Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

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

10:00 a.m., Monday, March 8, 1976

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THE LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON INDUSTRIAL RELATIONS
10 a.m. Monday, March 8, 1976

CHAIRMAN: Mr. William Jenkins

MR. CHAIRMAN: Order please. We will continue on with the representation by members of the public. We have Mr. Bernard Christophe, the retail clerk. I believe Mr. Charles McCormick is here in place of Mr. Christophe this morning. Mr. McCormick.

MR. McCORMICK: Thank you Mr. Chairman. Let me say at the beginning that Mr. Christophe is ill at home and regrets that he cannot be in attendance today.

This is a brief presented on behalf of the Retail Store Employees Union, Local 832.

Gentlemen, I am appearing before you today on behalf of the Retail Store Employees Union, Local No. 832, a trade union representing some 3,800 organized workers in the Province of Manitoba. I have been a full-time Union Representative for some sixteen years.

The following are our suggestions to amend the Labour Relations Act and other items connected to industrial relations.

THE LABOUR RELATIONS ACT:

1. Sections 7 (2) and 15 (1): Section 7 (2) and Section 15 (1) allow an employer or employers' organization to select the union of his choice during working hours, to provide free transportation to union representatives, to permit the use of the premises by a union, etc.

Problem: This allows an employer, in fact, to select the trade union of his choice, through participating in the formation of a trade union. It seems to contradict completely Section 7 (1).

Solution: That Sections 7 (2) and 15 (1) be amended simply by inserting the words, "an employer or employers' organization or person acting on behalf of an employer, after a union has obtained certification or after a collective bargaining agreement has been executed, does not contravene Subsection 1 by reason only ....."

2. Section 12 (1): Section 12 (1) allows an employee of an employer covered by a collective agreement to refuse to perform work which would directly facilitate the operation or business of another employer, whose employees within Canada .....

Problem; There are many establishments or companies who have three trade unions under the same roof and three separate collective bargaining agreements. These agreements expire at different times. One union may go on strike, the others not. If the employees of a unit not on strike refuse to facilitate work of their employer, they contravene Section 12 because they work for the same employer. The Act refers to another employer.

Solution: That Section 12 be amended to add the words, "the business of their employer or another employer".

3. Section 14 (2): Section 14 (2), Prohibition against Union Acts, in fact outlaws the imposition of fines, financial penalties, etc. for members of the union who may be violating the constitution of the union by working against the best interests of the majority of their members.

Problem: This renders the disciplining of members totally ineffective and denies the right of a society to penalize its members when they violate the rules, a policy accepted in many democratic organizations in Canada.

Solution: That Section 14 (2) (d) be amended by deleting the words, "by the imposition of a pecuniary or any other penalty". Also amend Section 14 (2) (b) to add, beside the payment of periodic dues, assessments, initiation fees, pecuniary or other financial penalties.

(MR. McCORMICK) cont'd:

4. Section 18 (1): Section 18(1) does not allow an employer, after application for certification has been made, except until after it is granted, dismissed or withdrawn, etc., to increase rates of wages of employees in the unit or alter any other terms or conditions of employment, etc.

Problem: An application for relief through a Manitoba Labour Board Inspector resulted in the dismissal of a complaint of changes of employment (Loblaws Assistant Manager case, Retail Store Employees Union) because it only applied to one employee. The Act says employees, plural. This is unfair, because the key employee in a unit could be singled out to weaken the bargaining power of the union by discriminating against that one employee.

Solution: That Section 18(1) be amended to read that an employer, except with the consent of the Board or the bargaining agent, shall not change, increase or decrease wages of any employee in a unit, or any other terms or conditions, etc.

5. Section 18(2): Section 18(2) provides that the employer can increase or decrease the rate of wages or alter the terms and conditions of employment, in fact ninety days after certification and immediately upon the expiry date of the collective agreement.

Problem: This is far worse than the previous Section under the old Act. Ninety days is far too short a time to conclude an agreement and it is very unfair to have the conditions changed at the expiry date of the agreement, when very often a new agreement has not been concluded. On one occasion (Canada Safeway, Brandon), on the expiry date of the agreement, although no strike or lock-out had been called and negotiations were still in progress, the deduction of union dues ceased and some changes were made in conditions of employment. Another problem that arises as a result of this Section is the fact that the open period for applications for certification or decertification is extended beyond the last three months of the collective agreement almost indefinitely until negotiations have been concluded because, according to Section 54(2), the agreement has been terminated.

Solution: That Section 18(2) be amended to provide that after certification, or after the expiry of a collective agreement, the wages of employees not be increased or decreased by the employer, nor the terms and conditions of employment be changed until a collective bargaining agreement has been signed and executed, or an agreement reached, or a strike has begun, or a lock-out has begun. This will also mean that no application for certification may take place, or no decertification proceeding may take place, during that period.

6. Section 25(1); Section 25(1) allows an applicant for certification with only 35 percent or slightly more support to obtain a vote for certification.

Problem: This 35 percent rule for application for certification is almost never used and when unions apply with 35 percent, when the vote is counted, they get 35 percent of the vote or less, not sufficient to obtain certification. However, in some cases when a union, believing itself to have more than 50 percent after exclusions have been removed, has less than 50 percent, the Board should nevertheless be empowered to order a vote in this unit.

Solution: That the rule of 35 percent or more to apply for certification be removed and in its place the Manitoba Labour Board be empowered to order a vote when, after exclusions from the bargaining unit, the bargaining agent has less than 50 percent support.

7. Sections 36 and 65: Sections 36 and 65 provide for a continuation of certification or continuation of the collective bargaining agreement in the event of merger or purchase of the whole business of the company.

Problem: Many business transactions involve other than the purchase of the business, but leasing or transfer or disposing of a part of a business, etc., which is not covered under Sections 36 and 65, resulting in employees losing their jobs and the bargaining agent being eliminated, as well as the collective agreement. Unless the business of the employer in Manitoba is totally sold to another, unions have lost

(MR. McCORMICK) cont'd:
bargaining rights in many instances.

Solution: That Sections 36 and 65 of the Act be strengthened with a similar wording to the Trade Union Act, 1972, Province of Saskatchewan, Section 36, or Section 54 of the Labour Code of British Columbia, which encompasses these other different business transactions.

8. Section 47(2): Section 47(2) allows application for decertification with 35 per - cent support.

Problem: This leaves the door open for frivolous applications for decertification every year.

Solution: That the 35 percent support to apply for decertification in Section 47 (2) be changed to more than 50 percent support.

9. Remedies and Penalties: In many Sections of the Act, the remedy or penalty is left to the Courts to decide and act upon.

Problem: This is a tedious process, very unsatisfactory, meaningless and forbids the applicant to seek relief from the Manitoba Labour Board.

Solution; That the remedy to the Courts be removed from the Labour Relations Act and given to the Manitoba Labour Board to issue an Order of Cease and Desist, etc.

10. Compulsory First Union Agreement: It is recommended that a new Section be added to the Manitoba Labour Relations Act to cover the following problem.

Problem: Many unions obtain certification for small or medium-sized units, but fail to get a first collective bargaining agreement because employers, through hiring of a lawyer or other skillful and knowledgeable labour relations individual, stall and refuse to agree on a minimum standard of wage increase, and also because many employees on their first agreement are reluctant to strike against their employer, so that no first agreement is ever achieved.

Solution: That after nine months has elapsed after certification has been obtained, or a longer period of time as mutually agreed to between the employer and the bargaining agent, either party to the agreement may request a conciliation officer to impose a one-year agreement upon the parties, by imposing a settlement of the issues not resolved between the parties. No conciliation officer, however, would be appointed by the Minister on request of either party after a collective agreement has been con - cluded or a strike is in progress, or a lock-out is in progress. That the above be incorporated in a new Section of the Labour Relations Act.

11. Legal Picketing on a Shopping Centre: During the 1973 legal strike against Dominion Stores, our union picketed on shopping centres and were charged with petty trespassing. The question here is whether the shopping centre is a public place or private property. The Court in Manitoba ruled as follows. The Magistrates Court ruled that picketing on the shopping centre in front of the store was legal. The County Court ruled that it was not legal and the Court of Appeal of Manitoba by a two to one decision, ruled that it was legal. The matter was heard before the Supreme Court of Canada and our appeal was denied, although the Chief Justice of the Supreme Court supported the union appeal. It is also true that British Columbia has provision for legal picketing on a shopping centre during a legal labour dispute.

12. Section 54(2): This Section provides that when one of the parties indicates its desire to bargain collectively, with a view to the renewal or revision of the collective agreement, or to the conclusion of a new collective agreement, it shall be deemed to be notice of termination of the collective agreement, given in accordance with the collective agreement.

Problem: This Section is really contrary to the intent of the union requesting collective bargaining, not to terminate the agreement but to seek revision thereof. This Section is really related to Section 18(2). When this Section 54(2) in fact clearly terminates the agreement, it opens the way for applications for certification, decertification, increases or decreases in wages, working conditions, etc.

Solution: That Section 54(2) be amended to remove the words, ".... shall be deemed to be notice of termination of the collective agreement" and replace it with words to the effect that the party who has asked for renewal or revision of the agreement in fact has the agreement continue until: (a) a legal strike takes place: (b) a

(MR. McCORMICK) cont'd:
lock-out takes place, or (c) an agreement has been reached.

13. Labour Relations, Manitoba Regulation 206/72:

The above document deals with the rules of the Manitoba Labour Board. Rule 8/2 indicates that nominal rolls filed in compliance with this rule shall not be open to inspection by any party to the proceedings.

Problem: The problem encountered here is that when a union applies for certification, the success of the union very often depends on the number of employees working in the bargaining unit. When the employer files with the Board a list of employees whom the employer believes to be in the unit, this list is not open for scrutiny by the union. This allows employers to pad the roll and to have union applications for certification either denied or a vote ordered when none should have been. When a union has applied for certification, this list of names of employees in the bargaining unit should be made available to the union, so that any names in dispute are open for challenge by either party. In one instance at least, the employer either deliberately or otherwise added twenty-four names to the roll. Some of those were names of people who did not exist and in once instance, the man was dead. Saskatchewan has this nominal roll of employees working in the unit open for inspection by the union. This avoids any additions of names for the purpose of defeating an application for certification.

Solution: That similarly to Saskatchewan, the roll be open for inspection after an application for certification has been filed with the Board.

14. Section 9(1) - Employees' Objections: This rule allows objecting employees seven days from the date of posting of notice to file with the Board a written statement setting forth their reasons for such objections.

Problem: The problem encountered by unions now is that almost invariably after application for certification has been made, there is suddenly a great number of employees objecting to the application for certification by signing petitions and sometimes resigning from the union. This Labour Relations Act, which removes the right of employers to participate in or interfere with the formation of the union, almost invariably now is replaced by an employee who just happens to know a lawyer specializing in labour relations, who is invariably heading a group of employees objecting to the application. Petitions are signed during working hours and resignations are also sent, making Labour Board hearings almost mandatory and having unions and other parties spending a great deal of money, when also almost invariably all employees who have joined the union up to the day the union applies for certification, are supporting the union application, were quite willing to join, but suddenly appear to change their minds. Although very difficult to prove, this can no longer be coincidence. Based on our own experience, almost 75/80 percent of times this procedure takes place.

Solution: In order to prevent employers, either directly or through their agents, to circumvent the Act, this rule should be amended so that no employees who have joined the union can resign from the union except prior to the application for certification. However, objecting employees could still object, but only on the grounds that their type of work, or duties and responsibilities, are not appropriate for collective bargaining in the unit, or that there may have been fraud or violation of the Act in obtaining membership into the union, but that petitions or resignations from the union after application for certification has been made should be denied.

The Employment Standards Act:

15. Minimum Wage - Problem: The present Employment Standards Act dealing with minimum wage excludes, in Section 2(1) (g) (ii) in the definition of an employee, persons employed in agriculture, fishing, fur farming and dairy farming, or in the growing of horticultural or market garden products for sale.

Solution: That the Act be amended to include these persons.

The Shop Regulations Act:

16. Closing of Retail Stores and/or Food Supermarkets and Corporate Consumer Food Stores at 6.00 p.m. on Saturday, All Day Sunday and on Statutory Holidays.

Problem: Two food chain stores in Winnipeg are now open on Sunday, namely Payfair and Locomart. Canada Safeway is seriously considering opening on Sunday, because they are doing so presently in Toronto. All those food supermarkets are open

(MR. McCORMICK) cont'd:
beyond 6.00 p.m. on Saturday. Some of those chain stores, not including the major chain stores, are also open on Statutory Holidays. Opening beyond 6.00 p.m. on Saturday, Sunday and Statutory Holidays is of very little value to customers, perhaps even detrimental to them, and these companies are doing it, or considering doing it, only because their competitors are doing it. The Mini-Marts, Seven-Eleven and Mac's Milk should also be closed on these days because they belong to large corporations, Westfair Foods for example and others, are charging customers exorbitant prices, paying their employees minimum wages and, frankly, are difficult to organize. The following wording I will propose, you will note is not to close the Papa and Mama grocery stores, who have enough problems competing as it is.

Solution: We have submitted to the Honourable Russ Paulley, several months ago, a petition bearing more than 2,500 names collected only over a fourteen-day period. Therefore, we are asking you to amend the Shop Regulations Act by bringing in strict legislation, heavy fines or penalties, to compel all retail food stores, department stores, discount stores and stores other than those privately owned and employing not more than three persons, including the owner and/or operator, to close their doors at 6.00 p.m. on Saturday, all day Sunday and on Statutory Holidays.

All of which is respectfully submitted. Bernard Christophe.

MR. CHAIRMAN: Thank you, Mr. McCormick, there may be questions some of the members of the committee may wish to ask. Mr. McBryde.

MR. McBRYDE: Mr. McCormick, I think you were here the other day and heard the questioning of Mr. Green, and I just wondered what your comments, or the comments of your union are in regard to the proposal put forward that maybe there should be no labour legislation at all, maybe things were better off before there was labour legislation.

MR. McCORMICK: Mr. McBryde, I don't subscribe to Mr. Green's philosophy of the "law of the jungle." The law of the jungle is fine if you're big and strong and powerful, like the big unions are powerful, but it is not fine if you belong to small unions or if you're a small employer. It leads to nothing, I suspect, but chaos in industrial relations and opens the door for all kinds of problems between employers and employees. I don't subscribe to it one bit.

MR. McBRYDE: Have changes in the Labour Act over the years been of assistance in your union to organize unorganized workers?

MR. McCORMICK: I would have to give a qualified "yes" to that. Some changes have also been detrimental to our union in the sense that it is now easier to obtain decertification for employee objections, etc., but my general comment would be yes.

MR. McBRYDE: And that decertification, that would be resulting in there being no union at all as opposed to a different union?

MR. McCORMICK: Generally speaking, yes.

MR. McBRYDE: Section 10 on the compulsory first union agreement, is that quite similar to the B.C. clause on first agreements or is it quite . . . could you explain the difference and why you propose this difference from the B.C. legislation?

MR. McCORMICK: Well, what we are suggesting here is that the party would have to, number one, request the appointment of a conciliation officer, and then the conciliation officer would be empowered to impose a one year agreement between the parties - only a one-year agreement - but that no request could be made if the strike is in progress or a lockout is in progress. I don't have the wording of the B.C. Act before me. Brother Wilford will clarify that point on the B.C. Act for you.

MR. CHAIRMAN: Mr. Wilford.

MR. WILFORD: Mr. Chairman and committee members, the basic concept enunciated in the B.C. Legislature was that where they had this confrontation and couldn't get an agreement and they passed the law necessary to accommodate both parties to a final settlement forced by the law itself, was based primarily on the premise that generally speaking when you join a union you are one of the have-nots at that time, it may very well be that related companies, competitors of yours already join unions and have different levels of wages and fringe benefits, naturally this is why people join unions. So that the premise enunciated by the board there is that they take somewhat the average of the organized employers contracts and apply that to the existing

(MR. WILFORD cont'd) . . . . .first year agreement, hopefully that this would bring about, eventually through the period of that one-year agreement, an accord between the parties so that when they do open up again they can get to the bargaining table and negotiate further agreement. That's basically the concept.

I should say to you that the labour movement is not happy about the section - I'm talking about the labour movement in B.C. - they had it they say foisted on themselves, they do not agree with it, but nevertheless it has, I think, been used once or twice - probably the Minister could check with B.C., I think they've used it once or twice.

MR. PAULLEY: He is in constant check with them, Mr. Wilford.

MR. WILFORD: I think there is one or two . . .

MR. PAULLEY: Even with the change of government.

MR. WILFORD: . . . might be something less there now. In any event, Mr. Chairman, and committee members, that's the basic concept that we are talking about. We're saying that where an employer and a union is not able to accommodate themselves through the collective bargaining to get an agreement, that surely you should remove it from the ramifications of a lock-out and strike and all that's entailed relative to the rest that follows from that because then you have the unions taking sides - and I'm talking about the unions in Manitoba - and the employers maybe taking sides. Surely you might look at this.

Now I have to say finally on behalf of the Federation, we're not so sure that it's the best thing in the world but we have a resolution that was ratified I'm sure at our convention, it's the policy of the Federation and we are asking you to take a look at that. Now there's maybe, and I say this to you while I'm on the subject matter because I think it's important, that there may be another way out of this, and I think it's an important way out of it; and that is that the question of the 90 days, which I want to deal with that section if I may, Mr. Chairman, later, the 90 days, in which after that time the employer may change any working conditions or do anything he wants, that if you did something relative to making sure that the employer knows that even after 90 days he ain't going to be able to change nothing, I tell you, Mr. Chairman, and you members here that you would have the employer accommodate the union to try and get a settlement because he knows he can't change the working conditions and all the relative wages and fringe benefits. Then he would know that he can't do it, that he's got to get to the rest of the union, get a negotiated settlement and get on with the job of producing his products and selling it and making a profit.

MR. McBRYDE: I just wonder, Mr. Chairman, if I could pursue a couple more questions on this one because it's quite important and I want to understand what this union's particular position is in relation to this proposal. My understanding of the first clause agreement is that basically it's to be used when the reaching an agreement is used by the employer as a continuation of the struggle for certification. That is, he doesn't want to reach an agreement because he is still against having a union at all, so he uses this mechanism. Is that your understanding?

MR. McCORMICK: That's right.

MR. McBRYDE: You are aware that the B.C. legislation is very strict in that regard, that in fact out of 20 applications, in only three cases have there been contracts imposed upon employer and employees?

MR. McCORMICK: I wasn't aware of that, but if you say so, Mr. McBryde, I'll accept it.

MR. McBRYDE: Okay. I'm wondering if you would have any indication or maybe you would have to wait until the Federation presents a brief, if they are.

MR. McCORMICK: They are.

MR. McBRYDE: The last two conferences have passed resolutions in favour of a first agreement clause and yet the proposed labour code by the Manitoba Federation of Labour doesn't contain this recommendation. Do you know why that would . . .

MR. McCORMICK: Well I would have to allow the Federation in their brief to cover that point.

MR. WILFORD: The reason for that is the particular labour code that we have supplied to the government and their caucus members, I believe everyone else got it in the House, I'm not sure. Brother Coulter is not here, he is away on another business matter, but in any event the compromised labour code that we have adopted across the western Canada provinces from B.C. to Winnipeg was premised on the basis that we had to qualify our arguments relative to some of the clauses in the agreement that we would present to all the governments, and that's

(MR. WILFORD cont'd) . . . . . the basic concept that we have enunciated across western Canada after many conferences. We know that it hasn't satisfied everybody relative to the question you raised because of, namely because of B.C. and Saskatchewan. They're absolutely, inalterably opposed to the first agreement on the concept that if you impose one little bit of arbitration it's like being a little bit pregnant - brother you've had it.

MR. McBRYDE: I wonder then, Mr. Chairman, if I could just ask the Retail Clerk's Union if they could answer that argument because they have proposed in their brief that there be compulsory first union agreements made possible by amending the legislation. How do they answer the argument then that that is starting compulsory arbitration and that, in fact, it's going to hurt the union movement in the long run?

MR. McCORMICK: Well, Mr. McBryde, I'm not so sure that within the confines of our proposal that it would be detrimental to the trade union movement. I think it's important to realize that the conciliation officer would only be appointed upon the request of the union and that he could not be appointed if there was a strike or a lock-out, in effect, so that the normal process would continue.

Our reason for it, quite candidly, is that we organize many many small units, for example, Robertson Stores in Flin Flon was a terrific example. We went in, we organized the unit, the employer waited 90 days, hired a lawyer, waited 90 days, increased the rates of pay for the employees considerably, substantially, and as a result of that, they lost all interest in the union. Now, you know, then you can say, well strike 'em, or boycott 'em, but when you have the people in the unit turned around, it's not that easy to do and, you know, I can give you many examples of that nature so, you know, it's vital, we think, from our union's position to have this kind of an arrangement.

MR. McBRYDE: Your union has a number of specific examples where they would have used this section had it been in existence?

MR. McCORMICK: Yes, we do.

MR. CHAIRMAN: Mr. Barrow.

MR. McBRYDE: I'm sorry, I still have a couple of more questions. On the last section of your brief dealing with early closing, you would recommend that stores of less than three employees be permitted; and that's three employees during the whole week, that is a total amount of three employees?

MR. McCORMICK: Yes, that's correct.

MR. McBRYDE: Have you discussed being a little bit more lenient in finding a way to describe the size of those that you wouldn't recommend be open on . . .

MR. McCORMICK: Well we don't think that there's anything seriously wrong with that proposal, you know we are concenred with 7-Eleven Stores, we are concerned with Mac's Milk, we're concerned with many of the others that we've mentioned, and we're not after as we have said the Mama-Papa stores.

MR. McBRYDE: You are aware that in a good part of the City of Winnipeg, in the older sections there are Mama and Papa stores that are available. In the new suburban areas there are no Mama and Papa stores available but that there are mostly 7-Eleven and the other big company small stores.

MR. McCORMICK: I'm aware of that. This is a proposal from our union. I'm sure that you people in your wisdom will look at it, mend it, revise it if you deem fit.

MR. McBRYDE: That's all the questions I have, Mr. Chairman.

MR. CHAIRMAN: Mr. Barrow.

MR. BARROW: Thank you, Mr. Chairman. I would like to congratulate you on your brief, it certainly doesn't pull any punches, Mr. McCormick, and there's a hundred questions could be asked and will go into a lot of time. We only have two very short ones. You say on Page 8 "Westfair Foods for example and others are charging customers exorbitant prices, paying their employees minimum wages, and frankly, are difficult to organize." It's ironic, if they are making profits and paying a low wage why is it so hard to organize? It deeply concerns me what you said to my colleague just a minute ago.

MR. McCORMICK: Well, Mr. Barrow, I suspect you in your capacity as an old coal miner. . .

MR. PAULLEY: Young old coal miner.

MR. McCORMICK: Young old coal miner. . . have been involved in some organizing in your life. I don't know if you have ever tried to organize the small units with three,

(MR. McCORMICK cont'd) . . . . .four, five employees, where there is a very very close personal relationship between the employer and his employees and they're very tough to crack. We've tried many times to crack them and they are very tough to crack, not impossible but very tough. I don't know if that answers your question.

MR. BARROW: Well one more question in that line. You say, "are charging customers exorbitant prices." Now do the prices vary from say Wednesday, Friday to Sunday?

MR. McCORMICK: Yes.

MR. BARROW: I see. Then in the same vein, you are suggesting, and I agree with you, "therefore we are asking you to amend the Shop Regulations Act by bringing in strict legislation, heavy fines or penalties." I gather from that you're inferring that a small fine or a small penalty doesn't discourage Sunday opening. This is quite prevalent in Flon Flon. The fine is not that important, the profits overcome the law. So you're suggesting a heavy fine or penalty?

MR. McCORMICK: Well, you know, a small fine means nothing in most cases. I can think of one example in Flin Flon.

MR. BARROW: The Royal Hotel, by the way? What would you suggest would be a heavy fine, you know, in relationship to the store.

MR. McCORMICK: My own assessment of it? A thousand dollars. For every infraction.

MR. BARROW: You say "or penalties." What would you suggest as a penalty? A closing down during the week maybe? Something like a liquor store.

MR. McCORMICK: That could be. That could be a penalty if you ordered them closed on a Friday or a Saturday.

MR. BARROW: Would you recommend the same as we do with the hotels who abuse the liquor privilege, are breaking the law, so he shuts down three days, five days?

MR. McCORMICK: Yes.

MR. BARROW: Thank you.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, Mr. McCormick, I only have one or two questions to ask. I've had the opportunity of having representations made by the Retail Store Employees Union on a number of occasions and many of the suggestions contained in the formal presentation this morning have been drawn to my attention. However, there is one or two that I would like to have elaborated upon by Mr. McCormick, Mr. Chairman. I refer him to Page 5, dealing with item number ten, a matter that I know is of vital interest to my colleague, the Minister of Northern Affairs, due to peculiar situations prevailing in Northern Manitoba.

I note, Mr. McCormick, you have a change in approach, or appear to have a change in approach insofar as the imposition of a first collective agreement between management and labour in your solution. You indicate that after nine months have elapsed after certification has been obtained - and of course even with the first collective agreement as legislated for in British Columbia, there is the requirement that certification has been obtained. You're not changing that. But you say nine months or a longer period of time is mutually agreed upon between the employer and the bargaining agent. My first question, Mr. McCormick, would be to your organization, through you. Do you think that you could have a mutually agreed upon extension beyond the nine months' period if an employer was determined not to enter into a collective agreement?

MR. McCORMICK: No.

MR. PAULLEY: You don't? So really, and I'm not trying to embarrass you, Mr. McCormick, but really that phrase in there is meaningless when you're dealing with an employer that is determined that there will not be a collective agreement.

MR. McCORMICK: Within that context, Mr. Paulley, you're right.

MR. PAULLEY: Right. Okay. Now then, you go on further, and this is the part, Mr. McCormick, that intrigues me to a degree and it is something that I haven't seen suggested, quite frankly, as to the use of conciliation officers, because here you suggest, if I read the section correctly, "either party to the agreement may request a conciliation officer to impose a one-year agreement upon the parties." Now the normal concept of conciliation officer is an endeavour to bring parties together so that "they" enter into a

(MR. PAULLEY cont'd) . . . . . collective agreement and that is my concept of the role and function of a conciliation officer. But now if I read this and interpret this correctly, Mr. McCormick, what you are saying, that we should extend the powers of a conciliation officer to impose a collective agreement. I wonder if you would mind elaborating on that because it does seem to me, unless I'm misinterpreting what is said here, a departure far and beyond the normal concept of the use of conciliation officers in industrial disputes.

MR. McCORMICK: Mr. Paulley, you know we really don't care who is appointed to -- (Interjection) -- All right then we'll deal with conciliation officer, and I accept what you say that this is far above and beyond what the normal duties are of a conciliation officer, but if you're going to appoint somebody, we think that that person should be knowledgeable, should be experienced and the conciliation officer is the obvious choice in this kind of a situation, I think.

MR. PAULLEY: Would you suggest then, Mr. McCormick, that the conciliation officer in addition to his duties to attempt to bring people together at a bargaining table should in effect have the right to impose the role of a binding arbitrator. Can it be consistent one with the other?

MR. McCORMICK: The key is, Mr. Paulley, that in the next sentence, "no conciliation officer, however, would be appointed by the Minister on request of either party after a collective bargaining agreement has been concluded, or a strike is in progress, or a lock-out is in progress."

MR. PAULLEY: Right.

MR. McCORMICK: That's the key. If there is a strike in progress or a lock-out, this section would not apply.

MR. PAULLEY: But, Mr. McCormick, here again, the role of the conciliation officer in your presentation would be changed and the Minister would have no authority to appoint. "No conciliation officer however would be appointed by the Minister on request of either party after a collective agreement has been concluded." Now the general proposition before us, as I understand your clause ten, is to impose a collective agreement where one does not exist.

MR. McCORMICK: That's correct.

MR. PAULLEY: Now I can't see then and I'm not trying to be overly critical but I want to be sure because I'm sure that you understand that I'm going to have some involvement after reading the presentations that have been made, some involvement in suggesting possible recommendations regarding the briefs that are presented to the committee.

Quite frankly and quite honestly, I'm at a loss to really understand the approach that,first of all, a conciliation officer changes his role to be an arbitrator with the power of imposing a binding condition of a collective agreement, and then secondly to that, that after a collective agreement has been concluded, are then no involvement. I wonder if I could get some clarification on that.

MR. McCORMICK: It may well be that he would have to wear two hats.

MR. PAULLEY: It's pretty hard, sometimes.

MR. McCORMICK: You've done it quite well, Mr. Paulley.

MR. PAULLEY: I don't know what you mean by that. Go ahead.

MR. McCORMICK: In the normal course of collective bargaining, a conciliation officer might be appointed to assist the party, then if there is no settlement, upon the request of, according to our brief, the union or either party, he would be empowered to impose a one-year settlement only, but that request could not be done if there was a strike in effect or lock-out in effect and I think, we're trying to separate the two, and granted he may have to wear two hats.

MR. PAULLEY: Well okay, Mr. McCormick, I don't think we need to really pursue this, sufficient I think for me to say to you, I think it would be questionable to have a conciliation officer wearing two hats, one to conciliate, the other to arbitrate with a binding authority. However, I just raise that for your consideration because I know that your organization and all organizations that are appearing before this committee are making a presentation and are quite prepared to enter into questions and answers on the presentations, so I felt obligated to draw that to your attention.

The next one, Mr. McCormick, number eleven, dealing with legal picketing on the shopping centre. I note throughout your brief, you indicate three things, the problem, the

(MR. PAULLEY cont'd) . . . . . solution. In this, you most assuredly on behalf of your organization has raised the problem due to, of course, the famous or infamous case of the Dominion stores and the fact that the matter went all the way to the Supreme Court, but I do note in passing, the organization has not offered a solution.

MR. McCORMICK: Well the solution has got to be obvious, Mr. Paulley.

MR. PAULLEY: We don't look at the obvious . . .

MR. McCORMICK: Perhaps you should.

MR. PAULLEY: It's those things that we don't say as being obvious, Mr. McCormick, that we look at . . . and the reason I'm raising this, Mr. McCormick, is because your brief deals with the Labour Relations Act and I believe the courts, including the Supreme Court, dealt with this under the, I believe, Petty Trespass Act and I didn't know whether or not it would be the inclination of the retail store employers union to "clutter up" - to use that term in its broad sense - with matters which at the present are under such legislation as the Petty Trespass Act.

MR. McCORMICK: Mr. Paulley, this was an opportunity to be heard so we thought we'd bring all of our problems.

MR. PAULLEY: Oh, I see. So anyway, Mr. McCormick, it is only here because you wanted to be heard about it?

MR. McCORMICK: That's correct, and I'm sure you will be talking to Howard Pawley.

MR. PAULLEY: Okay. Of course you also know that we have heard about this on a number of occasions?

Now, my last question, Mr. Chairman, or observation is on Page 9 dealing with the possible amendments to the Shops Regulations Act, and I'm skipping over - not that the other points raised by Mr. McCormick are not important - but here you draw to our attention a problem dealing with store hour closing and supermarkets being open all day Sunday and statutory holidays. I join you, unofficially that is, with an apprehension of the gradual extension into the commercialization of Sundays, not because I'm a moral prude or religious fanatic, but I do believe that in this day and age there should be a pause from time to time in the hurly-burly of ordinary working habits. But, Mr. McCormick, is it not a fact that as powerful as the union is, that the retail clerks have entered into an agreement with at least one supermarket making provisions for the operation of a store or stores on Sundays?

MR. McCORMICK: That is a fact, Mr. Paulley. I would like to extend on my answer, you leave a little inference there.

MR. PAULLEY: Well you said it's a fact so it's no inference.

MR. McCORMICK: You know, all that you have to do is convince your membership that Sunday opening is a strike issue and then you get them out on the picket line and you strike until doomsday over that issue. If you can do that then you are a better union rep than I am and I wish you good luck.

MR. PAULLEY: Oh, I wouldn't say that.

MR. McCORMICK: So that is the problem. It's true that under present collective agreements the employer has the right to set the work week, or to schedule its employees. All right. But, you know, there are certain things that are not as dramatic an issue to our people as we think they should be, and that's where you people come in.

MR. PAULLEY: That's all I have, Mr. Chairman, thank you.

MR. CHAIRMAN: Mr. McBryde.

MR. McBRYDE: I just have one more question on Section 10, or just one more comment I guess is more fair. As I read your Section 10, it's in fact more wide open than the B.C. legislation, that the B.C. is more restrictive of how you can get into a first clause, an imposed first agreement, and yours is more wide open. I might recommend that you look into a little more the point that Mr. Paulley raised and compare with the B.C. legislation.

The other, I have organized many things, but I have never been a union organizer and I think it's important to understand that out of the field experience if we're changing something, what actual field experience is causing that recommendation. And the last part of your brief on what you call the large small stores or the small stores owned by large corporations, what is their most effective way of preventing you from organizing

(MR. McBRYDE cont'd) . . . . . them. How do they prevent you from organizing and why do you need these changes to help you organize. You submit frankly they're difficult to organize. How do they effectively prevent organization.

MR. McCORMICK: Well, one of the problems, of course, is that in that kind of a small operation they give every employee a title, they call them a manager or supervisor or something of that effect, and the guy is not that keen on joining the union because he's a manager and he has managerial responsibilities and he wears a tie and everything's super for him -- (Interjection) -- yes, prestige is one answer. The other problem, of course, is the closeness that the owner has with the people and, in fact, the smallness of the operation itself.

MR. McBRYDE: I mean these are not small companies, these are large corporations?

MR. McCORMICK: They are large corporations with small units.

MR. McBRYDE: Well is that unit then owned by someone locally who has an agreement with the large company or is that owned by the large company and just a local manager.

MR. McCORMICK: Generally speaking, it's a franchise operation.

MR. McBRYDE: I see. So the franchise would be a lot harder to organize than a large company directly owned.

MR. McCORMICK: Almost an impossible operation.

MR. McBRYDE: This proposal then isn't really going to help you to organize those small stores. It's just going to help you to keep the larger stores organized.

MR. McCORMICK: Are you talking about item 16?

MR. McBRYDE: Yes.

MR. McCORMICK: Well what we are afraid of, generally speaking, is that, in response to competition, the large chains will open on Sunday and believe me, in negotiations they bring it up every time. "Look, you know, down the street, he's open on Sunday." So that's what we're trying to avoid.

MR. McBRYDE: So you're protecting your people that are already organized in the larger stores and this effort really won't help to organize those that are unorganized in the smaller stores?

MR. McCORMICK: Not in relationship to Sunday opening, no.

MR. CHAIRMAN: Mr. McKenzie.

MR. McKENZIE: Yes, Mr. Chairman, I have a couple of questions. Mr. McCormick, on Page 5 of your brief under the Remedies and Penalties section, you mention the fact that your solution is, of course, that the courts be removed from the Act and given to the Labour Board. Have you had some problems with the courts, what is the reason for your consensus of opinion, is it there has been delay in the courts or what would be your reasoning behind it?

MR. McCORMICK: Yes, there has been some delay in the courts. I can give you one example. There was a Shop Easy store in Transcona, and owned by Westfair Foods of course, and Westfair Foods took the Shop Easy sign off and put an Econo-Mart sign on and said to the union, you don't have any more collective agreement, buddy. All they did was change the sign. And, of course, they ceased deducting union dues, they ceased complying with the agreement. So we filed a grievance and we proceeded to arbitration and in arbitration the lawyer for the company raised an objection as to whether or not the board had the right to hear the matter because there was no collective agreement. The board dealt with the preliminary objection and said, yes, we have the right to hear. The company then appealed that to the court and there was innumerable delays in the meantime. The court finally came down and said, yes, the Arbitration Board has the right to hear the matter. So what we now have to do is to reconvene the Arbitration Board to have the board decide on the merits of the case itself, you know, and you delay and delay and delay and in the meantime, you're losing your people in that unit, the company is not complying with the agreement -- the delay itself creates many many serious problems. And when you get into the courts, of course, one decision of one court is appealable to the next court and to the next court and to the next court. We would rather see that appeal avenue shut off, so that when we have a decision by the Labour Board it is the decision of the board and parties have to live with it, be it good or bad for either side.

MR. McKENZIE: Then you're reasonably satisfied that if these matters were being brought to the attention of the board, you wouldn't be experiencing these long delays; or

(MR. McKENZIE cont'd) . . . . . how are you satisfying me today, or the committee, that this would be better if it was . . .

MR. McCORMICK: Well the Act itself allows for one side or the other to appeal a matter, and what we're saying is that when you get into the court system the only thing you get into is delay and that prejudices your whole approach to your people that work in that unit, and we would much sooner see that avenue closed off completely.

MR. McKENZIE: Would you consider both alternatives, the courts or the board.

MR. McCORMICK: No, I wouldn't.

MR. McKENZIE: Next question: The Honourable Minister raised the one about the conciliation officer, but further down you said, no conciliation officer, however, may be appointed by the Minister. Are you suggesting then that it would be the Labour Board that would appoint the officer?

MR. McCORMICK: No, the intent is that an officer would not be appointed where there is a strike or lock-out. He would not be appointed.

MR. McKENZIE: On the picketing, Section 11 on the bottom of 5 and over on 6, could you explain to me what type of picketing that you are looking for on these shopping centres during a legal labour dispute.

MR. McCORMICK: Peaceful, legal picketing directly in front of the store that's being struck. Perhaps I may recap. We had a Dominion store strike in '73 and we had approximately 250 people on the picket line and another 250 new employees in the store taking their jobs; we were picketing initially in front directly in front of the store where you can have some impact on the customers. The police ordered us out to the perimeter of the shopping centre which is about 300 yards away and you have about as much effect there as a snowball in hell, because the people will simply take their literature or drive through your picket line and go shop anyway. So we moved up in front of the stores in the second week of the strike and a number of us were charged under Petty Trespassing, the position of the shopping centre being that it was private property. So we ignored the directive of the police and we stayed there. I think there was something like 75 to 100 charges laid. They were all dropped except one which was a test case and as you have heard in the brief, it went all the way to the Supreme Court of Canada; the Supreme Court of Canada said, you know, under present law it is a private place and you should have left when you were told to leave by the owner. You know, you're totally ineffective if you're striking somebody that has a shop in a shopping centre and you're 300 yards away on a public sidewalk. It's like picketing in Winnipeg to affect Safeway in Brandon.

MR. McKENZIE: Well are you suggesting to me today that the privacy should be denied to that employer?

MR. McCORMICK: That is correct. We are suggesting that there is a break-down in the contractual negotiation system between an employer and a union. And the other thing about picketing on the perimeters of a shopping centre is that if there are certain people who will honour your picket line and not cross it, they may not be going to shop in Dominion store, they may be going to shop in Zellers or some tailor shop in that mall, so that you're affecting indirectly an operation which has nothing to do with the strike; whereas if you can get your people directly in front of that store, that's the store you're zeroing in on and not somebody else that has a small shop in that shopping centre.

MR. McKENZIE: Another question, Mr. Chairman. On the bottom of page 7, under Section 9 Employees' Objections, on the two last lines there you say, "Mr. McCormick: No employees who have joined the union can resign from the union except prior to the application for certification." Would you elaborate on that.

MR. McCORMICK: Well, okay. What we're saying is that under the present setup you go out and you try to sign a majority of the people, and you do this, so then you submit it to the Labour Board and the Board posts a notice, and at that point the employees have, I believe, seven days upon which they can raise their objection, and which we suggest leads to all kinds of subtle interferences and pressures from the other side and the employer gets a few key employees to circulate petitions. What we're saying is that basically, if a person objects to a union, they don't have to sign a union card in the first place, so they've already raised that objection. You just don't sign. Beyond that, we think that if you're going to resign from the union or if you're going to object to it, then you should do so before the application is made, especially if you're going to withdraw. So then you've indicated to the union, look I don't want anything to do with

(MR. McCORMICK cont'd) . . . . . you, get lost and that's fine, you know, no problem. But when you obtain a majority, you apply to the Board and then you get the objecting employees and then you get the withdrawals which affects your application and the Board considers withdrawals and they consider objecting employees and invariably you end up with a vote. The system stinks.

MR. McKENZIE: But don't you think the employee has a right to object at any particular time that . . .

MR. McCORMICK: I think the employee has a right to join or not to join a union and he indicates that right to you when he says to you, no I don't want to sign a union card, so he doesn't sign. That's his objection. That's, I believe, as far as he should be able to go. And if he has signed a union card and he wants to get out, then he should get out before the application is made. At least then the union knows whether they have a majority or they don't before they apply for certification.

MR. McKENZIE: Okay, that's all my questions, Mr. Chairman.

MR. CHAIRMAN: Mr. Barrow.

MR. BARROW: To pursue this a little further, Mr. McCormick, what you're saying, you try to organize whatever. The people working are willing to join your union, they did sign cards.

MR. McCORMICK: Right.

MR. BARROW: When the crunch comes on, they are brainwashed or coerced or their security is threatened so then they have second thoughts, they don't want to belong to the union organization. Is that right?

MR. McCORMICK: That's right.

MR. BARROW: I'm glad you said that.

MR. McCORMICK: We have, for example, a pending application before the Labour Board, we sign a majority of the employees, after the notice is posted, a lawyer gets involved, again, and the same people that signed for us three days before that are now signing withdrawals, you know. And this thing is not a one shot situation, it happens all the time.

MR. BARROW: That's fine, Mr. McCormick. Now last question. All through your brief I'm a little surprised or maybe disappointed that you haven't mentioned anything about professional strikebreakers, or any strikebreakers.

MR. CHAIRMAN: Order please, order please. We try to keep the questioning as much in line with the brief that the member has raised and . . .

MR. McCORMICK: That's handled in the Federation brief anyway, Mr. Chairman.

MR. BARROW: That's fine, Mr. McCormick.

MR. CHAIRMAN: Are there any further questions? Hearing none, thank you, Mr. McCormick.

MR. McCORMICK: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Leonard Krueger here? The Association of Professional Engineers, C.R. Bouskill, President.

MR. BOUSKILL: We have a brief, I believe that the Clerk has copies thereof, Mr. Chairman. It's been prepared. Mr. Chairman, I have some additional copies if we need additional copies.

MR. CHAIRMAN: Would you proceed, Mr. Bouskill, please.

MR. BOUSKILL: Thank you, Mr. Chairman.

This brief relating to possible changes to the Manitoba Labour Relations Act is submitted by the Association of Professional Engineers of the Province of Manitoba.

In 1972 this Association submitted a brief which urged that Professional Engineers be excluded from labour legislation, or at least that collective bargaining legislation should preserve the fundamental right of freedom of choice by providing certain minimum guarantees for Professional Engineers. We were gratified to learn that the Labour Relations Act subsequently passed by the Legislature recognized the rights and interests of professional employees.

We have reviewed the paper entitled "Information Concerning Possible Changes to Manitoba's Labour Legislation" which was issued by the Honourable A.R. Paulley, Minister of Labour, dated December, 1975. In this brief we have quoted certain paragraphs from this Information paper. Page and section references given in this brief

(MR. BOUSKILL cont'd) . . . . . will relate to pages and sections in the Information paper. Mr. Chairman, I don't think it will be necessary for me to quote those as I go through the paper. I'm sure that each of you has read that paper and is familiar with it.

We are prompted to submit this brief because of a strong concern that some of the contemplated changes to the Labour Relations Act may result in: restrictions of the rights and freedom of choice of professional employees; a denial of the process of natural justice, and conflict between the Labour Relations Act and professional acts such as "The Professional Engineers Act". We respectfully submit the following comments for your serious consideration.

With regard to declaratory orders it is our understanding that the Provincial Legislature does not have the authority to confer upon a tribunal such as the Manitoba Labour Board the power to issue declaratory orders. A recent court ruling has indicated that only a superior court judge can make a declaratory statement, and that under the BNA Act only federally instituted tribunals can be assigned this authority. At present, declarations of rights are only made by the Courts and then only after hearing all interested parties. In the interest of ensuring natural justice, we believe that declaratory orders should continue to be an instrument only of the courts.

With regard to professional employees we note that the definition of "professional employee" may be re-defined in the Manitoba Labour Act, to "include only persons who are actually practising their professional skills in their regular employment." Combining this contemplated amendment to the definition of "professional employee" with the contemplated granting of powers to issue declaratory orders would enable the Labour Board to define who is, and who is not, actually practising his profession. Should the Board attempt to do this, its opinion may conflict with the definition of the "practice of engineering" as defined in "The Engineering Profession Act." "The Engineering Profession Act" holds the Council of the Association of Professional Engineers responsible for determining who is, and who is not practising engineering. We are convinced that the Council of the Professional Association is best qualified to decide who is, or is not practising engineering or, in the case of a dispute, the courts.

In regard to unfair labour practices, granting the Manitoba Labour Board the final authority to decide on unfair labour practices, without appeal to the courts, is viewed with alarm. Such an amendment could well lead to an infringement of natural justice, if the courts cease to be recognized as the final authority.

It is our understanding that the primary purpose of the Labour Board has been to administer the Labour Act, not to act in the capacity of judge and jury to parties who commit infractions of the Act. It is our contention that the Administrative and Judicial functions should continue to be exercised separately by the Labour Board and the Courts.

Whether or not the Government of Manitoba decides that there is cause to extend judicial powers to the Labour Board, this Association submits that great care must be exercised in selecting an impartial, non-partisan chairman for the Labour Board. Should the government decide to extend judicial powers to the Labour Board and to limit the right of appeal to the courts, it is this Association's contention that it is imperative that the government ensure that an impartial, non-partisan chairman be appointed in order to maintain the integrity and credibility of the Board and its rulings, since the Board membership is comprised of equal numbers of employee and employer oriented representatives.

The contemplated changes intended to discourage unfair labour practices appear to do little, if anything, to encourage harmonious relations between employee and employer. It is the contention of this Association that it would be in the best interest of the people of Manitoba for these provisions to encourage such a harmonious relationship, while at the same time ensuring that fair labour practices are adhered to.

A review of the current Labour Relations Act and the contemplated changes indicate that great emphasis is given to the rights of the employee and to the certified collective bargaining unit. This in itself is commendable. However, there appears to be little recognition of the rights of the employer, nor does this legislation appear to recognize that with the rights granted to each party there are responsibilities which each of these parties owes to the other. The Professional Engineering Code of Ethics clearly outlines the responsibilities the engineer owes to the state, to the public, to his client or employer, to the profession and to his peers. In this time of rampant inflation and

(MR. BOUSKILL cont'd) . . . . . major unrest between employee and employer, the Government and the members of the Manitoba Legislature have a wonderful opportunity to serve the people of Manitoba, and to provide leadership to other Governments of this country, by recognizing in its labour legislation those responsibilities that employees, unions and employers owe to each other, and to promote harmony between these parties for the common good.

New provisions are being contemplated which would indicate that it is an unfair labour practice for an employer to unduly influence employees at any time when a union is seeking certification. Most Professional Engineers, the majority of whom are employees rather than employers, prefer to be excluded from certified collective bargaining units. It is respectfully submitted that provisions should continue to be included in the Labour Relations Act which protect the rights and freedom of choice of professional employees, and that provisions should be made which would indicate that it is an unfair labour practice for professional employees to be intimidated or harassed by union representatives, or by anyone, and/or coerced into joining or being represented by a collective bargaining unit.

All of which is respectfully submitted by the Association of Professional Engineers, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Bouskill. There may be some questions. I think the Minister has some questions. Mr. Paulley.

MR. PAULLEY: Mr. Chairman, thank you, and to Mr. Bouskill, I read with interest your presentation and I note, and possibly I guess I should appreciate that it is not repetitious of the paper that was submitted under my name or over my name in December.

I note at the offset that you seem to commend and condemn at the same time that first of all in 1972 you submitted a brief excluding the professional engineers and then you were gratified to learn that the Labour Relations Act subsequently passed by the Legislature recognized the rights and interest of professional employees. So I guess somewhere in between the two the Legislative Assembly did the right thing, and I'm not just sure which it may be, Mr. Bouskill. However, I do want to ask you further information dealing with declaratory orders and orders of cease and desist.

You take a legal approach and of course I'm no lawyer, but I do recognize that in some provincial jurisdictions, I believe it is a case where insofar as such matters as civil rights under the - what do they call them in the British North America Act, some of the heads there that give to the provincial authority certain rights in civil legislation - and it's my understanding that the cease and desist orders by labour boards is already enshrined or documented in some of the provincial jurisdictions. You mentioned in your comments on Page 2, "A recent court ruling has indicated that only a superior court judge can make a declaratory statement." I wonder if you could inform me as to the precise situation that was before the superior court judge for his adjudication; was it in relation to a labour relations matter?

MR. BOUSKILL: Mr. Chairman, if I may respond to Mr. Paulley's question. The ruling was not made by the Supreme Court of Canada, the ruling . . .

MR. PAULLEY: No, superior court judge.

MR. BOUSKILL: All right. The ruling that I'm referring to was made in the Appeal Court of the Province of Manitoba within the last year and a half; it related to a situation where two or three engineers who were employed by the Manitoba Hydro and did belong to the Manitoba Hydro Employees' Association were in the position where another group known as the Manitoba Hydro Professional Engineers' Association were concerned that these people who were engineers should be covered under a labour union agreement - I think I'm using the right terminology here, Mr. Chairman, I, too, am not a lawyer, so . . .

MR. PAULLEY: Join the club.

MR. BOUSKILL: . . . I will have to speak in some generalities. As a result of the Labour Board ruling, there was an appeal to the Court of Queen's Bench and subsequently to the Court of Appeal and it is that ruling by, Mr. Justice O'Sullivan was the man I believe who handed down the ruling.

MR. PAULLEY: Well as one non-lawyer to another non-lawyer, in all due

(MR. PAULLEY cont'd) . . . . . respect to the ruling of the Appeal Court, had there been contained legislation which gave to the board, that is the Labour Relations Board, the authority to issue cease and desist orders, I would respectfully suggest that the decision of the Appeal Court may, and of course you never know what judges are going to do these days, may have been different and the suggestion contained in the so-called White Paper, as I understand it, could conceivably be as a result of the decision that was made because of the absence in law of the right of the Labour Board to take the action that it did.

I merely point that out to you, sir, and seek from you and your association any information that you may relate to the contrary of the point I'm attempting to approach on a non-legal basis, because after all I would not want to aid in authoring new legislation that would almost be contrary to the courts to begin with. So if you have any further comments I certainly would appreciate getting them from you.

MR. BOUSKILL: Mr. Chairman, I would hope that the fact that we've referred to court rulings does not detract from the point that we were really attempting to make, and that is that we believe there should be provisions for professional people to be excluded from collective bargaining units where the interests of those professional people are not common with the other people in the collective bargaining unit. That is our basic concern. We simply mention the other because this was drawn to our attention.

MR. PAULLEY: You have no objections though to members of the professional engineers belonging to an association or a union, call it what you will, that enters into a collective agreement with their employers?

MR. BOUSKILL: Mr. Chairman, the association has no objection to that type of arrangement. The understanding that the association has from its membership is that the majority of them prefer not to be in those kinds of units, but we certainly recognize that there are some of our members who would like to be and have organized themselves into collective bargaining units.

MR. PAULLEY: And just by way of example, of course, insofar as the professional engineers in the employ of the Government of Manitoba who applied for and received certification as the bargaining unit for professional engineers employed by the Government of Manitoba, and at the present time negotiations aimed toward a collective agreement with the professionals is processing.

MR. BOUSKILL: Yes, Mr. Chairman, I'm aware of that.

MR. PAULLEY: Your brief then in which you raise the question of the preference of professional engineers wanting to go it alone is really not applicable in this particular case. I don't want to put you on a spot.

MR. BOUSKILL: Well, Mr. Chairman, I think what we're trying to say is that there are certain circumstances where professional employees, and I can really only speak for professional engineers, prefer to be excluded from collective bargaining units, there are certainly other situations where they would prefer to be included. We simply would like to see that the legislation is written in such a way that . . . Mr. Chairman, we would like to see that the professional engineers in any given situation are given the opportunity to opt one way or the other as a group separate from other employees who may not have common interests with the professional employees.

MR. PAULLEY: Well that's fine, Mr. Chairman. I won't pursue this point at this time but as one who is charged with some degree of responsibility in negotiations between the component trade unions or professionals, call it what you will, I find this most interesting because, as I indicated, I am through delegation by the Cabinet somewhat an interested party and I appreciate this point.

The other point, Mr. Chairman, I would like to ask of the delegation, and it's a question that we did discuss the other day while listening to one of the other briefs, is the comments contained on Page 4 dealing with the chairmanship and the composition of the Manitoba Labour Relations Board. You quite properly point out that the composition of the board at present is equal representation of employee and employer oriented representatives; then in your brief you refer that great care must be exercised in selecting an impartial non-partisan chairman for the Labour Board. We presume, and maybe it's presumptuous on our part, that we have in the present chairman of the board a person who is impartial and non-partisan because that is the type of person that we are desirous of having as a chairman of the board.

(MR. PAULLEY cont'd)

My question, sir, would be, do you think that the present composition of the board and its chairman, or the chairman of the board, would be able to or would they take a different approach in their deliberations pertaining to industrial relations in matters that are referred to the board if additional responsibilities were by legislation referred to them?

MR. BOUSKILL: Mr. Chairman, I'm not sure that I understand the import of that particular question.

MR. PAULLEY: Well may I clarify it, Mr. Chairman. Reference is made here to a so-called impartial non-partisan chairman, and I may be reading it wrongly, but there is the inference that such is not the case today. Now then, if there are additional responsibilities forwarded for the consideration of the Labour Board, are you suggesting that we should - I don't think you are but I am asking you - suggesting that the composition or the membership of the board should be changed so that we did have, if obtainable, a person who could be considered impartial, non-partisan. I haven't found one yet in 67 years of existence.

MR. BOUSKILL: Mr. Chairman, may I attempt to answer the question in this way. It was not our intention to cast aspersions on the present chairman or any of the members of that board. Our concern has been that there has been an apparent lack of respect for the decisions of that board, there has been in the public press some considerable exchange about the impartiality, if you will, of the present board or its chairman. Our concern is that every effort should be made to ensure that the chairman is impartial, that he is non-partisan, that not only is he that but that he should appear to be that. I suppose if we are making direct criticism, it could only be in the line of suggesting that if the chairman were a person who is well knowledgeable in the management-labour industrial relations area who was not an active supporter of any political party, that this might remove some of the debate that's been going on in public and enable the Labour Board to make its rulings and have its rulings respected without the fuss, if I may use that term.

MR. PAULLEY: Mr. Chairman, just to pursue this; as I understand the gentleman, that the opinion of the Professional Engineers seem to be formed as a result of newspaper articles, possibly the editorial articles of the Winnipeg Free Press, but I'm not sure of that, I don't know if that has influenced the delegate or not, but the fervor, insofar as the present chairman of the Labour Board has been created primarily by the "old woman on Carlton Street," to use a phrase that is indoctrined in history. And I would like to know though whether the Professional Engineers, as an organization, has considered the statements contained in here or implied in here on their own accord without considering the gobbledegook that we get from time to time through the media and in particular the media that I mentioned. I think it's most important because we try, and it doesn't matter, sir, whether it's a New Democratic government or not, I think it's historic that in the selection of chairman of an important body like the Labour Relations Board, we try to have people of competence appointed to the Board. I know my predecessor, the Minister of Labour in the Conservative administration appointed as chairman of the Minimum Wage Board the president of the Conservative Party of Manitoba. I haven't heard any real criticism against that particular individual because he happened to have been the president of the Conservative Party. I think it was his attitude and his approach to the job at hand, and insofar as I personally was concerned I thought that Cam McLean did a reasonably good job as chairman of that board and I'm sure that no one by any stretch of the imagination would construe that the chairman of the board at that particular time was partial or partisan.

Now I again ask you because it's contained in your brief - if it were not contained in your brief, of course, I wouldn't raise the matter - but the inference is there, and in reply to my first question you made mention of the fact or disclosed that it was based on what you had read in the newspaper. Can you tell me and this committee of any precise circumstance where a decision made by the board, and in particular the chairman of the Labour Board, has been based on other than a consideration of the facts as they were presented by the persons appearing by the board, and that's their right under legislation; I ask you, can you give me any reason because of a partiality or a

(MR. PAULLEY cont'd) . . . . . partisanship approach where the Chairman or -- (Interjection) -- you don't like what you're hearing - or the chairman or its board has abrogated its responsibilities based on partisanship.

MR. BOUSKILL: Mr. Chairman, I'm sure that the Honourable Mr. Paulley recognizes that the Association of Professional Engineers is not a party to management-labour negotiations, that it is an independent third party, if you will, and as such, I think, the only way I can really answer his question is to say that certain of our members are in fact management, certain of our members are in fact members of collective bargaining units that either have or are in the process of forming. And this particular point that is under discussion was suggested as a point that might well be made at this time, again, as I mentioned earlier, with no intention to cast aspersions on any individuals in their present capacities, but with the earnest suggestion that every effort should be made in the future to ensure that there should be no reason for there to be any aspersions to be cast.

MR. PAULLEY: Mr. Chairman, if I may, that is the point that I'm raising. The inference is, and you just repeated it and I don't want to appear to be in an argumentative mood, but because I have certain responsibilities as a Minister of the Crown in recommendation of appointees to various positions, and we recognize that in today's climate the Labour Relations Board is having to operate, as indeed we all are, under very very difficult situations particularly in the field of management-labour relations and the Labour Board, as presently constituted, is confronted with many problems. And your organization, at its choice not mine, by inference draws to our attention, the attention of this Committee, that great care must be exercised in selecting an impartial, non-partisan chairman for the Labour Board. Now please forgive me, I am not attempting to nail you to the masthead but I am attempting to reaffirm in the eyes of the public, for the interest of the public, confidence in the Labour Relations Board. Or if the public, if the employer, and if the employee, and indeed if the government hasn't any confidence in a labour relations board because of a varying degree of interpretations, then we can expect continuing upheavals in the whole area of labour-management relations. It is for that reason, Mr. Chairman, I raise the questions that I do. I ask the delegate whether this was the expressed opinion of the Professional Engineers; it does appear to me, unless I misinterpret what you say, that it is the opinion of some and it's contained in the brief sort of on an ad hoc basis. I have no further questions.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, just picking up on that point, if I may, with Mr. Bouskill, the point that the brief appears to be making, it seems to me, is that you're emphasizing and underscoring the need for impartiality in sight as well as in fact and there are many elements in society and many quarters in society that have raised the same question that is implied in the reference in your brief, and I don't think, Mr. Chairman, that the position taken by the Minister of Labour on this question should be one of hostility towards this particular witness.

MR. PAULLEY: Affection, not hostility. We recognize them as a trade union.

MR. SHERMAN: It may be affection but it comes across as a rather strange kind of affection. The fact of the matter is that much of society has raised this same question and the Association for Professional Engineers is simply making this same point. It would seem to me, Mr. Bouskill, that what you're saying is that it's probably impossible to get away entirely from any kind of political affiliation when you're looking for an appointee. But there are degrees of political affiliation. For example, when judges are appointed most of them have very strongly emphasized political backgrounds . . .

MR. PAULLEY: And years of political activity.

MR. SHERMAN: But except in one or two instances, and we have one or two of them in our own party, Mr. Claude Wagner being one of them, there aren't too many who subsequently leave the bench and return to political life. What has happened in the case of the present --(Interjection)-- Well why should they indeed, it's not worth it. In the case of the present chairman of the Labour Board though, there is a case of a Labour Board chairman, an appointee, who did in fact indicate his willingness to leave that appointment to return to political life. So that I suggest to you that the Association for Professional Engineers, like many other organizations, are concerned on this one specific

(MR. SHERMAN cont'd) . . . . . point, not that that chairman may be partisan but that a sincere effort must be made to achieve as much non-partisanship as possible. That's the position that you're taking I assume, is it?

MR. BOUSKILL: That is correct, Mr. Chairman.

MR. SHERMAN: Do you have any recommendations or ideas as to how that might be achieved? Would you propose any rules or stipulations when it comes to making appointments of this kind.

MR. BOUSKILL: Mr. Chairman, I think I can only repeat what I said a few minutes ago, that the suggestion is made that the appointment to the chairmanship of this particular board might well be a person who is not an active supporter of any political party, but must certainly be someone who is well knowledgeable in the industrial relations field.

MR. SHERMAN: Well would you consider writing that kind of consideration or even a stronger one into the format for appointing a chairman.

MR. BOUSKILL: Mr. Chairman, I think that it would behoove the Legislature to consider that. I would not like to put myself above the Legislature as a person standing before you and suggest that my judgment on that point is greater than that of the Legislature, but certainly I would think that serious consideration to that kind of ground rule might well be given.

MR. SHERMAN: One other question, Mr. Chairman, through you to Mr. Bouskill, on Page 3, in your reference to unfair labour practices, would I be correct in inferring from your presentation that you believe that the language being proposed at this point in the White Paper having to do with the comments or participation by an employer in discussions with employees when certification proceedings are under way, that that language is stronger and more discriminatory against the employer than is desirable. For example, the language says that when an employer states that he objects to unions or prefers one over another it would be deemed that the employer used intimidation, coercion, threats or undue influence, etc. Would it be reasonable to suggest that your association would agree that where an employer uses threats, intimidation or coercion, that's an unfair labour practice, but simply to suggest or to participate in the discussions or to make cases and points known to his employees having to do with particular union preferences or representations does not constitute threats, intimidation or coercion. In other words, there are many things that an employer can say to employees that will be of use and of value in terms of the decision as to what certification to pursue. There are many things the employer knows about his business that the employees perhaps don't know that would affect their livelihoods when the decision for certification were made, because of conflicts between competing unions, because of jurisdictional differences between unions, and some of this information should be made known, no doubt, to employees so that they can make an intelligent decision.

MR. BOUSKILL: Mr. Chairman, I think our position on that question would be that the employee should be enabled to get as much information of both the pros and the cons of any decision that the employer was about to make before the decision was made.

MR. SHERMAN: And that kind of information from the employer should not be construed as threats, intimidation or coercion in your view? Would it be correct, would it be safe and reasonable to say that, that the conveying of that kind of information does not constitute threats and intimidation.

MR. BOUSKILL: Mr. Chairman, I think if I may respond in this way, the conveyance of the information in itself, I would think, should not be construed in that way. The manner in which the information is construed may, in fact, have some bearing on whether it might be construed as interference.

MR. SHERMAN: Well then the proposed section would be agreeable to you provided the definition of threats, coercion and intimidation was clearly spelled out and understood. Would that be true?

MR. BOUSKILL: I think that's a reasonable statement to make, Mr. Chairman.

MR. SHERMAN: I have no further questions, Mr. Chairman.

MR. CHAIRMAN: Mr. Barrow.

MR. BARROW: Thank you, Mr. Chairman. I go back to Page 3, the comment: "Granting the Manitoba Labour Board the final authority to decide on unfair labour practices without appeal to the courts is viewed with alarm. Such an amendment could

(MR. BARROW cont'd) . . . . . well lead to an infringement of natural injustice, if the courts cease to be recognized as final authority." Then you're inferring that the court would be neutral, perfectly fair. You mean there is no leeway there, there's no flexibility, that the court would be final, and it would be fair, it would be just, is that right?

MR. BOUSKILL: Mr. Chairman, I can only answer that by saying that I, having been brought up in this country have been led to believe that the courts are to be considered as being as fair a judiciary as possible. May I add to that, Mr. Chairman, that this is not intended in any way to cast aspersions on the Labour Board or any other board. I believe that our system of law enables judgments to be made on rulings of a particular level of complexity by boards, others are such that the boards may make a ruling but that that ruling may be appealed. And I think our concern is that the appearance of some of the changes in the Legislature is that it would make the board a very powerful court, if you will, if it were given some of the powers that appear to be being passed to that board. Our concern is not that the board should not be able to function effectively but rather that if there is reasonable grounds for contention of the ruling of the board and that it's of a sufficiently serious nature that the present process of law which we enjoy in this country should be preserved.

MR. BARROW: Then you go on on Page 4, the bottom of paragraph 2, you have, "an impartial, non-partisan chairman be appointed in order to maintain the integrity and credibility of the board and its rulings," which has been spoken on at great length. Well I'll just ask a simple question. Would you agree to legislation pertaining to this particular problem that your association appoint this chairman, then there would be no doubt?

MR. BOUSKILL: Mr. Chairman, I am flattered by the suggestion that the Association of Professional Engineers is in a better position than Industrial Relations Committee to appoint an impartial chairman, but I bow to their wisdom because I really feel that the association is not there to administer the Industrial Relations Act nor to appoint a Labour Board.

MR. BARROW: "The contemplated changes intended to discourage unfair labour practices appear to do little, if anything, to encourage harmonious relations between employee and employer. It is the contention of this Association that it would be in the best interest of the people of Manitoba for these provisions to encourage such a harmonious relationship, while at the same time ensuring that fair labour practices are adhered to." Now I gather from that the fact you're trying to organize or put a union in a working place is not conducive to harmonious relations between the employee and the employer. Is that right?

MR. BOUSKILL: I don't believe that's what the brief is intending to say, Mr. Chairman. I think what the brief is intending to say is that the feeling at the present time is that there is a considerable amount of unrest between labour unions on the one hand, if you will, and management on the other.

MR. BARROW: Would you not agree that where a place is organized and the bargaining powers are there, the rates are fair, 8-hour day, it wouldn't matter if it was a harmonious relationship between them if they're happy in their chosen jobs. What the hell does a worker care if he has a relationship with the top brass as long as he's making a fair living and he's happy. This relationship between the employer and employee is a complete farce, I would say. Would you agree with that?

MR. BOUSKILL: Mr. Chairman, I don't agree with the statement.

MR. BARROW: Well, last question. Well then you belong to the Association of Professional Engineers. Do all engineers belong to this association?

MR. BOUSKILL: All engineers who are practising engineering in the Province of Manitoba belong to this association or they are practising illegally.

MR. BARROW: Well then you're a closed shop union.

MR. BOUSKILL: Absolutely.

MR. BARROW: Sure, you're the worst type.

One last question, Mr. Chairman. There's an organization much like yours, they call them the Plymouth Brethren, they don't believe in unions or paying dues, do you belong to that?

MR. CHAIRMAN: Order please. I don't think that was in the brief. Mr. McKenzie.

MR. McKENZIE: I have one question, Mr. Chairman. What's the membership of the Professional Engineers in Manitoba?

MR. BOUSKILL: There are approximately 2,200 members in Manitoba.

MR. McKENZIE: That's the only question I had, sir.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Can you tell me whether you would agree that a person could not be required to be a member of your association if he didn't believe with your association on religious grounds? The statute now provides that everybody pays professional engineer's dues. Should we put a section in the statute which says that if a person disbelieves in your association on religious grounds, as determined by himself, he should be exempted from the paying of those dues and be permitted to send those dues to the charity chosen by the Labour Board?

MR. BOUSKILL: Mr. Chairman, the Engineering Profession Act, as we understand it, was established in the interests of the public of Manitoba to ensure that those who are practising engineering within this province are well qualified and skilled to do so and that it is in the best interests of the public that those members be registered. On the basis of that I think that religious beliefs are not germane to whether they are or are not registered.

MR. GREEN: A lot of people believe that it's in the interests of the public that the steelworkers in this province belong to a union, that they belong to their association, that this will ensure the provision of better steelworking to the public. Do you think we should pass a law making it a requirement that every steelworker be a member of the Steelworkers' Union, similar to your law?

MR. BOUSKILL: Mr. Chairman, I don't believe that I can answer that question on behalf of the association. If the question is being asked of me as a personal individual, I do not believe that membership in any organization should be forced on an individual, it should depend, I think, on what that particular person wishes to get out of life.

MR. GREEN: That includes your association?

MR. BOUSKILL: That's correct, Mr. Chairman. If the man wishes to be a professional engineer I believe that one of the conditions under which he operates is that he will join the association.

MR. GREEN: Would you agree that we legislate a similar provision for steelworkers, that if they wish to be steelworkers they have to join the steelworkers union?

MR. BOUSKILL: Mr. Chairman, I think Mr. Green can add two and two together just as well as I can.

MR.GREEN: Well then you agree that there should be an exemption from your Act for a person who doesn't believe that these associations do good, that in fact they do evil in his view, that he should be permitted to not pay his dues and send the money to the charity. Do you believe that? Should we put a provision like that in your Act?

MR. BOUSKILL: It's certainly worth contemplating, Mr. Chairman.

MR. GREEN: You would agree with such a provision? Would you agree with such a provision in the Law Society Act ?

MR. BOUSKILL: Mr. Chairman, I think what I am trying to say is that the question which Mr. Green is directing is worthy of further consideration. I am not prepared to answer yes or no at this moment.

MR. GREEN: But what you were prepared to say is that nobody should be compelled by law to belong to a particular association? I think you said that a few moments ago.

MR. BOUSKILL: Unless they particularly want to operate in the sphere in which that organization has jurisdiction.

MR. GREEN: Well then you are suggesting that the law should provide that people should be, by compulsion if they wish to practice, be members of a certain association.

MR. BOUSKILL: If the law provides for that, yes, Mr. Chairman.

MR. GREEN: And you say that the law should provide for that, except your association but not steelworkers?

MR. BOUSKILL: Mr. Chairman, I feel that professional bodies are a different kettle of fish than labour unions.

MR. GREEN: They would like to become the same kettle of fish.

MR. BOUSKILL: I'm not sure, if I may ask, Mr. Chairman, what Mr. Green means.

MR. GREEN: The steelworkers would like to be the same kettle of fish as the

(MR. GREEN cont'd) . . . . . lawyers and the doctors. They believe they can do good for the public, too, make sure that the people who practise steelworking do it properly, they're well-trained, etc., bricklayers.

MR. BOUSKILL: Mr. Chairman, I submit that if that is the case, that it is a matter that members of this Legislature must deliberate and come to a conclusion on.

MR. GREEN: I would like to ask you whether it would be agreeable to you that the Deputy Minister of Labour be the chairman of the Labour Board, whether that would ensure the protection that you are seeking?

MR. BOUSKILL: Mr. Chairman, I think I've already made my point, that we are not as an association either directly involved in negotiations between labour or management and I do not consider that the association is or should be considered to be an authority on the appointment of a person. I think we have made the point of the principle that we think should prevail.

MR. GREEN: I'm sorry, I'm talking about principle. I'm talking about not the individual Mr. Cochrane, I'm saying that the Minister appoint his deputy, who is still his deputy, and that that person should preside over the Labour Board. Would that have a better appearance than a member of the New Democratic Party being chairman of the Labour Board?

MR. BOUSKILL: I'm not sure that it would or that it wouldn't, Mr. Chairman.

MR. GREEN: So you don't think that the deputy minister, the person directly responsible to the Minister, being the chairman of the Labour Board would bother you at all, even though you say that it should appear to be completely impartial.

MR. BOUSKILL: What I'm saying, Mr. Chairman, is that that particular question is not one which we have given thought to and therefore I feel that any comment that I can make is not one which should be given much weight.

MR. GREEN: Would you care to make - I mean you're talking about sort of an impartial chairman and I'm asking you whether the Deputy Minister of Labour, the man directly responsible to the Minister of Labour would fit that category as far as you personally are concerned, that he should remain Deputy Minister of Labour while he's doing it?

MR. BOUSKILL: I prefer not to answer the question because I really feel that whatever answer I give is not a considered answer, Mr. Chairman.

MR. GREEN: Well are you aware that the Deputy Minister of Labour was, under the Liberal administration and the Conservative administration, the chairman of the Labour Board, and the Free Press and the politicians and the association didn't come and complain that the man directly responsible to the Minister was the chairman of the Labour Board.

MR. BOUSKILL: I am not aware of that, Mr. Chairman.

MR. GREEN: Would it surprise you that the Winnipeg Free Press that has been looking for an impartial chairman made no complaints that the Deputy Minister was the chairman of the Anti-Labour Board during the period of the Liberal administration? You appear, sir, to be more concerned with the fuss that is being raised rather than the decisions of the chairman. Isn't that correct? You say that there is all this controversy and that this is what bothers you, you don't point to any decision of the chairman?

MR. BOUSKILL: That is correct, Mr. Chairman.

MR. GREEN: All right. Now let us say that the Conservatives appointed a chairman, that chairman was Cam McLean, no longer president of the Conservative Party, and the labour unions put up a big fuss, like 30,000 people they held a demonstration and they said we want to get rid of this chairman, he is anti-labour. Would the fuss bother you in that respect? Should we get rid of the chairman under those circumstances?

MR. BOUSKILL: Mr. Chairman, I think I have answered that question.

MR. GREEN: No, I want to know whether if the fuss were being made by the labour unions under a Liberal administration calling the chairman anti-labour, saying that he's biased, asking that he be gotten rid of, do you think the government should then get rid of that chairman because of the fuss, not because of decisions but because of the fuss?

MR. BOUSKILL: Mr. Chairman, I believe that our concern at the moment is not that we should change the chairman because of any fuss . . .

MR. GREEN: I thought that's what you said.

MR. BOUSKILL: I'm sorry if I gave that impression.

MR. GREEN: I specifically asked you whether it was the fuss or the decisions that were bothering you and you said it was the fuss. You want to withdraw that now, it's not the fuss, it's the decisions?

MR. BOUSKILL: Mr. Chairman, I believe what I said earlier was that our concern is that there has been some considerable fuss . . .

MR. GREEN: That's what I said. When I said to you that if the labour unions put up considerable fuss that they thought that the chairman was anti-labour under a Liberal administration or a Conservative administration, which they did, would you think that that fuss put up by people representing 30,000 people in the Province of Manitoba - more than 30,000 - that that should cause the govermnent to dispose of the chairman?

MR. BOUSKILL: Mr. Chairman, I believe I have stated that we do not take quarrel with the present chairman or any chairman . . .

MR. GREEN: You take quarrel with the fuss. That's what I asked you.

MR. BOUSKILL: Thank you for answering your question, Mr. Green.

MR. GREEN: Is that not correct then? You don't take quarrel with the fuss?

MR. BOUSKILL: Mr. Chairman, I believe we've stated that our concern is that there is a fuss, not that we . . .

MR. PAULLEY: Created by non-fussy people.

MR. GREEN: And I am asking you if there was a fuss raised by the Manitoba Federation of Labour suggesting that the chairman was biased and demanding that the government get rid of him, would the existence of that fuss coming from the Manitoba Federation of Labour as distinct from the Chamber of Commerce and the Winnipeg Free Press, would that bother you, the fuss, should the government react to that fuss?

MR. BOUSKILL: Mr. Chairman, I think that our concern is that whatever the cause of the fuss, our hope would be that there would be an appointment of a chairman to that board who is impartial, who is non-partisan and that every effort should be made to avoid a fuss from whatever quarter.

MR. GREEN: So then you are suggesting that if there was a different chairman appointed by the Conservatives, and, you know, like John Diefenbaker says, "It's a long road that has no ash cans," that at that time we should go the precedent that if the labour unions kick up a fuss we should get rid of that chairman because we don't want the fuss.

MR. PAULLEY: Yes, but you always have somebody who is usually neutral against something.

MR. GREEN: Could I ask you, sir, whether it would satisfy you if Murdoch MacKay resigned his membership in the New Democratic Party, would that make him an impartial chairman?

MR. BOUSKILL: Mr. Chairman, I don't know whether Mr. MacKay resigning his membership would have any bearing on my decision - and it's not my decision that is causing the fuss. I'm sure that the members of this committee and the members of the Legislature are concerned that there is a fuss. . .

MR. GREEN: I am not the least bit concerned. I thought you were worried about you; if you are worried about me, then I tell you to stop worrying, I am not concerned in the least about the fuss. And I am asking you whether - your association has put in a brief, it's based on partisan support of a political party, do you think Murdoch MacKay would be an impartial person if he resigned his membership in the New Democratic Party - that that would make him impartial?

MR. BOUSKILL: Mr. Chairman, I have been given to understand that the current chairman is in fact a very impartial person and has been acting in that way.

MR. GREEN: That is all I am concerned with.

MR. PAULLEY: That's all we want.

MR. GREEN: That is all I am concerned with. Do you think that the other members of the Labour Board, the labour-appointed people, the Management-appointed people are trying to do a job?

MR. BOUSKILL: Based on what I've heard this morning, I would say - not this morning but this morning and during the first two days of last week - I would have to answer yes, that they are attempting to do a job.

MR. GREEN: Do you think it would be conducive to the good respect for the judiciary

(MR. GREEN cont'd) . . . . .if a Cabinet Minister said that no judge, no sane judge could come to that conclusion, such as was said by Mr. Ouellet who was then found guilty of contempt. Do you think that that would be conducive if we let that kind of thing happen - Cabinet Ministers would say that no sane judge would come to that conclusion?

MR. BOUSKILL: Mr. Chairman, that does nothing to breed confidence in the people of this country.

MR. GREEN: Would you think that it breeds confidence in the Labour Board for a judge of the Court of Appeal to say no Labour Board in its right senses would have come to that conclusion?

MR. BOUSKILL: Mr. Chairman, I think I have to respond to that in the same way as I responded to the previous question.

MR. GREEN: You would say that that would be an uncalled for statement on the part of the judiciary.

MR. BOUSKILL: Yes, Mr. Chairman.

MR. GREEN: I agree with you.

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

MR. BOUSKILL: Thank you, Mr. Chairman, and gentlemen.

MR. CHAIRMAN: The next delegation is the Canadian Manufacturers Association. I'm just wondering in view of the time . . . Mr. Swann.

MR. SWANN: Mr. Chairman, I'm reading this on behalf of Mr. Cavanagh who has just arrived and hopefully he will be commenting on some of the points made later.

MR. CHAIRMAN: Would you please give me your name so that we have it for the recording.

MR. TONY SWANN: Tony Swann, Canadian Manufacturing Association, Manitoba Branch.

MR. CHAIRMAN: Thank you.

MR. PAULLEY: Mr. Chairman, I'm wondering, it's a quarter past twelve, Mr. Swann . . .

MR. SWANN: We were wondering the same.

MR. PAULLEY: . . . and I would imagine that your introductory remarks could conceivably take longer than between now and 12:30, and it may be that the committee might desire to call it 12:30 because I'm sure that the contents of your brief is of such importance that the continuity of the presentation may be more acceptable to the committee, and, of course, I leave it in the hands of my good friend and colleague, the House Leader, and the members of the committee to consider the advisability of terminating this morning's session.

MR. GREEN: I think, Mr. Chairman, the ten minutes is not doing justice to the brief.

MR. SWANN: Right. We certainly appreciate that.

MR. PAULLEY: Then, Mr. Chairman, I would suggest to Mr. Swann that you would be first on deck tomorrow morning at ten o'clock. Is that agreeable? (Agreed)

MR. CHAIRMAN: Committee rise.