lieu of court action as awarded by the Manitoba Labour Board.

Moreover we are concerned that the combination of this bonus payment, together with the employee's proposed right to claim an unfair labour practice if the employer even indicates his personal opinions about unions will provide a potential for mischievous, vexatious complaints against an employer who under the tone of the amendments would be guilty until proven innocent. And I'm afraid the Labour Board would find themselves facing an awful lot of silly nonsense claims if this is passed.

Judicial Powers for the Board: It was interesting a few minutes ago to hear Mr. Coulter state that he had some reservations about boards being given such sweeping powers. We cannot agree with the concept that the Manitoba Labour Board should be given the final judicial powers with no appeal to the courts other than those in those cases where the Board has been thought to exceed its jurisdictions.

In reviewing the long history of the court as a final source of appeal in labour relations matters, we are convinced that the current system adequately serves the purposes of justice and that changes should not be made. Moreover the chairmanship of the Manitoba Labour Board has historically been a political appointment and on occasion appointees have not enjoyed the support or respect of both labour and management. Under such circumstances an alternate source of final appeal must exist.

The individual members of the Manitoba Labour Board are nominated in part by management and in part by unions on the basis generally of their representation of those areas rather than on their legal skills and experience. Clearly then, while they have up to date performed creditably in spite of their lack of precise, academic legal training, they do not possess the expertise of those in the judiciary. We are convinced therefore that there must be a final appeal to the courts.

And I would say outside of the brief that in some parts of the country labour boards have been given this power but it is certainly not in the context that is proposed here. There have been bodies set up that are very large, are very well-trained personnel, they're permanent appointments, and they are not subject to harassment by the party in power. And I am not picking on a specific party in this point. We are particularly convinced of this in that there is no justice in having a case appear before the Manitoba Labour Board where decisions rendered and then having to appeal to the same persons who made the original judgments. This clearly is no appeal at all.

We make a point in the brief, and I would pass it over with regard to the list of arbitrators because on a number of readings of that we feel that now that there is no compulsion there and if there is no compulsion they have to use the proposed list, then I don't think labour or management has any right to challenge that list of appointees.

New Sections: In spite of the original call in 1974 for recommendations and the White Paper issued in December 1975, there was no indication prior to the publishing of Bill 57 that two particular sections would be included. The first with regard to section 119.1, which introduces a new and in our opinion a dangerous precedent by authorizing the

(MR. STANTON cont'd) . . . . . Labour Board to treat several firms as a single unit where it judges the firms have common management or direction; similarly, the employees of separate firms may be treated by the board as employees of a single unit. We consider this to be grossly unfair to those employees of the non-union firms who collectively have chosen not to belong to a union. Under section 119.1 they could now be bound to conditions and terms of agreements of a union certified firm having common management; moreover their rights to work, their futures could be affected by other parties without their representation, without their consent, and possibly without even their knowledge. And I don't think that's stretching it too far.

Under the same section the amendment would negate the legitimate business practice of companies which diversify investments and production in order to spread the financial liability risk of the firms, accept the legally available tax benefits existing under current federal legislation and seize the opportunity to enter into a new field of activity to provide a new product or service to meet the needs of one or more sectors of our community. The clause therefore is an unwarranted interference in normal economic activities of companies with respect to expansion, financial management and market development. It is also, as previously stated, an unwarranted intrusion on those citizens of Manitoba who are supposedly represented by the government of this province and who choose voluntarily to remain non members of unions. Under this clause it would appear that where unions are unable to certify them as grass root level, the government is prepared to enforce unionization from the top by tying them to the working conditions of other unionized firms which have common management or direction.

And I can understand why this might have been introduced but I can't agree with it because I think it's away off track, and I can talk from experience belonging to an international company that operates a half a dozen companies in this country, and I believe with rare exception the 50-odd branches we have and the other firms are unionized, in the odd case they might not be. But the divergent involvement in mining, in the service industry, and in the manufacturing industries have no relationship. Why any one should be allowed to say that the employees should be treated the same if there is one union and there is no other union in the others, as I say in our case there are a number of unions - I can think of at least ten unions in various parts of the country - but to mandate it certainly is pushing unionism by the government.

Section 68(3). At the last sitting of the House the government granted certain rights to those who objected on religious grounds to belonging to unions. The rights included the opportunity to pay an equivalent to union dues to charities. Under Bill 57 the government now proposes to withdraw these same rights and force such persons to financially support organizations which they cannot morally or spiritually support. And it really isn't our bag to get into this area but we just think it's an area that is being brought in without sufficient time for the parties involved, and we are picking them out, they are citizens, to take the necessary action. You've heard briefs here but we don't think they've been given the amount of time. I would like to raise one point though, the statement was made a little earlier that the closed shop is no longer the order of the day. I don't believe that statement's quite true. The Act states that for those people who are registered as conscientious objectors, there is no closed shop, and that's a far different story, and I really don't think the unions would challenge that. --(Interjection)-- Could I ask the Chairman to refer to the section because I have just read and I can't agree with his interpretation. And if I'm that far off base in understanding it then by God there's something wrong with the English language. --(Interjection)-- In any case.

I have a closed shop and I don't believe that when this is passed it will be out of order.

MR. CHAIRMAN: Are you asking the Chair a question?

MR. STANTON: I'd like to ask the Chairman because you passed the point earlier.

MR. CHAIRMAN: 68(1), that is the . . .

MR. PAULLEY: In the present Act.

MR. CHAIRMAN: The honourable gentleman here is speaking to the present Act, the amendment . . .

MR. STANTON: I'm talking about the question of the closed shop referred to in the new Act.

MR. CHAIRMAN: Right, and that's 68(1), Clause 23, 68(1). And in my opinion that abolishes the closed shop in this province.

MR. STANTON: Well I'm sorry I will have to get a legal opinion on that tomorrow, and believe me I can't believe that the unions in this province are challenging that if you're right.

A MEMBER: It was the Board that had the right to change. That's the difference.

MR. CHAIRMAN: Order please. I'm in a very difficult position. I can talk to you after . . .

MR. STANTON: Well if we could . . .

MR. SHAFRANSKY: Mr. Chairman, I don't think the question was asked of you directly.

MR. CHAIRMAN: It was.

MR. STANTON: It was. On Saturday this Committee heard several representations from persons who have religious objections to belonging to unions, and our association will not dwell on this section at length except to point out that it is another case where it would have been impossible in 1974, and again in studying the White Paper, to anticipate that the government intended to take this action.

Gentlemen, in summing up, let us state that our main objection is in the lack of time. We don't feel that we can do justice in appearing here, in preparing briefs on this kind of short notice. We don't have large numbers of professionals, most of us are doing this voluntarily, and in off hours not in working hours, and this is not a professionally prepared brief, we prepared it ourselves - we prefer not to hire legal people, we feel that by getting into it we'll get to know what's going on. But believe me to do it in two or three days, in fact it wasn't two or three days, it was two days because we had to have it ready for Saturday morning, even though we didn't present it. I thank you very much.

MR. CHAIRMAN: Thank you, Mr. Stanton. There may be some questions that members have. Mr. Dillen.

MR. DILLEN: On Page 5 of your presentation, you refer to "we consider this to be grossly unfair to those employees of non-unionized firms who collectively have chosen not to belong to a union." When you are referring to a firm, Mr. Stanton, let me ask you if it is not the common practice in the construction industry that an employer may not have a staff on hand at all times for the kinds of work that he may be doing, the general, major construction industry.

MR. STANTON: If you're talking about a general contractor or trade contractor who is strictly in the building from the ground up level, not in a factory atmosphere say, that is probably true. He has a limited number of personnel who he maintains, and then he takes a floating group of carpenters, electricians, whatever the case may be. But I'm not only speaking for that segment of the industry, I'm also speaking for the manufacturing segement of the industry. We're all in this Association together. The manufacturing segment, the segment that also just sells the product and delivers it, has nothing to do with the construction segment. We are all in this Association together. And so while you are talking about a group of people, there are some of us, such as our company, that are in all segments, manufacturing, distribution, and also erection, but we keep a steady staff, the unionized, we negotiate with them, and they get a pay rate which is for the construction industry, but they work 52 weeks a year with a hell of a lot of overtime. They are not floaters. And there are many trades that have this same problem that with a specialized group of people you try to hang on to them and you do work with a fixed work force. But there are some segments, I would agree, that this is not true of.

MR. DILLEN: So that when we try to understand, at least my own position, is that when you try to implement an Act or create an Act that is fair, you try to use that term, that it's fair to everybody, just in the process of being fair you are going to have people who are treated unfairly, depending on their point of view. Wouldn't you say that?

MR. STANTON: Well, yes, but I think you can alleviate some of the problem you're raising here. I don't disagree with where a company is specifically formed, I believe there have been occasions to avoid the fact that they have a union agreement and they want to continue to work. If it is a floating group of employees that go between one

(MR. STANTON cont'd) . . . . . company and another company, one may be union and one non-union, or even if they're both non-union, then I say what you are trying to do is right. I don't think anyone should be able to escape the law by playing games, but I think that in what you are trying to do, you have introduced a blanket change, that you haven't even considered some of the implications. If the Labour Board can pass this kind of legislation, it's a very all-encompassing thing. I think it can be worked so that you can catch the kind of guy who is trying to screw up the works, to put it bluntly, and is trying to beat, not just the union, he's trying to beat society, and I have no need to protect him and I don't think anyone should. But I think right now that you are firing a shotgun when a pistol would do the job.

MR. DILLEN: Well let me ask you if members of the Winnipeg Builders Exchange are not also involved in some way or other in hydro construction in northern Manitoba.

MR. STANTON: The hydro construction workers in northern Manitoba, at least the management side, belongs to the Labour Relations Council. The Labour Relations Council is made up of union firms bargaining with union employees and does not represent all the members of the exchange. In actual fact I don't believe it represents any more than about 50 percent because there are some companies that it doesn't represent even though they are unionized and our company is one of them. But it also certainly doesn't represent the 40 percent of the Builders Exchange that is non-union. And thirdly, the construction group, they have many members who are not members of the exchange so that we do not have two groups under two different names, really. There is probably an area of 40 to 50 percent overlap in personnel,employed personnel.

MR. DILLEN: Mr. Chairman, I'd like to ask Mr. Stanton if it is not in his view legitimate practice for a firm to have two companies if it is to his advantage, one that is union doing the same work as another one non-union under joint management.

MR. STANTON: I'd say it's possible and I'd say it might even exist. It is very minimal and in this province where the labour laws allow a union to form so easily, I don't see why the protection would be necessary. Because it would seem to me that if this did exist and there was a group of employees getting major benefits by belonging to a union, the employees of the other firm, at least 50 percent of them would come forward and ask for a union vote. I just can't believe that those employees in today's society are being coerced into working as non-union members. They're electing to be non-union. And believe me there are tradesmen today who have left the trade because they won't belong to unions, and in many of the trades today they have to belong to unions. I personally know people today are taking far less wages, working in manufacturing, who are carrying papers as electricians or plumbers. They just are so adamant that they don't want to belong to unions. They've made their choice and they suffer the consequences.

MR. DILLEN: I know of one electrician but he exercises that freedom of choice.

MR. STANTON: That's what I say and I don't disagree with him, but I don't think you can say that because a firm is non-unionized there's anything wrong with it.

MR. DILLEN: I want to know, if in legitimate business practice, if it's not a case - maybe you can give me some of your own experience - that the union contractor in bidding on any job in the province that he's capable of handling, is at a disadvantage compared to the non-union contractor?

MR. STANTON: I'd like to make a statement on that. I'm in an industry where there are four or five major companies doing work who are unionized, and there are five or six that are non-unionized. I will not push unionism by law to protect my profits, and that's my firm belief. I might rail against the fact that that non-union man can take advantage of something that I haven't got but you've got to remember that in this province we have a very unusual labour law, which within a very short time - a matter of a few weeks - after a union contract is negotiated, it becomes the minimum wage for that trade, by law for the non-union segment. And even the unions today are questioning whether that's right or not, but it does. So that my competition has to pay the same wages I pay, his books are open to inspection by the Labour Board. If he has any advantage I would say it would be in the fringe benefit area, and generally it would be in the area where he could talk his employees into going out onto a job and working on a type of piece work where he says, I'll allow 40 hours for that job and I'll pay you more than the wage, say,

(MR. STANTON cont'd) . . . . . for a carpenter, I'll pay you premium rate and those employees might do it in 30 hours. Now, you know, it's a little on the borderline maybe of breaking the law, I would think, Mr. Paulley, but it happens.

MR. PAULLEY: We won't allow it to be broken very long if we catch up to you.

MR. STANTON: Yes. I don't think that a union firm dare risk that but I think a smaller firm might.

MR. PAULLEY: Yes, that's why I like to see them unionized, you don't have to watch them quite so closely.

MR. STANTON: Well that's right but I don't think that that's a good reason for legislation. I don't think it's right to say it's easier to control people for Big Brother by having legislation which says he's going to be part of the family even if we have to coerce him.

MR. DILLEN: You make reference here again to legitimate business practice of companies to diversify investment and production in order to spread financial liability in risk of the firms. Can you explain what you mean by that?

MR. STANTON: Yes, our company owns . . .Corporation, they own Canadian Pittsburgh Industries, and they own a number of other companies. We're wholly owned by one company. Now you can tell me what in hell's name the mining industry has to do with a manufacturing industry if I had a . . .you know, if per se they were in this province and you tell me well you've got a union shop there and that one isn't union. I'm saying that in general as a company we believe in unionism, it is easier to negotiate, but I don't believe I should have to legislate it for every other person in the trade.

MR. DILLEN: One of the points I wanted to get across, in the items that you refer to as legitimate business practice, would it not solve some of the problems of legitimate business if everybody was placed on the same nature of the competition?

MR. STANTON: Yes, but there's a better way to do it. There's a better way to do it, and that's let me form an organization and fix prices, and that's exactly what you're telling me. You're telling me remove competition by saying what every employee shall do, not the employer, but you won't let me set up an organization to fix prices, and I say you've got no damn right to set up an organization that tells me how I shall operate as an individual whether I'm on the labour side or the management side. I'm not saying I'm personally against anything. I just don't like to be legislated so that there is nothing left that I can say is free or freedom of choice.

MR. DILLEN: I have no more questions.

MR. CHAIRMAN: Thank you. Mr. Shafransky.

MR. SHAFRANSKY: Mr. Stanton, I really appreciate your very frank expressions of various views on various sections of this Bill 57. It is certainly refreshing to the type of presentation we had last night on Bill 83, which one of your colleagues or friends presented. They seemed to have a very averse attitude toward what he assumed to be the stance of the members of the Committee. However I'd like to ask a question. You are the President of the Winnipeg Builders Exchange and therefore you have a firm which is a member of this exchange ?

MR. STANTON: Right.

MR. SHAFRANSKY: Therefore to be a member of this exchange you must have certain fees payable to become a member of that . . .

MR. STANTON: That's right. There's no compulsion though.

MR. SHAFRANSKY: There is no compulsion right, but in order to be a member you have to pay certain fees.

MR. STANTON: That's right.

MR. SHAFRANSKY: I don't hear anywhere that you indicate support for those people who are objecting on the basic of conscience to supporting unions. Now if those people are objecting paying union dues to a union that bargains collectively for their benefit, is there any provision in your organization that those same people will have that portion of the fees, as a result of the work that they contribute to your welfare, which is in effect used to contribute to the organization that you belong to - is there provision that that amount is also going to be deducted and given to a charitable organization?

MR. STANTON: Yes, that's taken care of within - it has to be - within the firm where the person is being employed. If that person elects not to belong to . . .

MR. SHAFRANSKY: . . . organization, you know, you belong to that organization.

MR. STANTON: No, the difference is I can't belong without paying the dues, but I don't have to belong to build in this province. I don't have to belong to that association.

MR. SHAFRANSKY: That's right, and at the same time those people don't have to belong to a union . . .

MR. STANTON: Yes they do.

MR. SHAFRANSKY: . . .they can work in a non-union shop.

MR. STANTON: They do. They can't work as carpenters in this province in the construction industry unless they carry a card. The union won't let them.

MR. SHAFRANSKY: At the same time doctors can't practice unless they pay fees, lawyers can't practice unless . . .You cannot practice unless you belong to the MMA.

MR. CHAIRMAN: Can we get back on track.

MR. STANTON: I think that the statement was previously made, and I think that it's right, that it is not possible to compare unions to professions, and I challenge any group that says we want to operate as a union when it comes to wage negotiations but we want to be considered as professionals in the way we're treated. And I think they're two different things. I don't think that unionism and belonging to a profession is the same thing at all. I think the controls on a profession are so rigid that it is quite a different ball game than the union. If a union man and a union could be made responsible for the actions of its people, then I think that . . .call them professional associations, I'd have no objections, but today that is not true.

MR. SHAFRANSKY: I agree because the Legislature made it. It was a statute of the Province of Manitoba that made it in order to practice the law or medicine or dentistry you have to become a member of that organization and you have to pay dues in order to be accredited to be able to practice.

MR. STANTON: At the same time you've put some pretty stringent controls on that group. You aren't proposing such stringent controls within this proposed legislation. And I say until you do then be fair.

MR. SHAFRANSKY: I am trying to be fair. I say within an organization where the people are collectively banded together to get certain privileges in the working conditions and wages, and so on, within that group, that all of those people who are within that group are getting the benefits and anyone who says that they are not . . .

MR. STANTON: Well I say they're not. I say this, that you're making a bad interpretation, all of you here that have made statements tonight, that say that the gains achieved by union would not be achieved without the union.

MR. SHAFRANSKY: Well . . .

MR. STANTON: Let me speak on that. Our office employees don't belong to a union. Their increments I'm sure are as good as if they belonged to a union, and they're allowed to form a union within the office. They have a union out at the back, you know, they could get a union tomorrow, and maybe some day they will. But today they don't get mistreated because they don't have a union, and if there are employees working for you who elect not to belong to a union, I'm quite sure that as an employer if they aren't worth every cent you're paying them, you'd say, out the door, you don't belong to the union, you don't have the union's protection.

MR. SHAFRANSKY: But we're not arguing about that, I agree with you. I'm also aware of the fact that there have been companies, employees in companies in Manitoba . . .

MR. CHAIRMAN: Can we have the question please, Mr. Shafransky.

MR. SHAFRANSKY: . . .which the parent company happens to be in British Columbia, which is unionized, this company is not unionized, but whatever benefits the people gained in British Columbia will automatically accrue to them. They all realize that they were riding on the backs without contributing in any way; it was automatic that they gained the benefits of whatever increases were made in British Columbia, it was automatic in Manitoba.

MR. STANTON: Well as second-class citizens I would say that they had first-class benefits.

MR. CHAIRMAN: Any further questions of the delegation? Hearing none, thank you, Mr. Stanton.

MR. STANTON: Thank you very much.

MR. PAULLEY: Mr. Chairman, may I suggest that for the consideration of the Committee, that it appears as though we have now heard all of the delegations to appear before us for representations. I suggest that you agree that . . .

MR. CHAIRMAN: Just a moment, Mr. Paulley. I notice the Committee agreed the other night, or Saturday, that the list was closed and I have had a request - and I am just putting this to the Committee because my hands are tied as Chairman of the Committee, that that is the ruling of the Committee - a Mr. Stephen Riley, President of the Newspaper Guild, wishes to make a five minute presentation on Bill 57. Now if the Committee doesn't want to hear . . .

MR. PAULLEY: Well my proposition, Mr. Chairman, is . . . I don't know what deals were made some time. Mr. Riley was here today; I observed him on a couple of occasions. My suggestion to the Committee is that we've heard the last delegation tonight that's available, at midnight - it was suggested to me by the House Leader that if we complete hearing representations tonight, they cease and that after he and you consult tomorrow as to time dealing with the progress of the business of the House, that the Committee would be convened to go into detailed consideration of the clauses. So I'm making that as a member of the Committee notwithstanding previous decisions. If you'll accept a non-notice of motion to rescind a previous motion, I'll leave it and suggest that to the Committee.

MR. CHAIRMAN: Mr. Paulley, I just stated what was the understanding of the Committee on Saturday.

MR. PAULLEY: I appreciate that.

MR. CHAIRMAN: Order please. Order please. Is it the will of the Committee . . .

MR. PAULLEY: Oh, here's Steve now . . .

MR. CHAIRMAN: . . .on the bill for five minutes?

MR. PAULLEY: I'm sorry I didn't see Steve.

MR. SHERMAN: Mr. Chairman, it is our understanding that this is the last delegation.

MR. PAULLEY: Oh yes, that's my understanding but I'm sorry, Mr. Chairman, I did not . . .

MR. CHAIRMAN: Mr. Riley asked me . . .

MR. PAULLEY: I'm having a little difficulty . . .

MR. CHAIRMAN: . . . if he could appear before the Committee. I stated to Mr. Riley that my hands were tied, I put it to the Committee, the Committee indicates proceed, Mr. Riley.

MR. RILEY: Thank you very much. I'll just be a couple of minutes, and I apologize for the interruption and the procedural problem there. I'm the President of the Winnipeg Newspaper Guild, and as some of you may know, we appeared here on March 10th to voice our concern about the Provincial Government's White Paper on proposed changes to The Labour Relations Act. We were specifically concerned with the concept called compulsory first contract legislation. We recommended it to the Committee at that time and hoped that it might meet with the Minister's approval to perhaps recommend it to the House. I notice that Bill 57 does not include such legislation. However, it does include a rather interesting proposal called the Code of Employment. This is I believe Clause 24 in the bill. Clause 24 I think it is, the Code of Employment.

Unfortunately there's another clause in the bill, Clause 30(3) which as far as our union is concerned negates any benefits which Clause 24 might have conferred on us with a code of employment, insofar as our negotiations with a particular Winnipeg company are concerned, the Winnipeg Free Press. I appreciate the intent of the bill was to provide some recourse to unions which are apparently stalled by a company which apparently does not wish to sign a contract with the union, apparently may not want to bargain in good faith.

However, by virtue of Clause 30 the only unions that can benefit from the Code of Employment will be those which are certified after enactment of the bill. That leaves off in limbo a small minority of situations - in fact I don't know of any in Manitoba apart from the Free Press, but that's probably out of my own ignorance - leaves off in limbo

MR. RILEY: There might be some, Mr. Sherman, there might be some difficulty.

MR. SHERMAN: So you see that clause as it's presently constituted as being perhaps more than just an illogicality but possibly a threat to the kind of activity if developed and worked on for some time.

MR. RILEY: The logical - I don't think logical was my word, I . . .

MR. SHERMAN: No, it was my word.

MR. RILEY: Oh. More than anything I really stand here naive that the reading that we did give and the study that was given to debate on second reading was all that we had. We couldn't get anything from our research officials that they would have been able to come back to us and say, ah, yes this was tried in Idaho in 1964 and proved to be a dismal flop, or it was tried in Maryland in 1969 and found to be tremendously successful and we recommend it to you heartily, because they don't know the details of it. We unfortunately came to it a bit late; this is partly because of our own fault but partly I think because of Speed-up. So it does pose a nuisance problem in that two weeks. But I anticipate and answer your question that we could face some difficulties in getting that decertification. We certainly had difficulties getting certification to start with. So I wouldn't think that it would be much easier this time.

MR. SHERMAN: Thank you.

MR. CHAIRMAN: Thank you. Any further questions?

Before the Committee rises I would like to take this opportunity on behalf of all members of the Committee, I'm sure I have their agreement, to thank all members of the public who appeared as delegates before this Committee, and I'm sure that we have learned various things from members making representations.

MR. SHERMAN: Particularly you should thank Mr. Shafransky for his stint as substitute chairman.

MR. CHAIRMAN: Yes, I should thank Mr. Shafransky for his stint as substitute chairman. Committee rise.