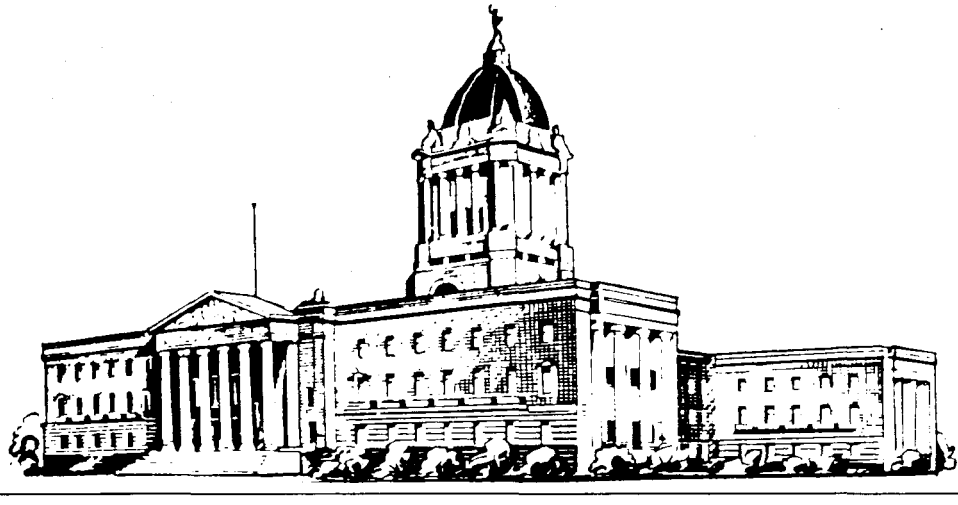
Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

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



10:00 A.M., Tuesday, March 9, 1976.

Printed by R. S. Evans — Queen's Printer for Province of Manitoba

THE LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON INDUSTRIAL RELATIONS
10 a.m., Tuesday, March 9, 1976

CHAIRMAN: Mr. William Jenkins

MR. CHAIRMAN: Order please. The committee will come to order. The first delegation this morning is the Canadian Manufacturers' Association. Mr. Tony Swann.

I think we have copies of your brief. They will be distributed, thank you.

MR. TONY SWANN: Mr. Chairman, gentlemen, the Canadian Manufacturers' Association, Manitoba Branch, appreciates this opportunity to comment on a number of the items outlined in the White Paper issued for study in December 1975. Some of the matters in our submission have been the subject of discussion with the Minister of Labour on previous occasions and are significant enough in our view to warrant repetition. We appreciate the fact that the proposals in the Paper may not become legislation and that other items may be added to the resulting bill. It is our hope that adequate time will be allowed for study and comment when the bill is available, since we will then be responding to specific proposed changes in the Act rather than fairly general proposals as are contained in the paper.

1. Unfair Labour Practices

(a) We note with some concern that it is proposed to give the Labour Board greater powers in adjudicating unfair labour practices, at the expense of the powers now held by the courts. We would hope that there would be adequate opportunity for appeal through the courts on the question of unfair labour practices, as there is on other issues. If not, the employer would be at a further disadvantage, bearing in mind that the Act, in many sections dealing with unfair labour practices, makes it abundantly clear that an employer is considered guilty unless proven otherwise. We suggest that the proposed wider powers of the board will not do anything to improve the climate of labour-management relations and question the value of this proposal.

(b) The proposal that would define as an unfair labour practice any comment or opinion by an employer regarding unions during a certification attempt is in our view quite unfair and would represent a denial of freedom of speech. The employer may well have a purely business need to know which union or unions are involved, and it should not be assumed that this concern is based purely on an alleged dislike of unions or the favouring of one union over another. Union jurisdictional conflicts do occur, often with consequent disruption of the enterprise, and this fact should surely give the employer the right to discuss the matter with his employees.

(c) The proposal to provide for what amounts to punitive damages for "interference with a person's rights", as an extension of the existing remedial measures available under the Act appears to be in need of clarification. We cannot see the need or justification for this in cases where a person has not suffered any loss or dimunition of income.

(d) The proposal to define as an unfair labour practice alleged discrimination against a person who has exercised his rights under statutes other than the Labour Relations Act also seems to be in need of clarification. We believe that it would be beyond the board's powers to make orders which supersede the provisions of other Acts, which should themselves stipulate penalties. The example quoted, i.e., time for voting under the Election Act, further clouds the issue since this Act already has specific penalties outlined in its provisions.

(e) We do not see the justification for the proposal to extend the period in which applications for remedies in unfair labour practice cases may be made. In our view the present 90-day period should be retained.

2. Professional Strikebreakers

As we have stated in previous submissions, the definition of a "professional strikebreaker" would have to receive the most careful consideration. If this proposal is acted on, we commend your study of the relevant provisions in the British Columbia Labour Code which make it clear that a professional strikebreaker is ". . . a person who is not a party involved in a dispute whose primary object, in the opinion of the board, is to prevent, interfere with, or break up a lawful strike."

It is our understanding that the interpretation placed on the B.C. legislation makes

(MR. SWANN cont'd) . . . . .it clear that the definition does not include supervisory personnel of the struck company or replacement workers hired by the company who find the working conditions acceptable. As members of the committee will be aware, the corollary of the right to strike is the right of the employer to attempt to continue to operate. This is a basic ingredient of the collective bargaining process and must be kept in mind in the framing of any legislation that may result from this proposal.

Unfortunately, many people equate the hiring of replacement workers by a struck company as "strikebreaking", which it is not. It is simply the economic sanction applied by the employer to offset that of his employees, i.e. the withdrawal of their services. The proposal makes reference to ". . . threats, intimidation, or force of any kind", the use of which would be considered an unfair labour practice and on which the Labour Board would be empowered to adjudicate. We recommend the committee take into account the fact that strikers have on occasion been known to use threats, intimidation and force and that if professional strikebreakers are to become the subject of legislation then "professional strikers" should also have provisions written into the Act.

4. Section 18: Alteration of Working Conditions

The proposal to eliminate the present 90-day restriction on alteration of working conditions after certification we consider to be completely unfair and unrealistic. The basic principles of collective bargaining would be seriously distorted by such a legislative intrusion whereby the employer would not be able to apply the economic sanctions previously available to him. Given the continuing shortage of workers in many trades in Manitoba, and the need to remain competitive on wages with other employers, we foresee situations arising, if this proposal is acted on, where an employer governed by such a provision could well go out of business. Collective bargaining and the generally good labour-management climate that applies in Manitoba would suffer if this proposal is acted upon and we urge that it be dropped and the present 90-day provision retained.

5. Certification

We support this proposal.

6. Decertification

We support this proposal but suggest, in the interests of maintaining balance, that the board should be empowered to decertify a union without a vote where it is satisfied that a majority of the employees support an application for decertification.

7. Representation Votes

This proposal would have more significance for the construction industry than for manufacturers and we endorse the position taken by that group.

11. Transfer of Business: Effect on Certification and Collective Agreements

The proposal to widen the terms of the present legislation to include situations where businesses are leased, transferred or otherwise disposed of appears to be logical and broadly similar to provisions in effect in other provinces. However, the term "otherwise disposed of" is too vague and should be clarified.

13. Review of Arbitration Board Awards

The proposal to provide for a time limit for review of arbitration board awards appears reasonable. We recommend that this be set at 90 days rather than 30 days. This would assist many companies in Manitoba that have head offices elsewhere, which in many cases handle the industrial relations function of the company on a national basis. The 90-day recommendation would also be in line with our approach on the unfair labour practice section of the White Paper.

14. Parties to Confer with Conciliation Officer

This proposal appears logical and in line with the intent of the Act.

15. Compulsory Check-off of Union Dues

The proposal to delete the word "monthly" from this section may present problems for employers in their accounting and payroll function.

16. Voluntary Agreements to Delay the Right to Strike or Lockout

We agree with this proposal.

17. Technical Irregularities in Grievance and Arbitration Procedures

The proposal to allow arbitration awards to be upheld by the courts, despite the fact that there had beentechnical irregularities in grievance or arbitration procedures cannot be supported, in our view. The terms of an agreement would in effect be varied

(MR. SWANN cont'd) . . . . . if an arbitrator were to ignore non-observance of time limits in grievance procedures specified in a contract.

18. Declaratory Orders

The proposal to give the Labour Board powers to issue cease and desist orders should be limited to declarations as to whether or not a strike or lockout is legal. This proposal appears to be in need of greater elaboration, since we are not exactly sure what the intent is. An opportunity to study and comment on the purpose and scope of the detailed proposal before enactment would be welcomed.

19. Court Review of Board Decisions

We agree with the need to set a time limit for review of board decisions and recommend that this should be 90 days, consistent with other recommendations in this brief.

20. Panel of Mediators-Arbitrators

We support this proposal, provided that those selected are properly qualified and considered to be objective, and that the parties of interest should be able to go outside the panel in special cases.

21. Penalties

We feel we cannot comment usefully on the proposal to bring in appropriate changes in penalties until we know what they are.

The Vacations with Pay Act

1. We agree with the need to increase the qualifying percentage of time worked, but suggest 75 percent instead of 50 percent.

Respectfully submitted on behalf of H. L. Cavanagh, Chairman, Manitoba Branch, The Canadian Manufacturers' Association.

I would just like to add, Mr. Chairman, the fact that the Prairie Implement Manufacturers Association, Manitoba Chapter, have endorsed our submission.

MR. CHAIRMAN: Thank you, Mr. Swann. There may be some questions that members of the committee may have. Mr. Paulley.

MR. PAULLEY: If I may, Mr. Chairman, just make an observation or two and possibly a question. I draw to your attention, Mr. Swann, your first page where you indicate that it is your hope that adequate time will be allowed for study and comment when the bill is available. That, of course, is one of the purposes for which I agreed to a commitment to call this more or less informal meeting and I'm sure that the normal time will be available when and if legislation is introduced into the House.

I can assure you that at least it is not the intention of the present Minister of Labour to try and curtail the right of being heard and the right to consider legislation. So I want to just give you that assurance.

MR. SWANN: Just on that point, Mr. Paulley. Sometimes in the past through nobody's fault because of the demands of House business, sometimes - let's say often - there hasn't been really a fair chance for interested parties to comment on what would at that point in time be very specific proposals in terms of the wording, the precise intent, whereas the White Paper, as we all know is rather broad. So we just pop that in the hope that there would be an improvement given the realities of House business, and we're aware of that.

MR. PAULLEY: Really, Mr. Chairman, through you to Mr. Swann, one of the reasons I made my comment a moment or two ago, I recall a situation that prevailed in 1971, I believe it was, when a bill was introduced into the House of a rather comprehensive nature to say the least, that no one was forewarned either in government or outside of government at its introduction, and, of course, there has been severe criticisms because of that methodology used at that time and for various obvious and sound reasons. However, in this particular case, as you indicate, the procedures are somewhat different.

On Page 2, Mr. Swann, you refer to the denial of freedom of speech insofar as employers in discussions with employees during the period of certification attempts. The object in that is, at least the basic principle - and I would be agreeable, I'm sure as my colleagues, would be agreeable to take a look - but the objective behind that is a realization and a recognition that most employees are captive to the employer on the work site and that is the matter that prompts the suggestion in the so-called White Paper to try and overcome that. It may be that it is not fully expanded in the Paper but I just want to say that the basic principle is not a denial of freedom but to assure that captive people

(MR. PAULLEY cont'd) . . . . . have the freedom of expression at the same time. There's no need really to pursue that at this time but I did think that it would be proper for me because of some minor involvement I had in the White Paper to express the basic concept we have and it might be that after your representation another look would have to be taken.

MR. SWANN: It seems to be rather all-encompassing given the acceptance of the fact the White Paper is written in very broad terms, that the broader the writing the more can be covered and we would like to certainly see the fine print of the legislation when this is spelled out. There are many many cases where, believe it or not, we happen to believe it, that employees quite often do wish to go to their employer for guidance perhaps on a wide range of issues, and most of all I think that choice or selection of this union or that union and its benefits or disadvantages could be in that category of items that they might wish to get some guidance on.

MR. PAULLEY: I just say I recognize that as an individual, which I am, I recognize that and I can assure you that personally I will be taking a very close look at that matter.

Now on the bottom of Page 3, your reference to professional strikebreakers and the legislation contained in British Columbia, a close look will be taken at that. Our objectives I don't think are very far apart. We recognize that in industrial relations there is an economic fight between management and labour and the only basis of the suggestions here is to consider a basis on which it is a fair fight. The alternative of course would be for legislation to be enacted to prevent strikes, to prevent lockouts and to force upon employers conditions under which they can operate to the degree where we wouldn't really be in a real state similar to some jurisdictions across the world which we are not supporters of. I agree with you on Page 4, ". . . the corollary of the right to strike is the right of the employer to attempt to continue to operate."

Now, Mr. Swann, on Page 5, when you're dealing with the matter of Alteration of Working Conditions, I don't need to repeat what I have stated on a number of occasions, that there are poor employers in the Province of Manitoba - thank the Lord, they're relatively few - and they are the ones that we have to legislate, shall I use the term, against. I have one particularly in mind, two really in my mind at the present time, one in the newspaper area who just used the law to circumvent in my opinion a reasonable and fair collective bargaining with the employer; another is in an allied industry in the northern part of Manitoba that was able to circumvent the intentions of the Labour Relations Act by just procrastination and delay after delay in negotiations until the 90-day period expired.

Now if your association, and I suggest that you are a responsible organization, can forward an alternative to the proposal of the extension beyond the 90 days which is basically until a collective agreement is reached . . . We have one proposal that has been adopted as you know in British Columbia, and the first collective agreement which does not meet with too great favour, we've had that proposition drawn to our attention. This is an alternate to that by way of the extension of the 90-day application. But I ask you and your association if you may have some alternative suggestions to make in changing the legislation in order that the employer, whom I call a poor employer, may be put into a position where the basic principle of the rights of free collective bargaining cannot be thwarted by a time delay such as it has been in the cases that I refer to.

MR. SWANN: We'd be glad to do that. We see this as a better alternative than the B.C. situation with which nobody is happy in that province, and I don't think anyone in this province would be.

MR. PAULLEY: So, Mr. Chairman, rather than a question, it's a request to the Manufacturers Association to assist in overcoming the difficulty that we have had in certain operations.

Really, Mr. Chairman, I have no other question except a brief reference on Page 7, Technical Irregularities in Grievance and Arbitration Procedures. We have found on a few occasions that an interpretation of the court for some really petty application of a judgment on an arbitration award, because maybe the meeting didn't start at ten o'clock and it started at 10:15 or 10:30, it has been held in almost similar ridiculous situations, that therefore the award was not a valid one because the letter of the law to a stupid

(MR. PAULLEY cont'd) . . . . .degree has been held by the courts to invalidate the intent of the agreement. And that, Mr. Swann, I say to you as representative of your association, is the basic reason why in our White Paper we make this suggestion. Certainly it is not to circumvent reasonable and fair application. When you get somebody in a gown on a bench there saying well the arbitration should have been this way and that way and because of some stupid technicality the award has been thrown out, we look at that with askance, and that is the basic reason why this suggestion is being made here.

Otherwise, Mr. Swann, I have no further questions of you. I note with interest your reference to the Vacation with Pay Act where the situation is at the present time if an individual only worked for half an hour it's as good as a year. We did take a look at that. In suggesting there may be 50 percent involvement in a year you are really being a collective bargainer are you not say well if you give us 50, we want 75; the next time I guess we'll be confronted with a proposition for a hundred. But I guess that's what they call normal procedures in collective bargaining.

MR. SWANN: Pretty well.

MR. BARROW: Thank you, Mr. Chairman. Just two very short questions, Mr. Swann. On Page 7, No. 15, Compulsory Check-off of Union Dues, you say, to delete the word "monthly" would present problems and probably expense for employers. I assume that if it was changed to weekly, is that the idea behind that?

MR. SWANN: I'm not sure on that. Perhaps one of my colleagues, Mr. McNaughton, Ira, might be able to answer that more effectively.

MR. CHAIRMAN: Would you come up to the mike please and give us your name so we can have it for recording please.

MR. McNAUGHTON: My name is Ira McNaughton. One of the problems is in regard to union constitutions that have various methods of check-off. One or two that I am familiar with not only have say a two hour pay per month, not less than $5.00, not over $10.00 and then from there they go to quite a complicated system. If we break it down under a month we can run into nothing but problems with the union executive trying to report this at the end of the month. It is being done now very reasonably with no problem and we almost wonder what occasioned this particular question.

MR. BARROW: Thank you. Just before you go. You have no objection to the check off itself though:

MR. McNAUGHTON: Oh, no, that's law . . .

MR. BARROW: Thank you. The second question, Volunteer Agreements to Delay the Right to Strike or Lockout, you say, we agree with this proposal. Would you like to elaborate just a little bit on that?

MR. SWANN: I think I'd have to call on Ira again on that. If I could just say before he gets up that many agreements that our members have, most of them are organized, that they do have such clauses in them but I think Ira could comment better on that.

MR. CHAIRMAN: Mr. McNaughton.

MR. McNAUGHTON: Yes, Mr. McNaughton again. Many of the agreements we have state that the clauses of this agreement will continue during the term of the agreement, that is say from January 1st to December 31st. Some of the others also state that the clauses of this agreement will continue in full effect until such times as an agreement is negotiated, or until arbitration has been gone through, or until it breaks down. In other words, our law as it presently reads, on the last day of the contract, whether you're still in negotiations or not for any reason whatsoever, people in Manitoba have a right to strike.

MR. BARROW: I see.

MR. McNAUGHTON: We're just merely asking that this law that you're suggesting, if it's written into the contract, then would have full force and effect. And many contracts have it now. It's merely while going in negotiation you're not going to have people wildcatting. This is about what is amounts to.

MR. BARROW: Thank you.

MR. CHAIRMAN: Mr. Shafransky.

MR. SHAFRANSKY: Yes. Mr. Swann, at the bottom of Page 4 and the top of Page 6, you indicate "we recommend the committee take into account the fact that strikers

(MR. SHAFRANSKY cont'd) . . . . . on occasion have been known to use threats, intimidation and force." Now have the employers ever used threats, intimidation and force?

MR. SWANN: Well, speaking only for Manitoba, we're very fortunate in having had virtually no instances where this sort of goon squad activity has occurred on either side so you might say that my comment on this area is a bit superfluous; I simply wanted to get it into the records by way of public reminder. I cannot say that there have been any instances that come to mind in Manitoba.

MR. SHAFRANSKY: Well would you consider the use of dogs during a strike. I know on occasion in the Shell Oil strike in 1968 where the company did employ dogs on the picket line, there was a picket line and along the other side there was security guards walking along with dogs which were not normally ever found at any other time but during that legal strike and there was a picket line.

MR. SWANN: The dogs were on the company property, the picketers were on public property?

MR. SHAFRANSKY: Well they were standing in this particular case on the road, on the company property, true enough. Was that not a form of intimidation?

MR. SWANN: Well it has been said by many people that quite often a picket line certainly indicates a vehicle of intimidation, not simply the conveying of a message.

MR. SHAFRANSKY: Well would not the mailing of letters by employers - I had occasion to read one particular letter that was delivered by special delivery to the home during the period of strike, purportedly stated from the company, I don't know whether that actually was from the company because it did not have the identifying, you might say, person,but letters being delivered to their home during the period of strike, sort of intimating that if the people did not return,certain actions would be taken.

MR. SWANN: Well I'd say that was getting pretty close to intimidation certainly and threats. I wonder, Ira, if in your experience. . . maybe Mr. Cavanagh. . .

MR. CHAIRMAN: Mr. Cavanagh.

MR. CAVANAGH: Harry Cavanagh,Mr. Chairman, for the Manitoba Branch of the Canadian Manufacturers Association. I'm quite interested in this business because over the years I've had quite a bit to do with the security aspect of industrial plants and I'm aware of the concern that management and employees have about the use of dogs, for example; however, I'm quite sure that the attitude that responsible management takes, and that's the majority of them, is that the dogs are only used principally for guarding areas where there are no people and they're in enclosures and so forth. Now I would agree perhaps if somebody walked dogs right up to one side of the fence and the picketers on the other side that would be cutting the line pretty close, but I think the point is this, that if you're going to have some kind of legislation drafted to prohibit intimidation, let it be fair, let it go both ways. Let's keep the unions and management both in their place, and I think if the legislation is properly drafted there will be no problem there. We're not picking sides in this thing.

MR. SHAFRANSKY: No, I mention that because on that particular occasion, when attention was drawn to the fact . . . in fact I was responsible in a way to find out the fact that these dogs, one day they were not there, next day there was a carload, and there had not been any case as to indicate, you know, that there was some problems, but it did certainly get the people very roused and I happened to talk to the personnel and they had those dogs removed. To me it was certainly a case of intimidation because there was people picketing and until the time the dogs were brought in, it led to considerable problems.

MR. CAVANAGH: The principal industrial use of dogs is in guarding unpopulated areas, say warehouses at night and this sort of thing, keep intruders out; and there's this to be said about dogs, they sure deter people . . .

MR. CHAIRMAN: Are there any further questions? No further questions? Thank you, Mr. Swann.

MR. SWANN: Thank you, Mr. Chairman.

MR. CHAIRMAN: Manitoba Federation of Labour. I believe Mr. Wilford is here representing the Federation. Proceed please.

MR. J. WILFORD: Mr. Chairman, members of the committee, gentlemen, I have here a policy statement from the Federation. I have to indicate to you that I am pinch-hitting here for the president of the Federation and Art Coulter who is out of the country.

(MR. WILFORD cont'd) . . . . .I have to beg your forgiveness in saying that we have dealt with the question of amendments to the Labour Relations Act relative to briefs to the government itself and in our last brief we simply summarized our position of two years ago. With that thought in mind, I would just like to read the labour legislation that you've passed around to your committee members and then I would like to deal with some of the aspects of the law itself as it presently exists.

Labour Relations Legislation. Over three years have now passed since the Labour Relations Act of Manitoba received Royal Assent, coming into force January 1st, 1973. Although many improvements were made in the Act at that time, the experience of working people and their organizations indicate that the time has now arrived when further changes must be made.

With the passage of time it is becoming ever more apparent that if the fundamental rights and freedoms of working people are to be protected in law, some very basic and far-reaching amendments are needed. As such, it is of the utmost importance for a new Labour Relations Act to be grounded in sound basic principles and on a philosophy which will give it a thrust in a new direction.

The present Act, as its name indicates, is primarily concerned with establishing the ground rules and the framework within which labour relations will be conducted. It is concerned in only a secondary fashion with protecting the rights of workers to freedom of association and the right to bargain collectively with their employer. The philosophy of the new bill or Act ought to be the reverse of that found in the present Labour Relations Act. The new legislation should be renamed and called a Trade Union Act -- one which will establish clearly that working people do have the basic democratic freedoms of association and of collective bargaining. If the new legislation is based on sound, social democratic principles rather than on the present mischievous liberal philosophy of equal treatment for employers and trade unions alike, then, and only then, will working people be guaranteed that their rights, in law, are put beyond the reach of anti-union employers and their managers who seek to destroy these rights.

It is clear from the large numbers of resolutions presented to the M.F. L. conventions, that merely tinkering with the present legislation will not be good enough. Our affiliated trade unions and their members have just cause for grievance under many sections of the Act.

The Act does not, for instance, apply universally. There are still many professions and individuals excluded such as teachers and civil servants, with firefighters being subject to the Fire Department's Arbitration Act. It is inconsistent for the Act to state that "the Crown in right of Manitoba is bound by this Act", and then go on to exclude the employees of the Crown from its provisions.

The Act meddles into and governs the internal affairs of trade unions -- particularly on the question of expulsion of members and who are members in good standing. Trade unions are subject to common law, as are other professional organizations, yet trade unions are subjected under the Act to further restraints on their freedoms as self-governing organizations. Furthermore, trade unions adhere to well established legal and democratic procedures under their constitutions governing the trial upon which expulsion is based.

The Act makes no reference to outlawing strikebreakers. It has long been the position of labour that the employer should not be permitted in law to go outside the bargaining unit to hire strikebreakers. The strike is between the employer and his employees as represented by the bargaining agent. It is grossly unfair and unjust that the employer be allowed to hire scabs and strikebreakers. This is the primary cause for violence on the picket lines.

The Act does not make it clear that where there is more than one union certified in an employer's operations that an employee can refuse to handle the struck products which the employees of the bargaining agent on strike normally handle.

The Act leaves a wide opening for the employer to change the terms and conditions of work after 90 days on certifications. There ought to be no conditions or time limit under which the employer can change the conditions of work, or rate of pay to escape his obligations to his workers and defeat a certification bid by a trade union. This constitutes an unfair labour practice and the Act should so state.

(MR. WILFORD cont'd)

The Act fails to make specific that it is mandatory for the employer to deduct union dues from the first monthly pay cheque and to remit them to the union the same month and in the form and amount of dues as may be established by the union from time to time. Compulsory check-off is the life-blood of trade unions and it is crucial for this section to be amended to make it clear that dues will be deducted and submitted to the union on a regular basis. If the employer refuses to comply, then the Act should make such refusal or negligence an unfair labour practice and subject to the penalties provided under the Act.

The Act should be amended to bring it in line with present economic realities and business practices. Many employers are presently able to circumvent the present legislation through various forms of mergers, transfers, leases and spin-off companies, designed to evade certification and organizational drives. A new section should be inserted into future legislation to prevent employers from evading the organization of their employees into a trade union, through mergers, transfers, spin-offs or similar corporate devices.

The Act gives too much scope for anti-union employers and individuals acting on their behalf to apply for decertification. The bargaining agent must prove majority support votes on certification and the Act is discriminatory where it permits an employer or his employee agent to get before the board with as little as 35 percent of the employees' support. The delays, the frustrations, the protracted legal proceedings and the expense only serve the employers' interests to defeat the union.

The Act appears to give the employer the right to choose his employees' union for them by allowing access to his premises to union representatives of his choice, providing free transportation and such other actions which may be conducive to the employers' aims. There are clearly amendments needed to protect the rights of workers to a union of their choice - not the employer's.

On the other hand, the Act is clear where it gives right of access to the employer's property to union representatives in cases of isolated camps and operations. This principle should be extended to the point where union representatives should have the right of access to a plant's operation in order to conduct negotiations and to serve a local union intelligently. There ought to be no argument that where certification has been granted, the union representative has a legal right to access to the plant's operations and the membership to whom he is responsible.

If the new legislation is to reach its goal the many long delays and legal manoeuverings which now take place before the board and in the courts must be ended. The courts have no part to play in the industrial relationship. Working people have long experienced, much to their sorrow, that it is the employer community which benefits from the legal process. The courts will always reserve to themselves the right to review board decisions on the grounds of the denial of natural justice or the jurisdiction of the board, but the new legislation ought to expand the board's powers and thus restrict the area of appeal to the courts. Furthermore, any appeal should have to be made within a very short time under the Act.

For many years now the trade union movement has been unsuccessful in organizing beyond 33 percent of the total workers in Canada. Many workers are now found in medium and small units and their ability to withstand long delays and employer pressure is limited and weak. It is, furthermore, common knowledge that many newly certified units are lost because a first agreement cannot be concluded with the employers. In order for collective bargaining to be extended to the many workers who want it but who are denied it because of their work situation, the new Act should impose, at the request of either party, a binding agreement for a minimum of one year; or longer if consented to by both parties.

It is clear that the labour movement now must press vigorously for real and fundamental amendments in the area of labour's rights and freedoms. The labour movement must seek assurance in the form of a new Trade Union Act that working people will no longer be denied the enjoyment of the fruits of their labour and the protection of a collective agreement setting limits on the arbitrary authority of the employer. Trade unions are legitimate organizations developed by and for the working people of Manitoba. The

(MR. WILFORD cont'd). . . . .Manitoba Federation of Labour will press vigorously for a new Trade Union Act that will guarantee workers the same rights, freedoms and responsibilities which other sectors of the community have long enjoyed.

Respectfully submitted by the Manitoba Federation of Labour.

I just want to comment, Mr. Chairman, that we did present to the government and the caucus our proposed Trade Union Act. We're not dealing with that matter now but I thought I should introduce my brief to the government on the matter as we see it, and if there's any questions arising out of the comments we made here I would like to, if possible, answer them on behalf of the Federation and then I would like to go on with some other matters which are of a concern to us in the labour movement.

MR. CHAIRMAN: Mr. Shafransky.

MR. SHAFRANSKY: On Page 4, you indicate that the Act is clear where it gives rights of access to the employer's property to union representatives in cases of isolated camps and operations. Can you give instances where access is denied, Mr. Wilford?

MR. WILFORD: Well I've been denied myself. I've had an employer stand on his property and deny me access to the property, told me I had no rights there in spite of the fact that I had a legal binding agreement with the employer. I have to say with honesty that that doesn't happen very often. Most times we try to include in a collective agreement the right of access, but it isn't always possible to get an access clause in your agreement. We think that should be statutory declaration in the law so there's no question about the rights after certification. Surely when you've got a certificate, you have a right to go in and see those people in accordance with permission from the management. I'm not suggesting that you just walk in there; you go in there, you introduce yourself to the manager, you make arrangements to meet the people who are involved in the problem, at a time suitable to the employer and yourself.

We have it in many agreements but I think it should be spelled out by law. A union who has that right and that certificate should have some rights spelled out in this, so there's no question from the onset of that certificate he has a right to go into the plant and start to look after the problems of those people. That's why they join a union, that's why they're seeking to establish an agreement with their employers.

MR. SHAFRANSKY: I remember that a few years ago there was that problem of right of access in isolated communities . . .

MR. WILFORD: That is cleared up . . .

MR. SHAFRANSKY: . . . but I never realized that existed in sort of urbanized areas.

MR. WILFORD: Yes, sir, I have been denied access myself. And this, of course, is the policy of the Federation not myself but I do tell you that it did happen to me. Now I say to you that good employers do not endeavour to restrict your right other than premised on the basis that you go in, you introduce yourself to the supervisor in charge and they make allowances for you to meet with the people involved. Obviously if a plant is in production you can't interfere with production, you have to wait for a recess or dinner hour or time elements like that.

MR. SHAFRANSKY: I just have another question. This actually relates to the presentation by Mr. Swann. This is a case where there are several unions involved within a company represented by various, you know, IBW, whatever it be, has there ever been an attempt by the unions to get together to form a council of representatives of the various unions to organize or negotiate one contract covering all the various union representatives represented in that craft?

MR. WILFORD: Well endeavour has been made, certainly, you know, depending on whether it's an industrial union or a trade, you know as such, really determines what plan of attack the union in concert with others will attempt to undertake. One of the problems here, of course, is you have the problem of the union that may feel that they have the real bargaining power and they may dissipate their bargaining power by aligning themselves with maybe weaker units, and this of course is a problem relative to everybody's desire to do better for themselves, if they are part of a section of the trade union movement say as a trade, you know. Take myself, I represent about 5,000 members in Manitoba, in packing houses, flour mills, sugar, wherever you go in Manitoba our union is there. And certainly we have trouble with some of our trades; that we're not adequately performing

(MR. WILFORD cont'd) . . . . . the functions on their behalf because they're part. . . Take the packing houses, a very good example, we have maybe 50 people out of a plant, like eight packers, 800 people, who are tradesmen, they feel that their fundamental rights are sometimes downgraded by the overwhelming majority of the industrial sector. And I would have to say that that probably happens occasionally because we have to obviously negotiate for the majority.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Thank you, Mr. Chairman. Mr. Wilford, through the Chairman to you, sir. On the first page of your brief you propose a change of name and change of emphasis with respect to the Labour Relations Act which you think would bring it more into line with the kind of philosophy that you feel it should seek to serve. Do you believe that labour relations and labour relations legislation in the province should be structured so as only to serve one part of the industrial community in the province? Do you believe that labour legislation should be constructed merely to serve the trade union community?

MR. WILFORD: Yes, Mr. Sherman, I'd have to say basically I think that is the philosophy we would interpret the Labour Department should move its direction in. After all it is the department designed to look after the labour force of Manitoba. If you go into the Mines and Natural Resources, let me tell you they're busy trying to expand mines and natural resources; if you go into the Agriculture Department let me tell you they're trying to expand the agriculture interests, and I name you the marketing board as one illustration, and I have no argument about that. I can tell you frankly relative to the Hog Marketing Board, when the Hog Marketing Board was changed from a voluntary to a compulsory, I had the president of one of the largest companies phone me up and say, "Well you know all these guys, you get busy and persuade them not to pass the compulsory aspect." I tell you what I told him; I said, "Look, I happen to believe that the farmers are entitled to a trade union as it applies to them and I certainly support their desire to have a compulsory marketing system because I think it's a fair one, I think it's the right way to market hogs." He wasn't very happy with my answer, let me tell you, but that's, I think, the labour movements position generally; you know, that department is designed to serve labour and should serve labour. I sometimes doubt whether it really is designed to serve labour, I have to tell you frankly.

MR. SHERMAN: But you don't see labour as a term that encompasses labour and management. Labour, after all, I mean you can't have labour without opportunities for workers to perform their services and their labour.

MR. WILFORD: Of course, but you have the department of commerce and industrial development, I'm assuming that they are primarily interested in developing the industrial sector of our economy, you know, and that's their prime function. I'm not saying that we don't all have to play a part in each of the functions as applies to it as a section of a government agency. I think we obviously do. But for too long, we think, that the program of the Labour Department, especially under the old parties, I have to tell you frankly, was directed on the premise that it was not designed primarily for a functional unit to look after the labour interests, I have to say that to you frankly. -- (Interjection)-- To be quite honest, yes, sir.

MR. SHERMAN: And you feel that the Labour Department and labour legislation should be structured that way?

MR. WILFORD: Largely that way, yes, sir.

MR. SHERMAN: On Page 2 of your brief, Mr. Wilford, you talk about trade unions being subject to common law as are other professional organizations, and you go on to make the point that trade unions are subjected under the Act to further restraints on their freedoms as self-governing organizations. Would you not say that there is a basic difference in law and in fact between an organization such as a trade union, for example, and an organization such as the association of professional engineers, the latter of which is constituted and established by an Act of the Legislature, the former of which is constituted and established by dicta unto itself?

The point I'm trying to get at is there are professional organizations and associations that are established by statute and it seems to me that in some of the things that are being proposed and discussed in connection with the White Paper - not specifically I must say, Mr. Chairman, in this particular brief but in respect to presentations we've had

(MR. SHERMAN cont'd) . . . . .during these hearings - there seems to be a call on the part of some representatives of the labour community for what I would call an intrusion by the Legislature, an intrusion by the Department of Labour into the rights and the existence of organizations that have been set up under different statutes.

MR. WILFORD: Well, of course, if you're talking about a problem relative to say some professional people being involved in a bargaining unit as such, one of the problems is that many professional people now really don't work at their trade, you know, so where do they fall, in what slot? It's like teachers, you know, many of them are administrative. What slot should they fall in? Are they teachers, should they be part of the Federation or should they be part of a separate agency?

And coming back to the question of the professions, sure, they're established by statute, they're self-governing and self-policing; what we're saying is that relative to the Labour Relations Act, the question of policing our members should be left to the trade union and its constitution, and that the government through the Labour Relations Act shouldn't intrude into that constitution, other than maybe making sure that the democratic rights of appeal of an individual are enunciated so he can use those appeals. Because obviously I think if we go back in the history about the old teamsters and the problem of appeal to an international, it was, you know, obviously, what the hell, how's a guy going to get an appeal process going for him when he ain't got any money, you know. He's got a kangaroo court, eh? Now to that degree I would say maybe the Legislature should turn its attention to and say, well we've got to make sure that rights of appeal are there, but in the final analysis the people who construct the application of the penalty to that individual is through the constitution of the local union. And we all have local constitutions and I think most of them are fairly democratic in application and appeal procedures.

MR. SHERMAN: Let me move on, Mr. Wilford, to the matter of professional strike-breakers. Your brief is pretty emphatic in the position you take with respect to the hiring of so-called scabs or strikebreakers and you suggest it's the primary cause for violence on the picket lines. I would be interested in knowing whether your view extends to the entire spectrum of the labour community or whether you think there might be situations with respect to vital services, for example, where strikebreaking would be permissible in your view.

MR. WILFORD: Well I think that's a matter for the Legislature to look at in their own analysis of the situation relative to whether there is a basic need for some superseding authority to have someone work in that area, I think they have to make that decision. As a trade unionist, we're pretty emphatic that there are very few sectors of the economy that can't stand normal bargaining and strike procedures.

MR. SHERMAN: Would you think that the health services and hospital fields, for example, might be one, or would you prefer not to answer that, might be one field where the hiring of emergency help was justified?

MR. WILFORD: Well I don't think they should be allowed to hire emergency help; I think they have to decide whether or not they can in fact perform the services with their remaining force in the plant. After all, if you take the Health Sciences Centre, I assume that there's quite a few people out of the bargaining unit, or the very nature of that collective agreement has failed as far as management's concerned relative to what people are out of the bargaining unit. I can't answer you precisely because I'm not in the public field and I know how I would feel if I was in the public field feeling that I am being used as a guinea pig relative to a situation that forces on me a settlement that I myself feel is not acceptable. I'm in the private field and I really speak as an individual with the private sector.

I sure appreciate the problem and I really don't know what the answer is. It's easy for us to say yes, you should force agreement on them or yes, you should allow them to hire strikebreakers or anything of that nature. I noticed the question of one of the beefs here about supervisory help, you know. Well if you have a multi-national company, we'll say, and you have a company in Canada with 30 plants and they have a strike in one area, it just recently happened here right over in the oil and chemical workers strike, they brought all supervisory staff from other parts of the country. Now I really don't think that should be allowed. I think that if that local unit has to stand on itself with a certificate in Manitoba and they have to negotiate, they should have to negotiate

(MR. WILFORD cont'd) . . . . . with the employees in that unit and not be allowed to bring in the supervisory staff.

Let's reverse it. When the union says we should have the Edmonton rates, the employer says, no way. You know, they got a buck and a half; you're not going to get the buck and a half. That's the reason people join the union because they have finally found their wage structure falling further and further behind. Then when they get a union, when they get into negotiations, and then they have a strike, why the company brings in all their supervisors from across the country to operate the plant. Now fortunately that thing was finally settled, but I still say to you, sir, I think you have to look pretty objectively when that sort of thing happens on that sort of a situation relative to who you can bring in and who you can't bring in.

MR. SHERMAN: Well you would agree that there are degrees of definition of strikebreaker then, that anybody who works in an emergency situation when a service or company is being struck is not necessarily what you would classify as a professional scab or strikebreaker?

MR. WILFORD: No, but I would say to you, sir, is if I had my way, I would say it's an economic battle between the employer and the employees. We have a properly certified bargaining unit, we have an agreement, we have been able to reach an impasse and we have a strike. I say let's make it economic. The employer can't hire nobody, we can't go on any jobs, we've got to picket, and let the consequence of that flow from that. I suggest to you if you have that sort of an application, then you'll get justice at the bargaining table and at the strike table.

MR. SHERMAN: But you wouldn't deny the employer the right to use every reasonable means to keep his operation functioning, using his own personnel.

MR. WILFORD: Within the scope of that plant, within the scope of that plant.

MR. SHERMAN: I just have a couple of more questions, if I may, Mr. Chairman. On Page 3, Mr. Wilford, with reference to your brief's suggestion that many employers are able to circumvent the present legislation through various forms of mergers, transfers, leases and spin-offs, etc. Would you not agree that this is a two-edged sword and that many union leaders are similarly and many union members are similarly in a position where they frequently circumvent the intentions of the Act through sympathy strikes and similar devices of that kind?

MR. WILFORD: No, I wouldn't agree with you. I would agree that we have a section under the Act that permits us to do something fundamental to not doing work relative to an employer who is legitimately on strike, but that was circumvented by the Seagram case here which, again, the labour movement is not very happy about. We had that case referred to the labour board, the labour board made a declaration, and in my judgment an unsound one, or the Act needs changing because the very fundamental purpose of that section was to give us some rights relative to refusing to handle goods and services from a struck employer.

MR. SHERMAN: You wouldn't agree that, for example, hot goods techniques or the so-called refusal to work alongside technique or other devices of that kind constitute in fact on the part of organized labour a system for circumventing the intentions of the Act in much the same way that you say the employer has opportunity and frequently uses it?

MR. WILFORD: I know of no illustrations. If you want to give me an example or two and we can examine them together I'm willing to examine it with you and come to a conclusion, but not on the basis of a supposed situation.

MR. SHERMAN; Well if you want an example, let me ask you if I may point perhaps to a rather general example, the frequent national crisis that this country goes through in terms of shipping and exporting its grain, when we run into the sympathy strike device which has, in my view, perhaps not in yours, but in my view, done considerable damage to the economy on an almost perennial basis.

MR. WILFORD: Well I don't think it's that simple because if you do read some of the reports that emanate out of investigations relative to the judiciary, they've come to the conclusion that there's bad feeling there through the whole structure, you know, so it's not just labour to blame, the whole area out there is to blame, on the part of the management group and everybody else, so you know if you pick that isolated case, I don't

(MR. WILFORD cont'd) . . . . .think maybe either side can defend their real position. You know things get irritated and irritations go and they finally get to a stage where you have a dislocation of service.

I spent 21 years in the packinghouse as an employee, I have been since '60 on the staff, and let me tell you there's no more evident situation in some of our industry today where the guys are so upset about the relationship in the plant, you know, they're volatile because of the very nature of the way the company has changed direction in mid-stream. You got a contract that goes for two years and you get people upset. I would say that you wouldn't change that, you know, even if you get into bargaining unless you dissipate the feeling that exists in a given plant or given chain.

MR. SHERMAN: I'm not suggesting that it should be changed. I'm just suggesting to you that it's a two-edged sword and it seems to me that the suggestion, implicit in your brief, really wants to turn it into a one-edged sword. But I'm not here . . .

MR. WILFORD: I suggested the remedy, sir. . . you're probably not going to agree. . .

MR. SHERMAN: I don't mean to argue, I just wanted to get your views on it. Just one other question, if I may, Mr. Chairman.

I'm interested in your comments on Page 4, sir, with respect to your views as to the kind of justice that the labour community gets in disputes that go beyond the Labour Board and to the courts for resolution. Would you go so far as to suggest that industrial disputes, in general, should be confined to a procedure, a jurisdictional and quasi judicial procedure that ends with a body like the Manitoba Labour Board and that never goes beyond that into the court?

MR. WILFORD: I would say on the whole that would be the sentiments of the trade union movement as such, yes. We think that the board should be empowered with wide powers; because we think that they are dealing with a volatile matter of relationship between employer and employees. It is not law as such in many many cases, I mean Mr. Paulley raised the question of the court setting aside arbitration cases in which the union didn't follow the time limits under a grievance procedure. The very essence of the nature of the grievance procedure is to try and settle a matter, that's the reason for grievance procedure with an employer. But instead of that, you get a grievance, it goes to arbitration and then the smart lawyer acting on behalf of the company defines that the union may, in point of fact, have avoided the time limits and he goes to court and he gets it set aside on a point of law. We say the board should be empowered to take care of all those eventualities.

MR. SHERMAN: Do you think it should be strengthened in order to meet this expanded role, either in terms of personnel or number or backup support or . . .

MR. WILFORD: It may very well be, it might be that you should have a permanent board, look at several avenues of how you would develop a semi-judiciary application to the problem. I haven't got all the knowledge, but I certainly know from my experience in the trade union movement that we are very unhappy when it gets into the courts, and above all because essentially you have a problem with the employer and the employees. Surely we should be trying to settle it, not get it into the courts where it costs thousands and thousands of dollars. Let me throw one figure at you, the unfortunate case before the board of the Seagram's instance - legal fees of $10,000 pretty near. Unbelievable, unbelievable that an issue like that should get before the board and wind up with $10,000 legal fees. We want to eliminate this. We think it should be eliminated. We really feel if there's a conflict between employer and employees that it should be done through the grievance procedure, the arbitration machinery and the function of the board itself.

MR. SHERMAN: And then would there be an appeal beyond that?

MR. WILFORD: May very well be; you know, we'd have to look at it in detail and see the subsequent action beyond that, how it should take place. But basically I think that if we could get it relegated to them making the decision, and both parties knowing that they are faced with that and the fundamental decision of that, I think you would find that there would be less need to go to the courts, I really do.

MR. SHERMAN: Mr. Chairman, I forgot one question, if I can just prevail on the time of the committee for one other question. I lost the place in your brief but you make reference, sir, to first agreement arbitration, I've lost the paragraph in your brief,

(MR. SHERMAN cont'd) . . . . . but does this suggest that the Manitoba Federation of Labour is sympathetic to the idea of compulsory arbitration generally?

MR. WILFORD: No, absolutely not. As a matter of fact, we are diametrically opposed to compulsory arbitration in every form and I have to tell you honestly that in respect to the position of the Federation at a convention, the question of the first agreement divides the groups as they see their position of power. But the resolution is quite clear. It has been passed by our convention and that's the policy of the convention and of the Manitoba Federation of Labour.

Personally, I said something yesterday about a little bit pregnant, you are pregnant, but I think that we have to look at the whole spectrum relative to the problem and relative to the, I think, employer who decides he doesn't want a union, doesn't want a first agreement and he's going to wait out the time period so he can take whatever action he feels he can under the law. I think it's unfortunate that that happens and that's why we lend ourselves to the first agreement principle. Now, of course, we want to look at it in detail when the government presents its bill, if they are going to, relative to this, see how they expect to apply it and administer it. They may not bring in a bill, I don't know, but if they do. . .

I indicated yesterday what I understood the law as it's applied in British Columbia, but I would say, of course, you see you have to look at the particular labour movement in British Columbia and the whole aspect of the labour movement, how they operate there. You know, you mentioned already the boycott and the hot goods and everything else. That's why the labour movement doesn't want it out there because they think they can take care of themselves, and I believe they can, relative to how they operate their labour movement.

MR. SHERMAN: They learned to their regret that it was a difficult condition to live with. But you think you could live with first agreement arbitration and. . .

MR. WILFORD: Myself, I would rather go the other route. I would like to see that, if you have a certificate and if you are bargaining, that there is points in the law that prohibit the employer from doing anything until the union has decided to withdraw from the field. And I mean the union, not the company, and I say that will be a salutary effect on the employer. He would know he's bargaining, he knows that if he doesn't do nothing, he can't come as soon as that 90 days is up and give the guys 15 percent and therefore weaken the trade union movement, because that's basically why the people join a union. They join unions for economic reasons, for security, and when those things in effect are taken away from the union they see no useful purpose in the union. I mean why pay dues, you know, this is what the employer says. And I've had it happen to me; an employer says, you know, we're paying dues to Joe Wilford so he can drive a cadillac and smoke a cigar. I don't smoke and I don't drive a cadillac but I had that actually happen with one employer. And I'll tell you that happened to be a voluntary agreement relative to dues, that's why I'm so much in favour of the compulsory check-off, because that was removed from the collective bargaining process. What the employer used to do was hold that off and off and when he gave you a modified form, like a voluntary check-off, the paint was hardly dry on that agreement before people were signing another agreement. We know why they were signing another agreement; the employer was exhorting them to sign another agreement. The same is relative to this situation. I say to you, sir, that if you had a clause in that Act that told the employer you're not going to be able to change the working conditions or fringe benefits, wages or anything of those people for the time until the union decides he'll come to the bargaining table and he'll bargain collectively and he'll attempt to get an agreement.

MR. PAULLEY: You support the position of the present Minister of Labour?

MR. WILFORD: Sure as heck do.

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

MR. CHAIRMAN: Mr. McKenzie.

MR. McKENZIE: Yes, Mr. Chairman, you mentioned in your earlier remarks that you had met with the caucuses. Have you met with all the caucuses and you have made a submission?

MR. WILFORD: No, what I say, we met with government, you know, yes we did.

MR. McKENZIE: Well is that submission that you presented the one that you're presenting today? It's the same submission . . .?

MR. WILFORD: Yes, that's right. But we did present, and I have to tell you honestly, we did present a proposed, what we call a new Trade Union Act on behalf of all the western provinces to all the Ministers of the Crown across western Canada. We have been waiting to get a response from the government before we move further in that field.

MR. McKENZIE: Could we, the members of the committee, have . . .

MR. WILFORD: By all means. When Mr. Coulter comes back - in fact I was in his office this morning and I said, "Have you got copies of that Trade Union Act?" They said,"Yes," and I said, "Well I want them for the members of the Committee on the Labour Relations Act because I think they're interested in our position on this."

MR. McKENZIE: Another question, Mr. Chairman. The contracts between employees and the employer, is productivity a factor in these agreements in any shape or form?

MR. WILFORD: Let me tell you this, this is a fact of life in the private sector. I haven't signed an agreement yet in which if he's an honest employer he doesn't tell me he expects to recover that labour cost, and he goes out to recover it. I'll tell you that happens in the packinghouse every time we negotiate. And I say to you, sir, that if I took you and showed you a packinghouse 10 years ago and showed you a packinghouse today, the productivity of manpower hours is unbelievable. The labour unit cost is down in the packing industry, you know, because of the nature of the innovation of new machinery. It's a threat of those very high labour costs on the employer and he's taking steps to recover them. And I don't blame him because we make a bigger pie that way and we share a bigger pie.

MR. McKENZIE: Are you concerned at all that we may be at the stage where we're pricing ourselves out of business in this country, not the fault of yours or the fault of the employer but our cost of services or especially goods has become very expensive and now we're not able to compete on the world market?

MR. WILFORD: Well I'm not so sure that's true, sir; I know I have looked at some of the relative rises in the cost of living in the western, you know, what they call a free sector of the world and I don't think we're doing that badly. If you take a look at Chile, 320 percent increase in the cost of living. You go anywhere in the world and you find it is unbelievably high. In the 10 western nations, I think we're at 5 or 6, I can't remember exactly, but I did see the figures of OCED a while back, which indicates to me that . . . sure it's a problem for everybody, it's a terrible problem for everybody and everybody I talk to says, yes, we have to do something about it. The thing is that everybody says, well don't gore me, gore the other guy.

MR. McKENZIE: Yes. Well the reason I asked, Mr. Chairman, of course is the trade deficit we face in Canada. On Page 2 of your brief there, you mention the professions there and the teachers and the civil servants. Do I read from that that you don't recognize the Manitoba Teachers Society and the Manitoba Government Employees' Association as being . . .?

MR. WILFORD: No, we recognize them, certainly, but we believe they should come under the Trade Union Act as such, they should bring everybody under the Trade Union Act. Now whether they would agree or not... I'm just talking about the policy of the trade union movement as representative of the convention of the Federation.

MR. McKENZIE: Just one other. I was listening to you responding to Mr. Sherman in his questioning, that the courts have no place in industrial relationship, and the only concern I have in that is the right of appeal which is a human right that we have under the BNA Act of this country, and I wonder if you could just elaborate a little more. What would be the procedure that you would think. . . the matter's been dealt by the board and that's an impasse, or one side or the other are not favouring the decision, then how would you or the employer or any one group have an appeal.

MR. WILFORD: Let me put it this way. Why wouldn't that be the court of last resort? You know, why couldn't that be the court of last resort. If both parties know it, they know that in appearing before there that that's the court of last resort and they have to fundamentally rise or fall on the question of their evidence and the decision of that board.

MR. McKENZIE: Well there would have to be some other vehicle then to handle the dispute before it came to the board, because you know, I would think that the appeal which is the last court of resort for them, that that would be the last place, you know,

(MR. McKENZIE cont'd) . . . . .there should be some other vehicle other than the board. You don't feel they should have, eh?

MR. WILFORD: I really don't think there's a necessity for it as it relates to the labour relations field.

MR. McKENZIE: Thank you, Mr. Chairman.

MR. DEPUTY CHAIRMAN: Mr. Shafransky.

MR. SHAFRANSKY: Yes, Mr. Wilford, on Page 1, I'd like you to elaborate on that sentence, "If the new legislation is based on sound social democratic principles, rather than on present mischievous liberal philosophy of equal treatment for employers and trade unions alike, then and only then will working people be guaranteed that their rights, in law, are put beyond the reach of anti-union employers and their managers who seek to destroy these rights." Would you care to elaborate on that . . .

MR. WILFORD: Well let me elaborate in this manner, just to give you a picture of what happens now with the changes we've had in the Act. Let me just deal with certification, and I have presently two cases before the Labour Relations Board. The employer now is not supposed to be involved in the Labour Relations Act other than to give information relative to the bargaining unit and other related matters. But what do we find? We find now that the employer has taken a different route. Because the employees have the right of appeal that's the route he follows, and in almost every case that I've appeared before the board, I find this coincidental situation. A lawyer representing the company, a lawyer from the same law firm representing the employees in respect to petitions and interventions. Almost invariably from the onset that the company gets knowledgeable that there's an organization campaign going on, you know. Now how you cure this I really don't know but I can tell you that's what happens. So it's taken a different direction. The employers have taken the direction of employing the employees, hiring a lawyer for them and having them petition and everything else, so that you have the destructive force of the two parties. The owner of course, he's not supposed to be involved so he simply comes to give information to the board, and then you have the other legal counsel, a coincident as I said, from the same legal firm acting on behalf of the employees. And you don't have to draw me a picture, Mr. Shafransky, to know what happened in that plant. I know what happened and everybody else knows what happened in that plant.

MR. SHAFRANSKY: Well I was just going to ask the question. I believe it was yesterday that you indicated that prior to 1945 before the passing of a Labour Relations Act that you were able to negotiate and have relative stability and some power in establishing a union contract. Did not the passing of the Labour Relations Act compound the problem, the fact that it is such a complex bill attempting to cover all aspects, and is it possible to cover all aspects in the management labour relations at the time of negotiations or period of grievance unless there was a system where you were able to establish because of the fact that you have the power, because of the employees who are behind the negotiator and are able to get that type of agreement which will satisfy the employees and the employer?

MR. WILFORD: I don't recall making the comment that I was in a position to decide that in 1945 everything was rosy for us. I suspect, if you ask me, and I'm to make a declaration of what I thought of the Labour Relations Act from the start of my trade union activity way back in the '40s, it was what I considered lousy legislation, it was designed to frustrate the employees, it was designed to prevent the employees really from recognizing their rights and it wasn't until we had the latterly changes in '70 that we got a degree of, I consider, fairness under the Act. That's the position I take as a trade unionist, but at the same time, as I say, the Act is not strong enough.

I can cite you examples relative to the situation I made about the unfair labour practices. Right now under unfair labour practices the employer is getting away with what I consider murder. And I can cite two cases that are coming up before the board in which people were let go, not for trade union activity, so the employer says, but isn't it coincidental, members of the committee and Chairman, that you organize in the plant, you go out and knock on doors, or you have arranged a meeting in the one instance, the people came to us, they wanted a union, we said all right, can you set up a meeting, the best way to handle the situation because of the background of that company, we'll call

(MR. WILFORD cont'd) . . . . .everybody to one meeting right after work. We set up the machinery to do this, I had three business agents plus myself working on it. We were assured by the membership that there would be enough there to get right off the bat enough signed for an application for certification. Now I have to say, you know, everybody's human. We tell people, and I'll tell you how I operate generally and organize, and I do it secretively. I don't tell the boss what I'm doing, because if he knows, let me tell you I know the answer. So I always tell people keep your mouth shut, you're going to sign a card, don't tell your next door worker that you've signed a card, that I will be the only one who knows who signed a card. Nevertheless, you get young, exuberant people today, they made some statements in that plant about going to a meeting. I tell you, gentlemen, that that plant was circulated by foremen as to who was going to the meeting and then instead of having about 30 people at that meeting, we wound up with five. We started to organize the plant. We organized it. We had one "H" of a time. Well I tell you we started before Christman. This is now what? March . . . whatever it is. The case is coming up next week, the 16th. Now, you know what happened? Two people were let go, who incidentally served as ring leaders. They were let go because of not being a suitable employee.

MR. BARROW: Just a coincidence.

MR. WILFORD: Just a coincidence. Not a coincidence to me, Mr. Barrow. The result is that the strength of that unit dissipated down to where we finally, we believe, have what we call a prima facie case, we believe we have about 50 percent. But let me tell you once that interrogation by the employer took place and those two people were let go, boom, we had it. Now we had an investigator, and again I say to Mr. Chairman and the members here, when I asked the investigator would he be reporting to the board, he indicated to me that all his investigation is of a secret nature and he makes no report to nobody. He did indicate to me, and I say this to the Chairman and the members, he indicated to me that the Act was too weak. I say to you, we're going before the board, And another case ,again no evidence that the man was not a good worker, in fact, the evidence indicates otherwise. Nevertheless, the investigator was out there three times, he tried to get the man on the job which is the very purpose of the investigator in trying to encourage the employer to put him back on the job; won't go, won't put the man back on the job. That by the way is going to go before the board.

So I suggest to you that the reverse onus has to be strengthened relative to the rights of an employee to act on his behalf as a trade unionist.

MR. SHAFRANSKY: Would not the very simple Act stating, as you indicate here, one which will establish clearly that working people do have the basic democratic freedoms of association of collective bargaining, period.

MR. WILFORD: You have to frame it in such a way that there's no mistake as to what the interpretation of that means. And presently that is not what's happening. We're not the only union faced with this problem. I daresay probably every union in Manitoba has been faced with this problem, where at the onset of organization suddenly there's some interference - I say interference by the employer in the function of that trade union and it invariably leads to dislocation, dismissal or layoff - and let me tell you there isn't an employer in this world during that period that can't find some reason to let an employee go: doesn't like the cut of his hair, doesn't like him coming in late or anything that he permitted before, and I think that's the criteria. You know, if a man has worked for a company for seven months and he has committed some misdemeanours and nothing has been done about it until a union steps into the position, then I say you've got to be blind not to understand what has taken place relative to that dismissal. And that's the problem with the Act.

MR. SHAFRANSKY: So you advocate the Act should be . . .?

MR. WILFORD: I say the reverse onus should take place, that the employer has to prove beyond a shadow of a doubt that when he lets anyone go during a period of organization, the union can prove that they are in an organizational campaign, that the employer has to prove beyond a shadow of a doubt that it was not for trade union activity. This is true in - Quebec I believe has it, Ontario has it, the Federal Code has some reference to that application.

MR. CHAIRMAN: Mr. Barrow.

MR. BARROW: Thank you, Mr. Chairman. Mr. Wilford, I'd be less than honest if I didn't say the concept of your brief is something that we have been working on for many years. I also was attached to the labour movement. I have a few questions, and I don't know what I can ask that hasn't been asked before to make them a little different. But I'm interested in the first page where you're saying, "the new legislation is based on sound, social democratic principles rather than on the present mischievous liberal philosophies." Now I don't know how you mean liberal, freely or politically. Are you taking a crack at Trudeau here?

MR. WILFORD: No, no. Liberal meaning you know "loose", not liberal as we know . . .

MR. BARROW: One other part on Page 2 when you went into it partly, is the scab thing. On Page 2, the bottom paragraph where you mention about the scabbing. Now a scab is a man who takes the place of a man who is on strike, right?

MR. WILFORD: Yes, and at the onset of that strike has no interest in the normal outcome of what took place in that . . . you know.

MR. BARROW: Well I want to ask you this question. I come from the east coast with a UMW movement there.

MR. WILFORD: Mine workers?

MR. BARROW: United Mine Workers, with coal, but a scab was, gee, he wouldn't dare work, I mean the fear of scabbing, you're committing suicide by scabbing and to socialize with a scab would be like going out with a leper thing. Why is this prevalent over the western area? Like the Flin Flon area, for instance, they don't have this concept, or not so viciously or not . . . could you explain. . .

MR. WILFORD: I think the very nature of the physical layout of Flin Flon is diametrically opposite to the problem we have say in the City of Winnipeg where we have, you know, we have immigrants, we have a policy that allows them into the country, they get in here, they've got to have jobs - and let me tell you, they've got to have jobs, they've got to have sustenance, so they will do things that in the normal conscience they probably wouldn't do. I don't think that's true of say the northern areas relative to mine employees and related activity.

MR. BARROW: Now the situation comes, you say that people who are on staff could work or should work.

MR. WILFORD: No, what I said was I can understand a plant that is shut down, if they want to use a supervisory staff relative to try and maintain the operation of that firm, but only restricted to the people in that plant, not be permitted to bring people in from other plants in other cities across the country, which happened in the OCW strike here. They brought in supervisors from all over the country to operate the plant and I consider that should not be allowed and should be legislated out of existence.

MR. BARROW: Well would you - I'll give you an example on a strike in Flin Flon that lasted for five months. Now when the mine doesn't operate, it naturally fills with water, so they had people pumping the mine out. I agreed with that. I agreed with that because after the strike was over, of course, it would be tied up for months and months afterwards pumping water. You agree with that concept?

MR. WILFORD: Oh, I agree absolutely. I think that the maintenance of that plant should be continued during those periods so that when the problem has ceased, in other words the strike and the lockout has lifted, the people can immediately go back to work. And we enunciate that concept in our agreements. As a matter of fact, we have clauses in our agreement forcing our people to go back to work to maintain the plants relative to maintenance and things of that nature, but only as long as the company doesn't attempt to resume production.

MR. BARROW: Thank you. Mandatory dues - I believe in that concept. If they refuse to have a compulsory check-off, they should be punished quite severely, is that right?

MR. WILFORD: Of course, we have that by law now.

MR. BARROW: Yes, right, but you speak on it here on a regular basis.

MR. WILFORD: Well that's a problem relative to some employers, I understand, who have interpreted the law differently. Now it hasn't affected me and certainly when the case arises if the government is going to make some change, we would appreciate the time to make our point known on that.

MR. BARROW: Page 4. To organize isolated camps and operations. I'm involved in that quite heavily. I happened to be at a meeting where they were trying to organize the IWA, I believe. It was a good meeting and I thought most of them were gentlemen, but when we came to go home every tire was slashed. Is this prevalent among - does this happen quite frequently?

MR. WILFORD: I don't think so. Not to my knowledge, sir.

MR. BARROW: There wasn't? I see.

On Page 5, you say the trade union movement has been unsuccessful in organizing beyond 33 percent of the total workers in Canada. How does this apply to Manitoba? You say 33 percent of people organized across Canada. What's the ratio in Manitoba?

MR. WILFORD: I'm not really sure. You would have to ask the statistical branch of the Labour Department.

MR. PAULLEY: It's available in the Annual Report.

MR. BARROW: Thank you. Now the concept of the unions, the publicity, unions are too strong. Strikes are ruining the economy. Who starts this? Would you like to just talk on that for a minute, sir?

MR. WILFORD: I think that is a bunch of malarkey. I think that's something produced by the media to frighten people into the belief that there are large employers, which I concede there are. I concede that we have administered prices in Canada and the world relative to multi-national corporations and how they operate and they're trying to put us in the same pot. And I say to you, sir, that is not true. The fact is that in almost every case the union relatively represents a group of employees in an isolated instance. I give you the case of the packinghouse. We represent the major packinghouse in Burns and Company, the major packinghouse industry in packers, in Swifts and Burns and . . . They're self unto themselves. They negotiate unto themselves. Now when we had a strike, the last strike we had, not the one two years ago but the strike before we had, we deliberately selected one employer so that the farmers would not be affected relative to livestock deliveries. We knew what would happen, because in 1947, research department tells us, when we had our strike and we believed we should close down the industry, what happened was all the livestock was pushed back, and who made all the money? The packinghouse industry made all the money because livestock prices were depressed. When we went back to work, we went back to work in long long hours of work and the employer made all the money. So we've changed our tactics relative to packinghouses. Now we select an individual company. But they've ganged up on us too now. Now they're taking the position, lockout the rest of the employees in the other companies, so that it's not a simple matter and it's not what I consider a good argument on the part of the people if they look statistically as to the strength of unions.

MR. BARROW: Would you appreciate legislation compelling every employee to belong to a union?

MR. WILFORD: No. You're asking me a question, you know. Personally I say that we are a creature of our society. I say the only reason we have unions is because we've had employers, and bad ones at that, and that we've developed a program relative to the security that emanates out of collective bargaining agreements; it is very receptive to people. There would be no unions if there were good employers, in my judgment.

MR. BARROW: They are the . . .

MR. WILFORD: . . . creatures of our capitalist system.

MR. BARROW: Gee! Thank you, Mr. Wilford.

MR. CHAIRMAN: Mr. Banman.

MR. BANMAN: Thank you, Mr. Chairman, just a general observation. I think one of the biggest problems we have right now is that we are faced with an adversary position and we've got this hatred building up between the two factions and I think that isn't helping the country at all. -- (Interjection) -- Well let's look at England. On the first page of your brief here, and just for clarification maybe further to what Mr. Sherman asked, you would say that the Labour Department should be looking after primarily the concerns of labour and I think the concept that we have right now is that we're trying to go ahead and trying to formulate ground rules that are fair to both sides, employees as well as management. I think this is the concept and this is the reason why we are sitting here right now. But it's interesting . . . you feel that the Labour Department, for instance, should look after labour and Industry and Commerce should look after industry and commerce. Do I read you right?

MR. WILFORD: I just make that comment that that seems to be the nature of the function of those other departments, that that hasn't been the function largely of a labour department. I'd have to say that it has changed quite a bit . . . changed because of the change of government that took place in '69. I think the direction has somewhat changed. But I still say that that should be the primary function of that department and I have to say that in lots of instances it's not functioning in that manner. I think management is well looked after through their Industry and Commerce Department and that's the function of that department, they're attempting to get industry and everything else. That should be the job of a labour department.

MR. BANMAN: Mr. Chairman, I just have another question here. It isn't mentioned in the brief but I would wonder if I could just ask the gentleman's opinion. Listening to several briefs the last couple of days there's not been any mentioned as far as the conscience clause in the present legislation and I wonder if the omission of any suggestions in your briefs with regards to that particular clause would mean that you don't oppose it and that you would want it left in?

MR. WILFORD: I'm really not sure what clause you're talking about, sir.

MR. BANMAN: The clause that relates to the objection of . . .

MR. WILFORD: The objection of the Manitoba Labour Relations . . .

MR. BANMAN: On grounds of religious belief.

MR. WILFORD: Oh, you're talking about the right to not have to pay dues.

MR. BANMAN: No, pay dues but have your dues go to a different charity or . . .

MR. WILFORD: I'm diametrically opposed to that principle. I think that people should pay dues. I think if you investigate you'll find that they pay income taxes, I'm sure if you investigate, they pay any other required deductions from their pay cheque and I see no reason why they shouldn't pay the normal dues to that union. That's my position as a trade union. . .

I know there are people who would argue that, you know, that the religious position of an individual should dictate that under the law he has a right to appeal to the board and, of course, we have this case of the courts setting it aside. I'm fundamentally opposed to the edict of the court because it seems to me the way I read it, you can correct me if I'm wrong, anybody can say, look I'm religious, I don't want to pay dues, that seems to me what the court said and I have to agree I'm opposed to that. I think that that should be removed from the Labour Relations Act and that's it. I think people . . .

MR. CHAIRMAN: Order! One member at a time.

MR. BANMAN: Thank you, Mr. Chairman. That's the last question I had out. I don't want to get into an argument here. I don't happen to agree with that but I wanted your views, and I thank you for them. Thank you, Mr. Chairman.

MR. WILFORD: No, I should answer this way to you. When the Act came into effect, we had a couple like that, I had one in Swifts. Now we knew that this man - I believe that he was truly conscientious and I looked at the Act and I went over there and we arranged that that man transmit his dues somewhere else, because in my judgment he truly came under the definition of that section of the Act. I don't think the case that came before the board or went before the board is truly that type of a case, in my judgment.

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

MR. BARROW: If this religious aspect was carried out and they pay their dues to a charity of their choice, when the thing comes up, most of the boys pay into these charitable things, like say they pay to the Red Cross. Most of the guys put money in that; Salvation Army, put in that. Would you agree that the funds or their dues should be put in a strike fund to protect these poor people when they get in trouble?

MR. WILFORD: Well, that's debatable. I really can't answer that, Mr. Barrow, what should be done. My position is that that section should be removed from the Labour Relations Act; people should pay dues because they're getting a service rendered. I've never seen these people not refuse the money. When we've negotiated very healthy wage increases, fringe benefits and pensions, I see they're at the door with their hand out too, and I say on that basis, they should pay for the prescribed cost of running that union.

MR. BARROW: Well did they refuse just to work eight hours or take lunch periods or compensation or holidays, did they refuse that?

MR. WILFORD: No, sir.

MR. BARROW: Shame!

MR. CHAIRMAN: Further questions? Mr. Sherman.

MR. SHERMAN: Mr. Chairman, just one final question, if I may, to Mr. Wilford. Mr. Wilford, do you think that the ideal situation that you seek for the labour community can ever be achieved under the free competitive market system?

MR. WILFORD: To answer that, it's of such ramifications . . .

MR. SHERMAN: Well taking the experience, for example, of Great Britain and various western countries that have had and are experiencing extreme economic and social difficulty, if not decline, do you think that the kinds of things that you're asking for, which seem to be loaded on one side of the deck, are attainable in what we would at least pay lip service to as a free competitive market system? Whether it's entirely free and competitive I know is questionable.

MR. WILFORD: Well, you know, if you're talking about philosophy or relationship of Canada to the world, I would say that Canada has such unlimited resources that there is no necessity for that to happen in Canada.

I think England is a particular situation. If we go back in history, you know, they imported all raw materials, they posted and shipped them to become a trading nation. Now that no longer is possible, is it? They don't do that, you know, so they have to maintain the structure of the economy within themselves and still buy high cost raw materials. I'm just repeating a little of what I remember from history, sir, you know.

MR. SHERMAN: But have they not done what Mr. McKenzie implied they've done, priced themselves out of the world markets in England?

MR. WILFORD: Well I think for the very reason that I have suggested to you. They have to buy high cost raw materials and that's a relative high cost to start with. The trade union movement there is not the same as the trade union movement in Canada. I've met many trade unionists there, I've talked to them, but, you know, we're getting into, I say, a philosophy discussion as to what's best for Canada or the world and I don't think we can answer that here.

MR. SHERMAN: Well I just want to know whether you can function comfortably under the future Conservative government.

MR. WILFORD: I sure can, sir, I sure can.

MR. SHERMAN: Okay, that's good.

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

MR. WILFORD: Thank you very much.

MR. CHAIRMAN: The next brief is the Manitoba Health Organization - Mr. J. Gerald Hayes. Mr. Hayes here? Proceed, Mr. Hayes, please.

MR. J. GERALD HAYES: Mr. Chairman, members, like the previous speaker, I'm standing in for our executive director, Mr. Herman Crewson who is also out of the province today. Our brief is short, the questioning may be a little longer but I'll get through the brief first of all.

As the representative for over 150 health facilities in this province, the Manitoba Health Organizations Inc. appears before you today to seek additional provisions or alternate mechanisms in labour legislation, so as to ensure a measure of protection for those who must rely upon the services of our hospitals, personal care homes, and health centres.

Events of the recent past, and those expected for the foreseeable future, indicate that work stoppages by health facility staff will occur with increasing frequency and scope. We are not here to suggest that the rapidly-growing unionization movement or collective bargaining process in health facilities should be modified or curtailed, but we do wish to acquaint you with the potential consequences of this development.

The anxieties, discomforts, and dislocations of patients, their relatives and friends during a threatened or actual work stoppage in a health facility is a significant factor in itself. However, the most important factor is the ability of the health facility to carry out its responsibility to cope with emergencies that arise for those patients remaining within the facility, as well as those members of the public who become seriously ill or

(MR. HAYES cont'd) . . . . . injured, and must seek immediate attention. We must stress, therefore, that there are certain aspects of every health facility which represent absolutely essential services and that cannot be shut down or curtailed under any circumstances. It is these services which must be identified and protected to prevent a disastrous occurrence or a complete breakdown in our health system.

We have been raising this issue with the Minister of Labour and the Minister of Health and Social Development since 1973, but to this date, the recognition of our problem has been limited to an exchange of correspondence, a study and report on the subject by the Woods Committee, and last-ditch efforts to avoid or overcome work stoppages in health facilities.

In response to our expressed concern in January, 1975, the Minister of Labour, on March 4, 1975, concurred with "the need for endeavouring to bring about different methods to resolve disputes and methods whereby the results of a strike may not be too severe, and which would result in great hardship to those in need of medical and health care." However, as far as we are concerned, this need has not yet been met, with the result that those who need care during a health facility strike are still in jeopardy.

Since both union and management representatives participated in the study and recommendations of the Woods Committee, we would urge that, as a first step, the recommended provisions for resolution of impasse in essential services be implemented immediately. It should not be necessary to wait until an unfortunate incident has occurred and a human life has been lost, or even to risk that eventuality, before establishing the framework which guarantees the continuity of life-sustaining care.

Respectfully submitted, Manitoba Health Organizations Inc.

I would just like to add one little comment that came up over the weekend in a recent statement by a federal court judge ordering striking nurses - this was a case regarding nurses - in the kidney dialysis unit of a hospital - he ordered them back to work and he said, "the issue to the right to strike has to be accommodated with the right to life and health."

I would just like to review some of the sections from the Woods Committee, Mr. Chairman, referred to in our brief which I'm sure the committee would be interested to know just what we have in mind here when we talk about the "modified approach to the strike mechanism" within the labour movement.

This is quoting from the Woods Committee on the problem of impasse: "The Manitoba record of successful resolution of negotiation disputes in public service employment is good. The evidence from other jurisdictions and some suggestion of increasing tension in this province indicate that impasses are likely to happen. We are concerned with mechanisms designed to break existing deadlocks when that stage has been reached. In practical terms, these two stages, before impasse and the actual impasse, cannot be separated because there is a natural overlap. In what follows there will be an assumption that the strike weapon is available unless suspended or withdrawn by legislative authority. Whatever devices are used to prevent such action should be based on an inducement to negotiate to a settlement, because such resolution of impasse is preferable to the parties in their own interests than to resort to a work stoppage.

Some jurisdictions, and the Woods Committee looked at the federal labour jurisdiction, the Province of Quebec and the Province of New Brunswick where they have introduced legislative constraints on the strike in addition to limitations on the scope of bargaining, the principle one involves action to maintain a certain level of service considered essential even during a strike. The method of ensuring this minimum level of service is a legislative provision that requires the designation of certain jobs whose occupants are forbidden to engage in a strike that is lawful for their fellow employees. A serious flaw in this procedure is that it forces some workers to cross a picket line, if and when it is set up. This is something which was commented on by the Woods Committee and that one flaw in that mechanism was recognized and we wish to draw that to attention as well.

Going on it says, "There may be in some areas of public employment functions whose termination would bring on consequences that would be close to intolerable. The state must protect itself and the vital interests of its citizens." That is the part of the Woods Commission Report, Mr. Chairman, that our health organization based this rather brief but pointed submission to this committee of the Manitoba Legislature.

MR. CHAIRMAN: Thank you, Mr. Hayes. There may be some questions some of the members of the committee may have.

MR. PAULLEY: I just have one if I may, Mr. Chairman. At the bottom of Page 2 in reference, I presume, to the situation which is presumed to be in effect just recently, you make reference and I use the sentence, "It should not be necessary to wait until an unfortunate incident has occurred and a human life has been lost." Is that any specific reference to a court case that is prevailing at the present time or is that a broad generality rather than a specific?

MR. HAYES: A broad generality. It is an eventuality which I think those that are very close to the situation, as the secretary for the Winnipeg Inter-Hospital Medical Staff Council and the concern that was expressed by those clinical chiefs, Mr. Paulley, at the possibilities, the eventualities which they saw as clinicians is what is referred to here. Nothing, certainly nothing, not at all, sir.

MR. PAULLEY: Certainly not to a case that has been given widespread publicity which has not been . . .

MR. HAYES: No, sir, that had no support from our organization whatsoever.

MR. PAULLEY: That's fine. And I'm sure that you would recognize, too, your organization, that though some of us may not be actively connected with the health organizations, we're just as mindful and cognizant of eventualities that may occur in the field of health or any other field of human endeavour.

MR. HAYES: Thank you, Mr. Paulley. We appreciate the open door that has been afforded to our members and to us as well as an organization with the Minister of Labour and the Minister of Health and Social Development during the recent crises that we've passed through.

MR. PAULLEY: They were pretty rugged, too, weren't they?

MR. HAYES: Pleasant as well.

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

MR. ADAM: Thank you, Mr. Chairman. I have just a couple of short questions, sir. I believe you would support, if I understand your brief correctly, you would support, in the case of the nurses that were ordered back to work on a dialysis machine, I believe, you mentioned. . .

MR. HAYES: Dialysis Unit, that was . . .

MR. ADAM: Yes, the unit. If they refused to go back to work under the conditions that were existing at the time then you would support them being sent to jail?

MR. HAYES: Mr. Chairman, the thought behind what we are asking here is that these positions, say in a kidney dialysis unit, would be recognized by negotiation both by management and the union in the contract, so that those nurses would be actually in violation of their own contract with the union if they disobeyed the order for them to continue working in the event of a work stoppage in the rest of the facility. So it would be both union and management who would actually be having the contract violated by a union member if that were to exist. It would be the same as management not allowing those nurses to work in the kidney dialysis unit in the event of a work stoppage in the rest of the facility.

MR. ADAM: You're not asking that this be enshrined in the statutes?

MR. HAYES: I think the previous submission from the Federation of Labour in Manitoba made it abundantly clear that if it's not enshrined in legislation it will not be brought about, cannot be brought about through the normal process of negotiation.

MR. ADAM: Okay. The other question I had, perhaps I shouldn't ask you, you don't have to answer if you don't wish to. I was wondering if you'd comment on the fact that since you're the Manitoba Health Organization and we're talking about patients and the health of patients in the public sector, would you care to comment on the fact that during the Health Science Centre strike there were 413 patients removed from the hospital, placed in other hospitals and in homes with home care, but of those 413 there were 200 approximately that were sent home without any home care, which kind of leaves the impression that maybe they shouldn't have been there in the first place if they were sent home without any additional care and it took a strike to get them out of the hospital.

MR. HAYES: I'd be glad to comment on that, Mr. Chairman. I think at any time on any given day in any hospital in our country that there is a percentage of people who

(MR. HAYES cont'd) . . . . . are ready for discharge indeed that day, to begin with. There are many other patients, and I think the figures that you have used are quite representative of a facility with some 1,200 beds, that within 24 hours there is an equal number of patients who are, in the opinion of the physicians attending those patients, ready for discharge.

Now in the event of an impasse such as we faced at the Health Sciences Centre, by the way we had more than 413 patients discharged, the reason we were able to do that was that we curtailed admissions. In other words, if you stop the influx at one end and you've got an average discharge of 100-odd people per day it doesn't take very long to work through, at least, a portion of those people who were in the hospital at that time, and those numbers are not difficult to achieve or understand when you look at the actual analysis of their clinical condition. It's the backup of those people who should be coming in at the other end very often where the greatest suffering is involved.

Now those people who are left in the facility, as our brief says, is the group of people that we. . . and we're bringing this before this committee as a matter of public concern. In the last instance at the Health Sciences Centre I am only too glad to be able to report that things were resolved before something did happen at the Health Sciences Centre. Fortunately it did not. If it had . . . the Minister of Labour is nodding his head, he knows because of the presentations that were made there would have been a full shutdown within a matter of hours and there were certain patients in that institution where the doctors, the clinical heads, would have despaired for the life of those people if they had had to be moved.

This is the concern of our organization in bringing a very simple and, I think, a very moderate recommendation before you for the revised Labour Relations Act to see this particular aspect of our concern, and we represent a very large and increasingly large number of workers in Manitoba coming under labour legislation, that we feel this is something which should be so stated in the legislation for essential health services.

MR. ADAM: Thank you. I realize that when the figure of 200 patients were discharged, when they were evacuated, I realize that there is a daily discharge of patients, perhaps a hundred, I haven't got the figure, maybe you have, I don't. Nevertheless, if there's a daily discharge of, say a hundred patients per day and because of an impasse suddenly we have 200, you know, a hundred patients that stay an extra day in the hospital to me is a great deal of money the taxpayer has to put up. That's why I brought it up, sir. Thank you.

MR. HAYES: Very good. I'd like to reply to that too, Mr. Chairman, because we are cognizant of that and we are endeavouring, and certainly we've taken note of this each time we've had a work stoppage. But at the same time if you were to go to the individual cases and interview the patients and their families who are prepared to make some of these, other than usual arrangements, to have children, mothers home with babies a day ahead of time and so on, it can be done, no question. And certainly if our health dollars are going to be restricted along with the other dollars that are going to be provided in the public service this year, we, as those that provide the services, are going to have to have a very hard look at that very fact that Mr. Adams has brought up.

MR. ADAM: I think what I'm really getting at, sir, is that the only way a patient can get in the hospital is through the orders of a doctor and the only way he can be discharged is through the orders of a doctor. And that's why I brought it up.

MR. HAYES: The assistance of the medical profession is certainly required to bring about any shortening of the length of stay in our hospitals, correct.

MR. CHAIRMAN: Mr. Banman.

MR. BANMAN: Thank you, Mr. Chairman. I'd just like to ask a question I think that has come up I know in several different areas in Manitoba, and it's basically got to do, I think, with smaller hospitals. The government has set the increase or given the hospitals roughly an eight percent increase in grants, eh?

MR. HAYES: In budget for 1976, right.

MR. BANMAN: I think the problem that many of the hospitals are facing with staff, a lot of these smaller hospitals are not unionized, don't have a bargaining agent for their employees, and it becomes, I think, very hard for these people to do any bargaining at all. We've noticed now that the larger hospitals that are organized, in that

(MR. BANMAN cont'd) . . . . .particular case they have been getting increases above eight percent. Is this a problem that your organization is running into now, or . . .?

MR. HAYES: Yes, Mr. Chairman, to Mr. Banman's question. We are aware of course of the easement, I guess, of the eight percent restriction on those specific facilities where union contract negotiations have had to go beyond that eight percent, subject again to the possible rollback by AIB. However, in keeping with the intent of the restraint legislation this year we are encouraging our member facilities.

I was at a meeting yesterday in Gilbert Plains and Grandview up in the Parkland region, we met with the regional members, the board members and the administrators and there was a commission representative there outlining the methods which are going to be used in applying that eight percent restriction this year, by the commission. And we support, not just in other words, applying wage increases across the existing situation in the facility. We believe that where staffing complement can be reduced in keeping with the norm across the Province of Manitoba, this is what we're working on, that it is a responsibility of the governing boards and administrations in those hospitals to live within the eight percent, to endeavour to keep within that ceiling which has been placed by the Minister of Health and Social Development by distributing those dollars more equitably amongst the required staffing complement for those facilities. And this is the message that we're giving to our facilities. We have, on the other hand, instructed every one of our facilities that where any price increases in goods and services which they have to pay out to keep the services going, we want those reported to us and we're going to be sort of a catchall organization to get these together and to send them off to Ottawa in protest of some of the things which we could run into which would be in excess of the eight percent which we are trying to live within this year.

MR. BANMAN: I appreciate that answer, but the question that I'm trying to get at, you have some of the smaller employers bargaining, let's say in good faith or closer to their employees because it's not such a large unit and the way it looks to me right now with the restrictions being put on the hospital boards, and I'm not going to argue with it because we've all got to tighten our belts, but it's almost forcing some of these smaller hospitals into a union situation whereby it's the only way that they can get that extra money out of the government to go ahead and pay their employees that increase, because you can't offer them that because of the guidelines set. You understand the point I'm driving at.

MR. HAYES: Yes, I do, sir. Mr. Banman's point, Mr. Chairman, is recognized by us, it is often thrown up to us to speak on behalf of our members in this regard. In all honesty, I would say that the Manitoba Health Services Commission has been listening to our presentations on behalf of those non-unionized staffs - and I'm thinking of the smaller facilities - that on a catch-up basis, and I know there's a time lag here, but we see full justification as a representative of the employers of these people to say that there's no justifiable reason in our mind why non-unionized employees should be lagging that far behind in the economy when we can draw straight lines of comparison between the jobs that they're doing and the others. And I would have to say very honestly that the Health Services Commission has been very understanding of those situations in the budgetary adjustments which they've made. I'll give you an example.

We're bargaining at the moment for 43 hospitals and nursing homes in the Province of Manitoba with the Manitoba Organization of Nursing Associations as they're called today, on behalf of the registered and licensed practical nurses. Now, where the lid has been lifted by the commission for the Health Sciences Centre and for Misericordia, to give you two examples, for the operating engineers, and if it should be necessary in the process of the negotiation of the nurses' contract, with a government observer at the table don't forget because this is the way we have welcomed this involvement with a government representative, if the rate does go beyond what the commission has allowed within the eight percent we have every reason to expect that the lifting of the lid will be allowed for even the smallest hospital in Manitoba that employs registered nurses, because we have those 43 other collective bargaining groups that have just as much right to the same bargaining power with their employers as the nurses do at the Health Sciences Centre.

The Minister of Health and Social Development is not here this morning, I don't

(MR. HAYES cont'd) . . . . . know whether representatives are here from the department but I would like to say publicly that as far as our organization is concerned, representing the operators and the owners of the nursing homes and hospitals in Manitoba, that we have had very good relations over the past number of years in coming to an amicable conclusion, in most instances, over wage settlements concluded through the collective bargaining process. We're not here today to argue with the concept or the structure of the Labour Relations Act as it stands today, we are living with it. We do not mount attacks on groups wanting to organize within the health field, I say that, I think, without fear of challenge, but at the same time we do see the health and the welfare needs of our citizens of Manitoba as something which we are committed to look after and in some instances, at the present time, we fear very much that we are able to accommodate it safely and adequately.

MR. BANMAN: Well, thanks again, I just bring this up because I think it's sort of almost a reverse type of discrimination. If indeed the gap is going to widen on this it's going to force people into the union agreement, maybe many people who have a good relationship with their present employers, but because of the limitations put on by certain segments of government, it's going to force people to seek certification and unionize. I hope that your organization will see to it that most of these people get a fair crack at it.

MR. HAYES: We do our best.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: I just have one or two observations. I'm not going to get into the last area of discussion between these two honourable gentlemen having been involved very intensely, not as Minister of Health but Minister of Labour, and it is, too, true that the original guidelines, the magical figure of eight percent was somehow or other pulled out of a hat and religiously adhered to until the light of reality shone upon some of the people who had imposed that rigid eight percent, which was in my opinion in the first place nonsensical and eventually was changed to a more realistic consideration of the facts that are. But I'm not going to get into that at all.

I am very much interested though in reference to the recommendations contained in the Woods Committee Report, because as you know, sir, this was a committee or commission set up by the Department of Labour to look precisely into the whole field of the public sector employer relations in Manitoba authorized back nearly two years ago now, in July of 1974.

Many recommendations were made, and I must frankly say have not been enshrined in legislation and that is the request as I understand, Mr. Chairman, of the delegation to take a look at some methodology where, by enshrining some of the recommendations in legislation, that at least some patients who have to have specialized treatment will be able to be provided with those services even in the event of a withdrawal of services in the hospital. I note that in some of the recommendations it is indicated, I'm looking at Page 150 now, which says, "perhaps the best compromise would be to require the parties to negotiate the level and location of picketing subject to decisions of a public service panel of the Labour Board if agreement by the parties is not reached." The agreement there is for the provision of a central service of a technical nature insofar as the treatment of the patient is concerned and also throughout the report there is a suggestion that in a collective agreement - and there's no question that there should not be a collective agreement - but contained within that collective agreement there should be an understanding or a commitment that if a nurse having so much expertise is required because of types of patients in the institution, then that particular nurse will be deprived of the right of strike only to the degree of providing that service after agreement has been reached between the parties concerned.

I'm sure I do not have to say to the gentleman at the end of the table that in the recent Health Sciences withdrawal of services that through the co-operation of the representative of the operating engineers, and to some degree a suggestion of somebody who shouldn't be involved of course in industrial disputes, the Minister of Labour, that there was an agreement entered into for the provision of emergency services in the event of a breakdown of any of the equipment that was under the jurisdiction of either the maintenance people or the operating engineers. So that was done. I don't believe there was a case during the Health Sciences withdrawl of services where it was necessary that that be done, very very fortunately.

MR. HAYES: Right.

MR. PAULLEY: I think you would also agree with me that a year ago, a year ago when negotiations were going on between MARN and the hospitals, and in particular as I recall it as a member of the board over in St. Boniface, there was an agreement entered into where certain levels of services would be provided voluntarily by MARN through their negotiating chieftain Joyce Gleason. So we have on a number of occasions, or a few occasions, in industrial disputes in the health services field, I suppose I should say, mutually come to some agreement where services would be continued. But your suggestion would be that those services voluntarily agreed upon and understood by people who are concerned with the health, the welfare, well-being of our people, that they should not be left precisely to a collective agreement but be enshrined in legislation? That is your approach as I take your remark, particularly your off-the-cuff remarks following your formal presentation.

MR. HAYES: Mr. Chairman, I hope I retain the chain of thought that Mr. Paulley's brought out because I think it does bring our position to a very clear point. While in the past, during impasse, or immediately prior to impasse there have been some of these arrangements which Mr. Paulley has outlined to maintain the bare necessities of keeping the doors open, they have been reached and we have fortunately not had any real disasters. And where Mr. Paulley mentions about the stepping in in the settlement of other settlements by the government as well, and one instance as I recall, and where MARN for example, Mrs. Gleason, during the nurses strike, it was a unilateral type of condescension on the part of the nurses union to say we will put so many nurses. This is not the way that we think it should be done.

MR. PAULLEY: You think it should be in legislation, do you?

MR. HAYES: No, I'll just modify that a little bit, Mr. Paulley.

MR. PAULLEY: I'm sorry.

MR. HAYES: What we thought was, the Woods Committee was appointed from both union and management to study the public sector pertaining to labour relations. Now, as we see it, if the legislation does provide for this facility, for both management and the union - and I'd like to point out that this is also for the union worker, a girl working in the kidney dialysis unit, I'll point that out in a moment - if the legislation provides categorically for this in the public essential services of our province, then before the impasse occurs this agreement will have been reached and in the individual situation, I wouldn't suggest that we will have it in legislation that so many registered nurses or so many cardiology technologists, but it would be on the individual facilities joint agreement, a memorandum of agreement at that local level, that in the event of a work stoppage that these positions, not these nurses or these technicians, but these positions will be covered.

Now when, and this is the last point I wish to make in reply to Mr. Paulley, when that situation does occur and a nurse is categorized as being assignable to the kidney dialysis unit as a life-saving or life supporting measure, she is still on strike, but she is by agreement with her union and with management crossing. Now whether she crosses a picket line with a sign in front of her that says, I am a life-saver or whatever it is, or whether she comes in a back door agreed to by the union and management so that there won't be any conscience aspect of crossing a picket line, that nurse during the time that she's fulfilling that life-saving function is still on strike. I'm not saying this as a union member but if I were I would want that position of mine to be made abundantly clear, that I'm there because my union has agreed to me being there.

MR. PAULLEY: Might I ask, Mr. Chairman, whether or not there has been any presentation made to the Department of Health, I'm not aware of any into the Department of Labour and we have of course a co-relationship insofar as industrial disputes are concerned, the Minister of Health sometimes has to talk to the Minister of Labour and vice versa, but has there been any listing of categories of the nature that you mention so that - and I agree with you that not Nurse Jones or Nurse Smith, because of that particular job that she has - but has there been any listing by your organization and forwarded to attempt to establish what, in the opinion of the Manitoba Health Organization Incorporated, precisely. Because, you know, and I'm not trying to argue the point or to attempt to evade the point, it could be argued that without having it precise that this could lead to abuses by designation. either by the organization or the hospital or someone else.

(MR. PAULLEY cont'd) . . . . . So my real question is - and it may be a follow-up of the intent of the Woods Committee Report - a definition, and that particular definition may not apply to each and every hospital we have in Manitoba, due to the course of the different services that are rendered or performed in the hospital. So, long-winded as usual, my precise question is, has there been any indication or forwarding of these very vital lifesaving positions per se that may be considered in legislation to be considered for exclusions of the, not the general principle of the right to strike, but the provision of services notwithstanding the strike ?

MR. HAYES: Mr. Chairman, to Paulley's questions, I think he's given us the mechanism that I would certainly as an individual suggest could certainly be provided as a follow-up to the Woods Committee. No, we have not made this provision up to now. If I were to speak honestly on behalf of the employers, the owners and operators of nursing homes and hospitals, their thrust has been, deny the right to strike as the simple, you know, cut it off right there for public service. Now we are trying, in this brief of ours, trying to take a more realistic, if I could use that word, compromising position which we think is workable. And I would certainly say that as a follow-up to the intent of what we're saying here we certainly could provide you with a listing, and we'd probably start with the doctors.

MR. PAULLEY: Sometimes they're non-essential.

MR. HAYES: We couldn't under our present system as Mr. Adam says, operate our facilities within the law without the medical practitioner in charge of the patient today. Now, we would be quite prepared to present a list to the committee such as this, of those positions, those categories which we would say should be included in those services which must be maintained.

Now if you don't have an intensive care unit in the Minnedosa General Hospital that doesn't apply to you. But we've all got nurses, we've all got laboratory and X-ray technologists, for example, people have to be fed. You know, if anybody had said to me ten years ago when I came into the health field - and I came from the same background that Mr. Paulley did, I was for 22 1/2 years a railroader - if anybody said to me . . .

MR. PAULLEY: I wish to hell I was back there now.

MR. HAYES: Yes, so do I sometimes, Mr. Paulley. If anybody said to me, as a management person, what is the least likely group to ever adversely affect the safety of patients in a hospital, I would have probably said, "The maintenance staff." Today we've seen that that grouping of people can actually place the lives of patients in jeopardy. Now if it applies to those people it applies to your laundry workers who provide safe, clean linens. We can't send our linens from the hospitals out to, I won't even name a laundry, a commercial laundry, because of the standards that must be maintained for the safety of the patient in that facility. We can't get along without a dietary function, a limited at least dietary function, a limited housekeeping function and you go right up the line, and I'd say that we don't want to ever divide, if I could say that, the importance of the category of health worker to make somebody feel that they're not needed.

I'm saying that on a very general basis, Mr. Paulley, but I, as one that has worked in the field now for ten years, it would be wrong for me to categorize anybody as being non-essential as a category.

MR. PAULLEY: I hope I didn't leave that impression. It was, if I may, just by way of interjection. What I was getting at was the real so-called, and maybe I can be criticized for even using the "real so-called" professional people. I believe we have a meeting of minds. It's not a question of the denial of the right to strike to the workers in the hospital, but, an agreement for the continuation of at least the basic services that are essential during a withdrawal of services.

MR. HAYES: By mutual agreement between management and the collective bargaining group. And I would just like to say one more thing, Mr. Chairman, and that is, don't get the idea that we're trying to lead this thing down the line to have full operation because I know the Federation of Labour is deadly opposed to this. What we're saying is though, most of these selective groupings from the professional, technical levels right through to your service workers, at all classifications, are represented by various unions so it would be perhaps one or two categories within each union contract that we'd be talking about, not 15 or 20 in each contract. Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Barrow.

MR. BARROW: Just one brief problem, it's getting late, Mr. Chairman. What

(MR. BARROW cont'd) . . . . .you said makes sense, but we have that. The mines have pumpsmen, they have hoistmen, have timbermen, and they all strike but they work. But the way they do it, or some of them do it, they do donate half their salary into the strike fund. But that's carried out and I see nothing wrong with that.

MR. HAYES: Mr. Chairman, in those industries that Mr. Barrow's mentioned, these are private sector industries which when they are struck are allowed by the union to maintain certain essential services to keep the plant ready for start-up again.

MR. BARROW: Right.

MR. HAYES: We in the health field cannot operate on that basis. We must keep those facilities operating at least for the people. We don't shut down, this is what we're trying to say; we cannot afford to be like an industry where we can shut down and just pump out the water, we've got people in there whose lives must be protected during the course of a strike. That's the difference, Mr. Barrow.

MR. BARROW: Your point's well taken.

MR. HAYES: Thank you.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, no questions but just one brief comment. I think that this brief and this presentation has opened up a ray of light for us in an area for which we've on all sides of the House been groping for an answer.

I would hope that perhaps the suggestion of the Labour Minister is taken one step further and that the witness before us or the organization cannot only provide the Minister of Labour and the Department of Labour with a list of categories which would fall into the area of consideration discussed, but that he might also, if it isn't asking too much, elaborate specifically on the argument and on the rationale that he's presented here before us in complement to his brief but is not contained within his brief, and that that presentation might be made available to the members of this committee.

MR. PAULLEY: Are you referring to the copies of the Woods Committee, Mr. Sherman, because I believe they were distributed to all members.

MR. SHERMAN: The application of it as described in this presentation this morning, in that specific field.

MR. CHAIRMAN: Well then that's available because the meetings are being transcribed and they'll be out as soon as Hansard can make them available to us.

There being no further questions, thank you very much, Mr. Hayes.

MR. HAYES: Thank you very much, Mr. Chairman and members.

MR. CHAIRMAN: Order please. Before the members go, don't forget we meet tomorrow evening at 8 p.m. I would suggest that the people who are on the list right now, the Newspaper Guild of Manitoba, Mr. Stephen Riley; Winnipeg Chamber of Commerce, Mr. Murray C. Peppin; Labour Relations Council of the Winnipeg Builders Exchange, Mr. George Aikens; Mr. Alex Tkach, private citizen; Prairie Implement Manufacturers Association, Mr. John Buhler, Morden; Mr. Harold Young, Editor, Mennonite Brethren Herald. If they are here will they take notice that the committee will meet tomorrow night at 8 p.m. sharp. Committee rise.