First Session - Thirty-Fifth Legislature

of the

Legislative Assembly of Manitoba

STANDING COMMITTEE
on
INDUSTRIAL RELATIONS

39 Elizabeth II

Chairman
Mr. Marcel Laurendeau
Constituency of St. Norbert

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS

Wednesday, December 12, 1990

TIME — 8 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Marcel Laurendeau (St. Norbert)

ATTENDANCE - 7 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Derkach, Praznik

Messrs. Ashton, Cheema, Ms. Friesen, Messrs. Laurendeau, Reid

APPEARING:

Becky Barrett, MLA for Wellington

Kevin Lamoureux, MLA for Inkster

WITNESSES:

John Doyle, Manitoba Federation of Labour

Sidney Green, Manitoba Progressive Party

Albert Cerilli, Canadian Brotherhood of Railway,

Transport and General Workers

Pat Martin, Private Citizen

Rob Hilliard, Manitoba Federation of Labour

MATTERS UNDER DISCUSSION:

Bill 12—The Labour Relations Amendment Act

Bill 23—The Employment Standards Amendment Act (2)

* * *

Clerk of Committees (Ms. Patricia Chaychuk-Fitzpatrick): Order, please. Will the Standing Committee on Industrial Relations please come to order? We must proceed to elect a Chairperson. Are there any nominations for the position?

Mr. Gulzar Cheema (The Maples): Madam Clerk, could we nominate the Member for St. Norbert (Mr. Laurendeau)?

Madam Clerk: Mr. Laurendeau has been nominated. Are there any other nominations? Any further nominations? If not, Mr. Laurendeau, you have been duly elected Chairperson. Please, come and take the Chair.

Mr. Chairman: This evening the Standing Committee on Industrial Relations will be considering Bill 12, The Labour Relations Amendment Act, and Bill 23, The Employment Standards Amendment Act (2). It is our custom to hear briefs before the consideration of Bills. What is the will of the committee?

Mr. Steve Ashton (Thompson): I just wanted to indicate, prior to proceeding, that the agreement amongst House Leaders was that we would deal with public presentations tonight and public presentations tomorrow as well, and that there would be no votes, no consideration of the clause by clause of the Bills tonight, so it would be strictly for public presentations both tonight and tomorrow night.

Hon. Leonard Derkach (Minister of Education and Training): Mr. Chairperson, I understand that was the agreement that was reached between House Leaders. I understand as well that this committee has both Bill 12 and 23 to consider tonight. Perhaps we could arrange our affairs such that, should there be any presenters on Bill 23, which are the extension of maternity-paternity benefits, we could also hear them tonight if they are at this committee, following the presentations on Bill 12.

Mr. Ashton: The other thing the committee should deal with, and I agree with the Minister in terms of that suggestion, is also its sitting hours tonight. I would suggest we hear as many of the presenters who are present today as possible. There may be other presenters who are on the list who are unable to make it tonight. We should perhaps listen to them tomorrow night as well, but the committee may wish to consider its sitting hours, some rough parameter.

I would suggest that we listen to as many people as possible tonight, but I would not want to inconvenience people too greatly. I suggest we not sit past midnight.

Hon. Darren Praznik (Minister of Labour): I would agree with Mr. Ashton that we should try to accommodate everyone who is here tonight, and I would hope that there is a willingness. I understand many of the presenters, in going through the list, have made presentations on this matter to Legislative committees before, which are on the record. I hope, if we are all willing, that we should be able to clear House Business or hear everyone, I would hope well in advance of midnight.

* (2015)

Mr. Chairman: Is it agreed that we will sit until midnight? Leave it open? Okay. Shall the committee deal with hearing of presentations from Bill 23 and then 12? Twelve, then 23? Agreed? I have a list of persons wishing to appear before the committee to make presentations respecting Bill 12. The registered presenters are Mark Okopski, Sidney Green, Albert Cerilli, Leonard Terrick, Pat Martin, Roland Doucet, Ron Ruth, Dennis Atkinson, Robert Ziegler, Julie Antel, Nancy Oberton and Darlene Dziewit, and two walk-in presenters, Mr. Rob Hilliard and John Doyle, for Bill 23.

Should anyone else present wish to make a presentation and their names are not on the list, please advise the Clerk of the Committees, and your names will be added to the list of presenters.

I would also like to advise the committee that we do have one presenter registered to speak to Bill 23, John Doyle. If there are any members of the public present who are interested in speaking to Bill 23, please advise the Committee Clerk, and your names will be put on the presenters' list.

Does the committee wish to impose a time limit on the length of presentations? No time limit. We now call upon Mr. Mark Okopski.

Mr. Ashton: Mr. Chairperson, I think the suggestion was that we deal with Bill 23 first, one presenter, and then proceed to Bill 12. I would certainly recommend that.

Mr. Chairman: I called Bill 12, and that is what was agreed to.

Mr. Ashton: It just makes more logical sense to my mind, if we have one presenter on one Bill, to deal with that individual, so they do not have to wait all night, and then proceed with the other Bill.

Mr. Chairman: What is the wish of the committee?

Mr. Cheema: Mr. Chairperson, I think we could deal with Bill 23 first because there is only one presenter. That would make some sense so the time can be saved for the person. He does not have to wait for four hours.

Mr. Chairman: Is it the wish of the committee to deal with Bill 23 first? Agreed? Then we will deal with Bill 23 first, and we will call upon John Doyle to come forward and make his presentation from the Manitoba Federation of Labour. If you have any written copies of your presentation to forward to the—

BILL 23—THE EMPLOYMENT STANDARDS AMENDMENT ACT (2)

Mr. John Doyle (Manitoba Federation of Labour): I apologize, Mr. Chairperson, I only have one or two copies, but I will be certainly glad to forward copies tomorrow.

Mr. Chairman: If you have a second copy, maybe I could have a second copy now, and we will have it photocopied. Proceed.

Mr. Doyle: I would like to extend the apologies of the president of the Manitoba Federation of Labour, Susan Hart-Kulbaba. Because of the relatively short notice period, she was unable to arrange her schedule in such a way as to be able to attend tonight to speak to both Bill 23 and Bill 12. Both are Bills that she has a keen personal interest in, as well as her responsibilities as president of the Manitoba Federation of Labour.

I would like to thank the members of this committee for extending this opportunity to the Manitoba Federation of Labour to speak on Bill 23. As you are aware, the Manitoba Federation of Labour represents and speaks on behalf of more than 88,000 workers and their families in Manitoba on matters that affect their well being.

The reason for the drafting and the passage of Bill 23 is recent amendments to the Unemployment Insurance Act by the federal Government. For the most part, the Manitoba Federation of Labour considers these amendments to be nothing more than the latest erosion of workers' rights by the Mulroney Government.

If there is a positive aspect of the amendments, it falls in the area of expanded parental leave provisions. Amending The Manitoba Employment Standards Act was an opportunity for this Legislature to make aspects of parental leave in this province more progressive. Unfortunately, you have

chosen not to take the opportunity to do as much as you could have in this area.

* (2020)

I would urge you to amend Bill 23 so that the following changes to The Employment Standards Act are made. In order to qualify for maternal or paternal leave, a Manitoba worker must be continuously employed by a single employer for at least 12 months as things currently stand.

The Manitoba Federation of Labour regards this as an unreasonable limitation on a worker's access to these provisions, particularly in light of the current economic recession. A growing number of workers are finding it difficult to meet the 12-month requirement. As the recession deepens and becomes longer in duration, this will become a fact of life for more and more workers in Manitoba.

In addition, maintaining different entitlement provisions for access to UI maternal leave benefits, 20 weeks of insurable earnings in the previous 12 months, and provincial maternity leave provisions, 12 months of continuous employment with a single employer, amounts to gender-based discrimination. While I have no legal training on this, this would also suggest to me that an action based on the Charter of Rights may be possible in this regard.

Further, we would ask that The Employment Standards Act be amended to ensure that workers have access to all new benefits contained in the Unemployment Insurance Act as it now stands revised by the federal Government.

The Manitoba Federation of Labour believes the guiding principle in amendments to The Employment Standards Act, and by extension this Bill, should be the maximization of the flexibility of workers' access to parental leave provisions.

Thank you very much for receiving this presentation.

Mr. Chairman: Thank you, Mr. Doyle. Are there any questions from the committee?

Mr. Praznik: Yes, Mr. Doyle, I am just curious about a comment you made in your presentation about urging us to amend the Bill to allow for all new benefits to be taken advantage of. I was wondering if there were some that you believe were not covered, other than the 12-month opt-in provision. I know the MFL is well aware that I have charged the Labour Management Review Committee, of which your organization appoints members, to look at that matter early in the new year, but are there other areas that you are suggesting were not covered by the amendments?

Mr. Doyle: No, I will be frank with you, Mr. Minister, that clause is a reflection of the relatively short period of time that we had to work on this presentation. If in the event I have missed something and not addressed it in this provision, I included this sort of blanket urging to be as progressive as possible in the eventuality that I had not addressed all of the matters that I should have.

Mr. Praznik: I just ask that because the framework for that particular clause was the one primarily suggested by your president through the Labour Management Review process of the 17-week formula, and so I would hope that we have covered off those issues that you raise. I appreciate the time frames, et cetera; I just wanted to clarify that comment.

Mr. Doyle: In conversation Ms. Hart-Kulbaba has indicated that she was quite pleased to see the amendment extending to 17 weeks that particular provision.

Ms. Becky Barrett (Wellington): Mr. Chair, I would like to ask Mr. Doyle about a comment that he made in his presentation about the federal amendments being the latest erosion of workers' rights by the federal Government. If he would like to clarify that, please?

Mr. Doyle: Thank you for asking that question. It gives me the opportunity to outline a few things that I feel about the federally amended Unemployment Insurance Act. I think the—

Point of Order

Mr. Praznik: Point of order, Mr. Chairman, I certainly do not want to deny Members of this House and presenters the opportunity to discuss changes to the federal Unemployment Insurance Act, but there are a lot of presenters here on another Bill. The matter before this particular committee is amendments to our Employment Standards Act, and I know there are issues there on which the MFL has a very strong position with the federal Government on unemployment insurance benefits, but I would hope, as it is not the issue under consideration of this committee, that we can kind of confine our questions and our presentations to the matters to be dealt with by this committee.

* (2025)

Mr. Chairman: Before you go, Mr. Ashton, I will just ask that the committee Members refrain from going away from what was discussed within the brief. The questions are to relate to the brief that was presented, and for clarification of the brief.

Mr. Ashton: If you would give me the opportunity, I wish to make comments on the previous point of order and to point out that the question related specifically to a comment that was made in the brief. I point out that the Minister himself realizes that this Bill has resulted from the UIC changes. The comments were made in the brief, and I believe the Member for Wellington (Ms. Barrett) was in order. She was asking a direct question on the brief, and that is our normal procedure.

For the Minister, I do not know why he is so sensitive. We tend to allow a fair degree of latitude to Members of the committee and to presenters. I could understand his concern if the matter had not been raised in the brief and if it was extraneous, but the Member asked a question directly related to a statement in the brief, which I believe is in order. I would suggest the Minister perhaps relax a bit and allow Members of this committee to ask questions based on the briefs presented.

Mr. Derkach: Just further to that point of order, I would just like to indicate that we are talking to the Bill. The comments made by the presenter certainly are valid, but indeed we are talking specifically to this Bill. We should try and stay on topic, because there are a lot of other presenters who have presentations to make on another Bill.

Ms. Barrett: Two points—Firstly, the last remark made by Mr. Derkach, yes, we do have many other presenters on other Bills, but I do not think that should dictate our discussion on this particular issue, that there is only one presenter or time limits. Secondly, I would assume that anything stated in a brief made by a presenter would be open to questions of clarification and expansion. It relates to the Bill, and I do not think that there is anything wrong with asking for clarification on a statement made by the presenter.

Mr. Chairman: Number one, the Honourable Minister of Labour (Mr. Praznik) did not have a point of order. I will ask the Honourable Members present to please just open your questioning up towards clarification of the brief, and to keep the answers brief, Mr. Doyle. We would appreciate it. Thank you very much.

* * *

Mr. Doyle: I think the comments that I have to make about the amendments to the Unemployment Insurance Benefits Act at the federal level are more of a context that I would like to couch the comments that I have had to make about Bill 23 and put them in context. The revisions that have been made to the Unemployment Insurance Benefits Act at the federal level I think are a serious and a very profound erosion of the financial security of unemployed workers in Canada. For example, the amendments will mean that fewer people will have access to fewer benefits for a shorter period of time.

In addition to that, funds from the unemployment insurance benefits fund will be used for their retraining. It is not that I have anything against retraining; I think retraining is a positive and necessary thing, particularly in these challenging economic times, but I think the least well-placed people in Canada are the unemployed to pay for these things. I could go on at some length about the number of amendments that have been made to the Unemployment Insurance Benefits Act and the negative effect it is having on unemployed people from coast to coast and potentially for any working person in Canada at this time, not the least of which is the withdrawal of federal funding from the unemployment insurance fund.

However, it is against that framework of unfairness that I think this committee should be studying its amendments to Bill 23 with the aim in mind of doing as much as it can to make the situation facing people in the position of relying on funds from the unemployment insurance fund for financial security for a variety of reasons, to have the most progressive set of rules to deal with and have the fairest access to what is fast becoming a profoundly unfair structure.

BILL 12—THE LABOUR RELATIONS AMENDMENT ACT

Mr. Chairman: We will now move on to Bill 12. We will ask Mr. Mark Okopski. Mark Okopski, are you present? Mr. Sid Green. Would you have copies of your presentation, Mr. Green?

Mr. Sidney Green (Manitoba Progressive Party): No, Mr. Chairman, but from my experience, I believe that you will have copies in a day or two.

* (2030)

Mr. Green: May I say, Mr. Chairman, by way of observation, my name is Sidney Green. I am here on behalf of the Manitoba Progressive Party, and I believe that it is important that I state my Party affiliation at this time, because the address that I am going to make will be unique in that the only political Party in the Province of Manitoba that pursues actively the principles of free collective bargaining is the Manitoba Progressive Party.

Each of the other political Parties, the New Democrats, the Liberals and the Conservatives accept the fact that the state is in power to impose collective agreements, and they do this to the extent that they have to change the meaning of the word "agreement." Agreement as is understood by every child, probably from Grade 1 on, would be when two people agree with one another.

When the NDP passed legislation saying that the state will tell two people what to do in order to try to give some romantic aura to what they were doing, they said that when two people do not agree, that is an agreement. That has carried forward not only in the legislation which is sought to be repealed today but in many other sections of The Manitoba Labour Relations Act. There is only one political Party in the Province of Manitoba that is pursuing actively, enthusiastically and determinedly the principles of free collective bargaining.

The other observation I want to make, Mr. Chairman, other than the importance of the Party affiliation in terms of what I am saying, is that it became apparent to me that nothing much is happening here tonight. That became apparent when it became easy to park one's car, when we came into the room and there were relatively quiet and sparse attendance. I contrast that to the time when I was in the Legislature when we were dealing with the Manitoba Public Insurance Corporation, and I can tell you that the Chamber was full every night for six weeks steady—the Chamber. You could not park your car, and the Committee Room was always attended by a hundred people. Nothing much is happening here tonight, and I think that should be of significance to the people who are both proposing this legislation and the people who are opposed to it.

The other hint that I got was when one of your Members referred to an agreement among the Parties that there will be no votes taken. I have been around long enough that, when the Parties agree that there are no votes taken, Members will not have to be here, because nobody is going to be counted in the long run.

I make that observation, Mr. Chairman, because that will also be the substance of what I am saying, that nothing much is happening here tonight, not because I disagree with the fact that this piece of—and I say it advisedly—fascist legislation is being repealed, but what is being left in the Act by way of intrusions on free collective bargaining means that not much of a step is being taken by the Government in this connection.

Mr. Chairman, I use the term "fascist legislation," and that term, I come by it honestly. It was taught to me by trade unionists. They said that fascist legislation is when the state denies to the parties the right to take independent and free action, namely, the right to withdraw one's services or the right to say that they will not hire and says that the state can impose a collective agreement. When that was done in the Province of British Columbia, and is still being done, it is referred to by the Party in Opposition in British Columbia, namely the NDP, as fascist legislation.

When you people enacted final offer selection—when I say "you" people, I am talking about the royal you, namely the Legislature of the Province of Manitoba. At that time it was controlled in the majority by the NDP. They passed a piece of legislation which said that the state can take a position which, if it can be requested by the employer or the employees, if it was requested by either of those, a vote would be taken amongst the employees, and if the employees wanted it, then the right to strike would be taken away and the state would impose an agreement by permitting a selector to say whether the company's offer or the union's offer would be accepted.

I indicated, Mr. Chairman, at that time that the trade unions appeared to be accepting this fundamental infringement of free collective bargaining, which only proves that the trade unions are just as capable of taking away the rights and liberties of subjects, if they think it is to their benefit, as are employers, but in either case, whether imposed by the employers or done for the advantage of employers or done for the advantage of employees, it is fascist legislation.

I used that word—when was the legislation passed?—about six years ago or five years ago, seven years ago. Since then, Mr. Chairman, a judge

of the Court of Appeal of the Province of Manitoba has referred to similarly oriented legislation as fascist legislation. I note that a New Democrat wrote a letter to the newspaper and sent a letter to the judicial counsel complaining about a judge being involved in politics.

Now, Mr. Chairman, it is interesting, the same New Democrats, in spite of being warned that they were going to turn politics over to the judiciary, said that we have to have a Charter of Rights and Freedoms which can say to the Legislature, no, you cannot do this because it is fascist legislation, it interferes with the rights and liberties of free independent citizens. When a judge does not, the same New Democrats who said "We turned this over to you to do it," said, no, you cannot say it when we approve of the legislation, even though it is fascist.

I was totally opposed to turning over to an unelected judiciary the right to say that the Legislature does not make the laws in this country, but the New Democrats were all in favour of it. They said no matter what the Legislature says, we have judges who have a superior knowledge of what the rights and freedoms of individuals should be. We tell those judges that they can declare legislation to be contrary to the rights and freedoms of the individual, ergo, fascist. When a judge does it, he is reported to the Judicial Council.

Mr. Chairman, the judges are going to continue to do this, because they have not only the right but the responsibility of doing it, vested in them by the three political Parties that were united on the Charter of Rights and Freedoms which has reduced the rights and freedoms of every citizen in this society, but I will not go into that tonight.

* (2040)

First of all, I want to tell you where I am coming from when I speak of free collective bargaining. I was in the House last year when Jay Cowan decided that he was going to filibuster this Bill. I think that Members should have been a little wary about talking about no time limits when they saw the names on the list. I am not going to repeat what Mr. Cowan did, because I think that what I have to say can be said in a shorter period of time. The fact is, he said that those people who are opposed to final offer selection do not understand trade unionism. That was your problem. The people who are voting to repeal this Bill have some kind of ignorance in their head, and they do not understand what the situation is.

I am forced, Mr. Chairman, to just deal in a very short way with my understanding. I was, for many years, a lawyer for many of the large trade unions who always taught me that what I am to pursue is free collective bargaining. The Manitoba Federation of Labour appointed me to teach free collective bargaining at the University of Manitoba to the people who were becoming business agents of the various unions in the Province of Manitoba. What I was teaching then, I am going to be talking about tonight. The MFL knew it, because they wanted me to do it.

I was the lawyer for the Manitoba Federation of Labour for many years. I was the Labour Critic for the New Democratic Party. I was on the committee which drafted The Labour Relations Act which provided for more free collective bargaining and took away many of the restrictions on free collective bargaining that existed before we came in. I had the good fortune to be associated with people like Bob Russell, Jimmy James, other trade unionists whose names are legendary in this province. I have read the speeches of Fred Dixon who defended himself on the principle of free collective bargaining. I sat in this room when Art Coulter came and spoke against the wage and price controls on the principle that they offended against the principle of free collective bargaining.

Right up until 1973, the entire thrust of the trade union movement was in favour of free collective bargaining and removing any restrictions on free collective bargaining. In '73 they said to themselves why should we be willing to deal simply with freedom? We have a Government that is supposed to be our friend. We should ignore this freedom business and get them to pass laws that will help us defeat our employers when we are in trouble, and they pursued that position for three years.

They never got those laws but they got some promises. They got promises from Howard Pawley and Muriel Smith and Jay Cowan that if you get off this free collective bargaining pitch we will enact legislation which prohibits an employer from hiring people during the existence of a lawful strike, which I said could never happen, would never be, and was totally contrary to the principles of free collective bargaining.

They decided to go with those people. They were in power for seven years, and they never enacted the legislation that they promised the trade union movement. They betrayed them. They said that they would do it, but did not do it. That was a big issue. They did do worse, Mr. Chairman. First of all they enacted legislation which talked about first agreement. First agreement means that there is no agreement, but in order to put a champagne label on a bottle of poison they had to put on champagne when there was poison inside, so they said first agreement, that is when we the state imposes, but we will call it an agreement.

Then the trade unions were not happy with the first agreement, so they said we will give you an agreement in perpetuity, and you will never have to go on strike. You will never have to worry because it can only be done if the employees agree, and if they do agree we will appoint a selector. If the Government who is our friend is appointing a selector, we have a pretty good idea that the selection is going to be in our favour. I read in the newspapers that this system of final offer selection is nothing new. It is done, I think they said, by the baseball leagues in the United States.

Mr. Chairman, talk about ignorance. Is there legislation in the United States which says that the baseball leagues will go to final offer selection? Is there anything in the Province of Manitoba, taking this section out of the Act, which says that an employer and an employee cannot choose by free collective bargaining to go to final offer selection? The NDPers, they believe that if something is a good thing it should be legislated, that it is good whether you like it or not. There is no final offer selection legislation except in the Province of Manitoba, and the fact that people do it, the fact that people choose to say that they are going to do it, is something that could be done in the Province of Manitoba without the legislation and always could be done.

What has happened, Mr. Chairman, with The Labour Relations Act in this province is that it ceases to deal with employees and now deals with the organized trade union movement. It is designed not to help employees, but to help business agents. I can show you the difference in terminology that occurred over the last 30 years with my limited understanding of the subject. In 1955, the common statement amongst trade unionists, and it was given as a rhetoric, as a rote, as an axiom: If you have the strength, if you have the members, if you have the employees, if they are on your side, you do not need a certificate. If you do not have the members, if you do not have the strength, then a certificate will not do you any good. The reason for that was that if you had the workers who were supporting you, and you walked into the employer and he refused to recognize you, nothing happened, because the employees were on your side and they would not work until there was an agreement.

If you had a certificate but there were no employees supporting you, then you could not get an agreement if hell froze over, because the employer would say you had no strength and you will not be able to do anything. That was the phrase. If you have the strength, you do not need the certificate; if you have not the strength, the certificate will not do you any good. What is the phrase today? The phrase today is the wishes of the employees are irrelevant. Now, Mr. Chairman, I put that to you, not hypothetically, I put that to you in at least three instances, and there are many more.

There was a plant in the Interlake where 12 employees out of 12 said they did not want the union at the time that the application came to the board. The union argued, well you do not take that time; you take the time that they made the application. The employees said but we do not want this union, and the lawyer for the employees said "The wishes of the employees are irrelevant."

* (2050)

In the last two weeks there were 17 out of 18 employees of a plant who say that they do not want the union. The union says regardless of that the company must continue to negotiate with us, that we can get final offer selection, that one employee can vote as against the other 19 and impose an agreement which deducts union dues from all of those employees, and the wishes of those 18 people are irrelevant. That is made possible by your final offer selection legislation. It is not the union has taken a position that they can sign an agreement with this employer regardless of the wishes of the employees. The Act says that when an agreement is taken to be ratified it is only the members of the union who vote, and none of these people are members of the union, so it can be passed by one member.

What has happened, Mr. Chairman. The reason that I am here tonight is not because I am in favour of simply repealing this final offer selection

legislation. I say that is of very little consequence. It means little, and the real attack that has to be made is on the free collective bargaining process itself, because the final offer selection legislation can make itself very acceptable to legislators by a simple amendment. You know, one would expect the Liberals to come through with that kind of amendment, because they have no principles at all. If they can just get something that will sound right, they would be willing to pass it, so you are likely to get an amendment from the Liberals saying that you will leave final offer selection like it says—Mr. Ashton says it stops strikes—but merely give it that either side can impose it.

I see Members nodding their heads, and that will have a good ring to it. Even the Tories will buy that. As a matter of fact, Mr. Chairman, when I appeared before committee when this was going through, I said this kind of legislation falls right into the hands of the employers. Now it is a small step to go from where we are, from final offer selection which the employees have a veto power over, to final offer selection which is mandatory. If the employees can ask for final offer selection, why cannot the employer? If the employer can go for it, then is it not fascist legislation?

Fascism is fascism whether it is exercised by the one group or by the other group. I tell you, Mr. Chairman, that this kind of an amendment suits the Liberals perfectly. We will say that we want to be fair and that the legislation is really good, it stops strikes. I have read in some note that a hundred applications have been made. Think of it, employees who are seeking to improve their terms and conditions of employment, who think they know what they need, have a hundred times said, we are willing to risk getting the company's last offer.

That is a positive development in this society? A hundred groups of employees have said we will throw ourselves in the hands of a selector who can give us the company's last offer, and if he gives it, we have to take it whether it feeds us or not, and we cannot go on strike if that is what he does.

Somebody here considers that to be progress in industrial relations in this province. Now I will tell you why they have done it. They have not been trained in responsible bargaining; their business agents see this as the easy way out. No responsibility will have to be taken by the union for what they ultimately get, because they have argued it before a selector, and he has made the award.

That is why they have done it. If somebody says that that is an enviable reputation of labour relations in the Province of Manitoba, Mr. Chairman, then industrial relations in this province have gone beyond the point of no return, because free collective bargaining involves responsibility. Where you have freedom, you know that if you exercise that freedom you will have to accept the responsibility for exercising it.

If you look at the pamphlet that I gave you, which I think is just as valid today as when it was written, what that means is that if an employer decides as a matter of freedom that he is not going to behave reasonably, he can be shut down, and the public will support those people who want to shut him down if he is behaving unreasonably, or a union, if they are behaving unreasonably, their employees are going to suffer.

Therefore, each side in a situation where freedom is the governing feature must, with that freedom, exercise a concurrent responsibility. If nobody is responsible at the end, if you say we can walk out, carry signs for a couple of weeks and get strike pay, and after that we can say strike is over, in a period of 10 days, and now we are going to have a selector tell us what we are entitled to, then that is the kind of labour relations that you will have.

It does not mean that you have the best climate of labour relations in the country, except insofar as in the South that the slave owners could say that we have the best climate of industrial peace in the world, because these people continue to work for us and they get nothing and we look after them and we are nice to them.

A strike does not necessarily mean people walk on a picket line. If you have final offer selection and the company's offer is chosen, does my friend really believe he stops a strike? Does he really believe that the workers will continue to work at a wage which they think is not acceptable? They just will not picket and walk around the plant; they will go someplace else.

Do you think an employer who is required to pay a wage that he cannot pay will not have a lockout because a selector told him not to lock out? He will lock out. He will gradually wind down his business and go away, or he will not come here in the first place. That is wonderful industrial relations by the new standard of the NDP.

Mr. Chairman, the reason that I am here is for the same reason that I came last time. The more you encroach on the freedom of the employees and on the employers, the more you encroach on everybody's freedom. Eternal vigilance is the price of liberty, and you cannot be a little bit pregnant, the more you trod this path, the more you will trod this path, but you have trodden it too far right now.

It is not so that this was necessary for the development of the trade union movement in the Province of Manitoba. The trade union movement in the Province of Manitoba to the greatest extent, 85 percent—and let us forget the Government, that was not any kind of trade union organization; that was a statute which says, you are all in a union—but at least 80 percent of the workers who are organized in this province were not organized through any Labour Relations Act.

Do my friends think that trade unionism started with The Labour Relations Act? It was inhibited by The Labour Relations Act. There were trade unions in this province and collective agreements long before any Labour Relations Act came in. It is Acts of this kind which have hurt employee strength, not helped it, and that is why, Mr. Chairman, there is nobody here tonight. You will not see any employees here; you will see a few representatives of unions, because the employees here do not feel that they are being hurt by this legislation, nor did they feel that they were being helped by the first contract legislation. I can prove it.

* (2100)

You have two Liberals over there who are shaking in their pants that if they do not go for the unions, they are going to lose their seats in the north end of Winnipeg. The Party gave them—yes, there are two of them of over there, the Members, Mr. Lamoureux and Mr. Cheema. Oh, you can laugh this year. You did not laugh three years ago. Eighty percent of the employees voted against the Party that wanted this legislation.

Think of it politically. In the last election, the NDP got 22 percent of the vote. They lost in their good seats. That was immediately after the NDP came and gave them the wonderful final offer selection, and they lost. They retained very few seats in the working ridings in the north end, and in Flin Flon and in Thompson no union is going to ask for final offer selection. The United Steelworkers of America is not going to say we are going to accept a company's last offer if a selector tells us to do so, nor are the unions in Flin Flon going to do that.

I know that my friend who says that this is a wonderful way to keep the employees down, and we have found the secret—Okay, but let us accept it.

It is fascist legislation, and the judge has correctly described it. That is my position. I told you I would not do what Mr. Cowan did.

Mr. Ashton: I understand the reasons that you were unable earlier this year to be able to make presentation to the committee.

Mr. Green: Last year I was I think in Australia at the time.

Mr. Ashton: I understand you were on the list, but you were unable to make a presentation when it was dealt with—or a similar Bill was dealt with previously. I am just wondering if you are aware that there were a considerable number of presenters that came before -(interjection)- 75 presenters to the committee.

Mr. Green: I am aware, Mr. Chairman, that last year there was a position in the Legislature where anything could happen at any time because there was a minority. The Members of the Opposition had a larger number of Members than the Members of the Government, and this Bill became a fighting issue. Therefore at that time it meant something. I wonder whether my friend says that the situation is the same today, because if he does, he cannot count.

Mr. Ashton: The reason I am asking that is because you have suggested that somehow people are not concerned about the issue. Of course, last time there was considerably more notice. I do not know if you are aware, but the notice in terms of this going to committee has really been about 24 hours because of recent developments in the House. In other words, you accept that last year there was a considerable amount of interest, given the possibility of changes. I say that, having heard the comments of the Minister today who said in debate that to his mind the issue was basically already resolved. He said that people had spoken, using obviously election results—the majority the Conservatives received, certainly in terms of seats—and had suggested, of course, that perhaps the functioning of the committee would not be effective.

Mr. Chairman: Order, please. Mr. Ashton, if you have a direct question you would like to ask of Mr. Green, or are we going into a debate?

Mr. Ashton: I am asking a question; I am giving a preamble to the question. This is not Question Period; we do not have one-sentence preambles and questions in committee. I would just appreciate a bit of latitude. I am just trying to deal with a point that was raised by the presenter, and I know he is an experienced former Member of the Legislature, knows the processes. I just did not want to develop the question without giving ample background in terms of what has happened. I think that is legitimate.

I am asking the presenter if he is not aware of the considerable amount of interest that was shown. He talks about this being a matter of concern only to business agents, but by many shop floor workers who came before this House, by many people, for example, who had been through the Supervalu strike, Safeway employees, shop floor workers who came before this committee. Many who had never made a presentation, never spoken publicly in their life, said that this type of legislation was an option. I am just wondering if you are aware of that from the last Session.

Mr. Green: I am aware of what took place last year, and I say that last year there was an attempt by the NDP to marshal all its forces and by the unions to marshal all their forces to deal with this legislation, because there was a minority Government in the House. They wanted this to be their issue, they hoped that they could make a big thing out of it, and they attracted people.

I can tell you, Mr. Ashton, that when we were dealing with the public automobile insurance, not a single one of us had to go and get people to come. They were in the halls for six weeks steady. I am telling you that last year Mr. Cowan got up and said he was going to speak for two days, he did speak for two days, the unions said they were going to organize their people to come here, and they came here.

Tonight, nothing is happening. The reason nothing is happening—and you know, maybe I will inspire something to happen tomorrow, because I have not met a single working man, and I meet them all the time, who is concerned with final offer selection. I have met trade union organizers who are concerned with final offer selection.

I do say to you that the real test was what happened in the election immediately following the enactment of final offer selection. Those benefactors who brought it in got whipped in their best ridings.

Mr. Ashton: Well, I am interested in that comment. I could pursue it, but I suspect that it had probably more to do with Autopac rate increases than it did with other issues, and I think even you would concede that.

I wanted to deal with your suggestion that somehow people were organized to come into this committee by myself or other Members of the New Democratic Party. I can indicate that I did not phone people. I can indicate the people who came forward, many of them were shop floor workers, and they were concerned. People had been through the Supervalu strike and the Safeway strike. I would like to ask you directly, are you suggesting to them that they are somehow supporting fascist legislation?

Mr. Green: Yes, they are. Absolutely. I absolutely say that the trade—do you think that trade union fascism is a mystery? It absolutely exists, and they are supporting it. They are supporting it, because it makes it easier for them.

Mr. Ashton: In other words, you are suggesting that the shop floor workers who came out of their own experience are motivated by support for what you call fascist legislation.

Mr. Green: Mr. Chairman, I did not talk about a shop worker. I do not know the identity of every person who was here last year. I was here when Mr. Cowan said that they are going to bring a whole bunch of people to these meetings. You are not going to get out of here. You are not going to be able to get out of the Legislature. We are going to line up, and we are going to keep you there for—after you hear me speak for this length of time, we are going to have a whole bunch of people come in.

Yes, I am suggesting that there was an organized attempt. I cannot say that every individual who came was that way, but yes, there was an organized attempt to make this an NDP issue to try to improve their electoral position which suffered very badly after the last election. Yes.

The individual who came, you know, I am not saying that every person who came was inspiring fascism, but I am saying that the organized attempt to maintain this legislation is an attempt to have fascist legislation, yes. Mr. Justice O'Sullivan said

the same thing except not with respect to this legislation.

At least we have other people who are knowledgeable in the field who use the term equally to myself.

Mr. Ashton: Well, as I indicated, there were many people, and I realize that you were not able to be here and perhaps were not aware that there was rather limited notice this time, but I can assure you that there were many people who came before this committee. I talked to them after in terms of their presentation who indicated that it was the first time they had ever made a presentation in public, shop floor workers who have their view—I understand your views. I have been in committees over the last number of years, and I must give you credit in one sense. You do not change in terms of your views. I respect that, but I would hope that you would also respect the views of others. I think they would be rather offended by the suggestion that they are supporting fascist legislation. You know, as I have said, we could debate this further, and I would probably in an academic or intellectual sense enjoy the debate, but I did feel rather offended for those people who came before this committee.

* (2110)

Mr. Green: Mr. Chairman, let me make it quite clear to my sensitive friend who is not sensitive for himself but sensitive for others who he feels might be offended, that some people support fascism and do not know that it is fascism. There was 90 percent of the people in Germany who supported Hitler. They were not fascists, but they got caught up in supporting that type of thing. The fact is that people can get caught up in supporting things, which does not make them fascist, but it is fascist legislation.

Mr. Ashton: Well, I could continue this -(interjection)- No, the analogies to Hitler in Nazi Germany do concern me, and I just want to indicate that I am coming from a situation—yes, I am from Thompson and a former steelworker. I have been through a number of strikes. Many of the people who came before this committee have been through a number of strikes, and they spoke from that perspective. They spoke really from the heart, not from any particular perspective.

I appreciate the clarification. I do know they would feel rather offended by the suggestion that their emotions are fascist in terms of the type of legislation they support. I appreciate that it is probably more the debating position of the presenter, the kind of presentation that we have had today. I appreciate the reassurance that he is not suggesting they are being fascist, but I can indicate I was rather put aback by the comment, not in terms of myself. I know the presenter has been in politics in the past. He is aware that there is the give and take of politics, but many of the people who came before this committee, believe you me, were very concerned from the heart about the situation and put forward their views.

Mr. Green: Mr. Chairman, I have absolutely no doubt that people of good will came and supported this legislation. That does not mean that it is not fascist legislation. You know, I have been called certain names as a result of what people say my views are, and I have to accept that is what their view of my view is. My view of the people who support this legislation is that they are supporting fascist legislation, including you, sir.

Mr. Kevin Lamoureux (Inkster): Mr. Green, I must say that it has been somewhat enlightening to hear your presentation, and maybe even a bit refreshing from a former New Democrat making a presentation in the fashion in which you have put it, but it did strike to mind a couple of questions that I would like to ask. The New Democrats have said on the record on numerous occasions that final offer selection prevents strikes from occurring. I would ask for your opinion on that.

Mr. Green: First of all, I have to say that there are means of preventing strikes from occurring. If that is the objective, then I am able to provide the NDP or the Liberals or the Conservatives with suggested legislation for preventing strikes. I did not know that was the purpose of the legislation. I thought the purpose of industrial relations legislation is to provide for a fair system of determining what the terms and conditions of employment of employees will be. There is no substitute for free collective bargaining.

You can prevent strikes by doing what was done prior to 1969. The Labour Relations Act provided a means of what they called compulsory conciliation, and that did prevent strikes. It also prevented unionists from getting their rights. It also prevented employees from having a fair means of obtaining good terms and conditions of employment, but the only strikes that you can statistically show that it prevents are those which end up with a closure and

pickets and somebody saying that the legal strike is in existence.

Strikes do not take place in accordance with laws. Strikes take place in accordance with whether or not the marriage can continue. You have an employer and you have employees. You can impose whatever conditions you want. If the employees do not like them, they might not strike, but they will not stay there. The employer does not like them, he might not lock out, but he will wind down. Those things are not measured in the statistics of preventing strikes, and whether a person comes here is not mentioned in the statistics of preventing strikes.

You know, the NDP people, they are very facile. Mr. Doer says that he will not be interviewed by a CKY reporter, because that reporter is on strike or that reporter is a strike breaker working against the system, but when the engineers, which was a union, were on strike, Mr. Doer was the president of the Manitoba Government Employees' Association, no suggestion that his employees not walk through the engineers' picket line, no suggestion that Mr. Schroeder, Mr. Pawley, the others not walk through an engineers' picket line, and I respect that.

You cannot say that I am not going to at any time deal with what I have to deal with because somebody is protesting. It is the greatest hypocrisy to suggest that the NDP will never cross a workers' picket line. It will depend on what it is all about.

Mr. Lamoureux: Another thing that I found somewhat interested me is you mentioned on numerous occasions that the NDP, at least from what you can see, have imputed motives on behalf of the New Democratic Party. You made reference to a commitment made by Howard Pawley to try and appease the labour movement in regard to not hiring replacement workers, and how they could have possibly been appeased with final offer selection. I did not quite catch the tie-in that you were making with that. The suggestion, at least that I picked up from you, was that final offer selection came in as a direct result of the labour movement pressure on the New Democratic Party.

Mr. Green: There is absolutely no doubt about that. I mean is somebody going to deny that? By the way, I think they have a right to pressure the Party. When I was a Minister they pressured me, and they have a perfect right to do that as anybody else in society has a right to pressure me. When I yield to the pressure and when I do not is a question, but they pressured me for three years that I am to pass legislation that says that when your mother is in the hospital and the nurses go on strike, the hospital cannot hire another nurse. I said you can tie my arms and legs to horses, send them off in different directions, and I will not pass such legislation. They have a right to pressure me, and this group yielded to that pressure.

The trade union movement was promised that there would be legislation that said that when there was a strike, the employer was prohibited from hiring people. They were not promised it? I was there when the promises were made. I heard them made. I heard them made directly. They were promised that. Mr. Ashton is shaking his head. I was in the room when the promises were made. I was there when they tried to extract a similar promise from me and would not get it.

Then, when the NDP came to power and they saw that this is absolutely unacceptable, they started to make concessions which are as bad, the first contract legislation and the final offer selection. Do you not recall, if those who are here when final offer selection was passed, that one union, I believe it was the city union, CUPE, the Canadian Union of Public Employees—came and said we do not want this, we want what we were promised, the anti-strike legislation?

If Mr. Lamoureux feels that citizens cannot pressure him as an MLA, then I think he has another think coming. They have every right to make whatever pressure they want to.

* (2120)

Mr. Cheema: Mr. Green, your presentation has been very enlightening for me in terms of your knowledge of the subject. I just want to ask you your opinion on something that the NDP has used in the last Session and in terms of also the campaign.

The Liberal Party has been asking for binding arbitration for doctors and refusing to have final offer selection. Can you tell me and maybe give some lecture to the Members for the NDP, the basic difference between binding arbitration and final offer selection?

Mr. Green: I think if the NDP were true to their position, they would have said that they would be willing to have final offer selection for the doctors. The Liberals said that they were prepared to have binding arbitration. I say that they are both wrong, that no Government should permit itself to go to

arbitration on what its employees will get, and yet today I suppose the Government and the union can go to final offer selection. I suppose it is binding on them.

You see, I am different. Mr. Ashton says the employees are willing to put it into the hands of an arbitrator, that the arbitrator will say that they will get the company's last offer. If I was a Government, I would not be willing to put into the hand of an arbitrator, a selector, that I will have to accept the union's last demand.

I wish to negotiate to the end. Negotiations to the end means negotiations until we arrive at an agreement, which is the general situation where you have free collective bargaining without legislation, or it is just like if there was a person trying to sell me shirt and he says that I am to pay $10 and I say that I only want to pay $8.00. Nobody should be required to force me to pay $10—nobody. I just walk away and do not buy the shirt.

If enough people walk away and say we will not work, and if they are right and their position is sound, then the employer will not be able to get other people and his business will be seriously affected because the public will respond to him. That is what a strike was.

By the way, what I am saying is not the position of a strike. That is the position that I was congratulated for and elevated for when I was a New Democrat. That was the position of the New Democratic Party. If you take that position today, you are not anti-New Democrat; all you are is New Democrat from 20 years ago, because that is the position that they took, the same position.

Mr. Cheema: Mr. Green, I would like to know your views about the amendment we proposed in the last Session. Several presentations were made. Most of them were very good and from their point of view. If we have such a good legislation, which everyone from the New Democratic Party is saying is best, and the MFL is saying best, why not just study the result of that? I have never heard of an experiment in any field that you do experiment for two years and do not study the result. That is beyond my imagination for me, from a common-sense point of view. I would like to know your views on that.

Mr. Green: Mr. Cheema, you are not going to get any endorsement from me for the Liberal position. The Liberal position is no position at all. The question of free collective bargaining and its benefits or deterrents does not have to be studied; it has gone on since the beginning of man. There has always been somebody who said we have to figure out a way of keeping these working men working even though they are not satisfied with their pay. If it is arbitration or if it is this or it is the other thing, the thought that this would come from the NDP was the last thought in my mind. They have accomplished what, if anybody else sought to accomplish, they would take to the streets. They did it by putting in something so audacious that nobody would have believed that anyone would have the nerve or the chutzpa to do it. They said, oh yes, do not worry, we are going to do this, but it is not going to hurt you, because you are going to have a veto, and we are not going to give it to the employer.

Nobody has ever suggested such one-sided legislation, and they think it is one-sided. I will tell you something; it is not one-sided, because there is no such thing as being a little bit pregnant. The person who proposes an amendment—if the Tories proposed an amendment today, which I suggested to them they would do, and if they do not, they deserve more credit than I give them. If the Tories brought in a Bill saying that it would be available to the employer and available to the unions, there would be screams from my friend over here. Nobody would go with them, because they would say well, of course, if the union can ask for it, why can the employer not ask for it? If it is such a good thing, then why should they object to doing it when the employer asks for it?

If final offer selection is good, if it stops strikes, if it is a wonderful system, then why can the employer not ask for it? Why can the employer not say, just as the union says, we want final offer selection, now both sides have to—strike is cancelled, no strikes, no lockouts, each side can have it and we are going to accept the decision of the selector? Do you know why? Governments of whatever stripe become entrenched, and ultimately the selector is going to select in favour of maintaining economic activity, and it will be for the employer. This is brought about by the unions, because they had a friendly Government in power. It is shortsighted.

Mr. Cheema: Mr. Green, I will repeat my question again. You have said repeatedly in your presentation that this legislation is not good for both sides, that it is not the right way of doing it. You have your own views about that issue, but at the same time you have made it very clear that if this is the

best thing, if, for example—even a hypothetical example—with the two, almost three years of enforcement, almost 90 percent of the settlement has gone through the FOS. Now we have the right opportunity to study it, and in your views, why not study it? To me, it does not make any sense. You have a major experiment, and if there are flaws, and if there are problems that can be solved, why not study such an important thing?

Mr. Green: I just have to tell you that I have studied it, that I have spent 25 years studying industrial relations. Final offer selection was not a new thing except that when I studied it, every time it was selected, it was either done by both sides, in other words, by free collective bargaining—in which case I have absolutely no objection to it, because people say well, we both agreed to this and we are prepared to do it. It is supposed to make sure that the offer is a reasonable one, because if it is way out, the selector will not have a chance of picking it up.

Trade union relations are not like that. It is not as if offers can be condensed into two statements where one side is so clear and the other side is not so clear. They can be very complicated. You might want to take a little of both, and you cannot. If both sides say we are in a situation where we want to do it, that is fine, and of course, that is available. The people who lead you to believe that is not available without this legislation are deceiving you. That is available in the Province of Manitoba, always has been available in the Province of Manitoba, and somebody saying that you cannot do it without this legislation, they just do not understand.

* (2130)

I will use Mr. Cowan's words: they do not have any understanding. It has been suggested that it be legislated so that it stops strikes, but that means that it has to be done by both parties, because the employees can continue a strike as long as they want to. If the employees have the strength and they can bring the company to its knees, they are not going to ask for final offer selection. At that point they say it is not a good idea. That is why the United Steelworkers in Thompson has never asked for final offer selection, and they will not unless they run into very tough times and they are beggars. They have not been up until now.

The people who want final offer selection are those people who are not able to engage in meaningful collective bargaining, and therefore if they do call a strike and flex their muscles, they know that after a certain number of days they can say strike is over.

Do you know what a strike meant? A strike meant that the employees said we are not going to work, and we think we are so right that if we do not work we will picket the company's plant. That does not mean we stop people from going in. It means we are asking the public not to go there, we are asking people not to work for them, and we think our position is so strong that we will win. If we do not win, we are going to have to look for other jobs.

Under the legislation we have in the Province of Manitoba now, they say that after a certain number of days—just listen to this—they can say strike is over, and people who have been vulgar, commenting, saying that they are going to do terrible things, doing everything they can to destroy the business, walk through the door and say everybody who has helped this employer while you people have been running them down, they are all fired, and we who have been calling him a son of a bitch, we all go back to work.

That has never been the case except by this new legi—no trade unionists ever thought that was possible, but they asked the Government, they pressured them, they got it. But that was never the position of a strike. I do not think—and I am not sure now—I do not know whether federally the CKY people can do that. Mr. Cerilli would know, but I do not think so.

Mr. Daryl Reid (Transcona): I find that the comments are very interesting here tonight, although I would not be willing to go so far as to say that the comments were enlightening, as my two fellow other committee members here have indicated. I have a couple of questions I would like to ask this presenter. I would like to have his definition of free collective bargaining based on the statements he has made that FOS process is a piece of fascist legislation. I would like for him to define for me "free collective bargaining."

Mr. Green: Free collective bargaining is defined in that booklet, but I will give it to you clearly. First of all, "collective" means that it is not one person, that the employees can get together and bargain as a group, which was ostensibly denied to them by law and by employer refusing to bargain with the group. He says I will talk to my employees singly, so collective means that they could do it together, that

they could seek solidarity. There were no laws that gave them solidarity. The solidarity came from each of them agreeing with the others, and those that did not agree were scabs, and that was free too. They could go back to work if they wanted to, there was no law that they could not.

"Free" meant that there were no restrictions on their right to bargain and that they could do everything lawful to pursue their position. They could not stop other people from working, they could not throw stones through the boss's window. On the side of the employer, free collective bargaining meant that he had a right to conclude an agreement or not to conclude an agreement, and that if he could hold out and gain support because he felt that the demands were unreasonable, he was free to do everything lawful to try to continue his business.

That is the definition of free collective bargaining—not my definition—the definition that was advanced to me by everybody in the trade union movement.

Mr. Reid: I would like to ask the presenter whether or not he agrees with that definition of free collective bargaining.

Mr. Green: Yes, I agree with it. I have given it to you. I am sorry it has not enlightened you in any way, but some people cannot be enlightened.

Mr. Reid: I know this presenter has been away from this building for some time, but I would like to remind him too that in some of the comments that were made that gender-neutral discussions and comments should be put on the record, and that is just to bring him up to date on some of the events—

Mr. Green: Mr. Chairman, I am free to speak as I wish.

Mr. Reid: I am just bringing him up to date with some of the changes that have taken place.

Mr. Green: You want to backdate me.

Mr. Chairman: Order, please. Mr. Green, we are not debating here.

Mr. Green: I believe it is a Chairman. I never regarded the Chairman as being male.

Mr. Reid: Thank you, Mr. Chair. With the definition that has been put on the record here on free collective bargaining by this presenter, I would like to know the presenter's thoughts on the processes that are in place other than FOS, namely conciliation, mediation and arbitration, how they affect the negotiations that take place, and what bearings they have on the free collective bargaining process.

Mr. Green: That voluntary conciliation, which is what we established in 1966, I have absolutely no objection to it. It does not have to be legislated, but even if it is legislated, conciliation means that you take a good officer, you get the parties in a room and you try to convince them through moral suasion and through any other means that you have of convincing, as Lord Taylor did with the doctors in Saskatchewan and the Saskatchewan Government, "Gentlemen, come to an agreement." That is conciliation. That does not interfere with anything that I have said.

Arbitration as we know it, sir, is usually dealing with disputes that arise during a collective agreement after an agreement is there. I have no objection to the parties arbitrating in a dispute that takes place during an existing collective agreement. That does not detract very much from the position of free collective bargaining, but you should be happy to know that in the States the parties are not bound by the arbitrator's award in many cases. They have to want to live with it, but it is still free collective bargaining even if you have in your agreement that we will arbitrate. The statement that it has to be in an agreement is a departure. It is not a departure during the negotiation procedure, but after an agreement is entered into, you arbitrate disputes. That is not an issue, although if one wanted to make an issue of it, it would probably work just as well if it was not there.

We had arbitration before the PC 1003 and The Labour Relations Act, and you could enforce your position in arbitration the same way as you could enforce your position in negotiations. You could say we will not live with this award, which by the way is not such a bad thing. If the arbitrator awarded something which an employee could not live with, I would defend the right of that employee to say no, we are not going to do this. It does not happen, but I would certainly defend it, or vice versa.

Mr. Reid: Mr. Chairman, this presenter has given us his impressions on the three processes that I asked about—

Mr. Green: Mediation you did not ask me about. I did not mention mediation.

* (2140)

Mr. Reid: Mr. Chairman, this presenter has given us his impressions on at least two of the areas that I asked questions on.

The binding arbitration process which is in the current system without the FOS, of course, imposes settlements on parties and can have a very negative impact. By that, I mean there can be winners and losers, and there usually are winners or losers. I would like to have the presenter's thoughts on binding arbitration.

Mr. Green: Maybe the Member could be somewhat enlightened. There is a difference between negotiating a collective agreement, an imposed agreement and an arbitration of a dispute which arises during the currency of a collective agreement. Arbitration, except what they call interest arbitration, which is a dangerous thing—interest arbitration is what the firefighters have; it is what the policemen have. They arbitrate agreements and that is a definite interference with free collective bargaining.

The arbitration of disputes during the existence of a collective agreement is not part of the bargaining process; it is part of the administration of the collective agreement. Even there, it is not necessary that it be binding, but binding arbitration I will accept as not being an interference with the free collective bargaining towards reaching terms and conditions of employment. We are merely then trying to define what the terms and conditions of employment that have been arrived at mean, and those are arbitrated.

Mr. Reid: Mr. Chairman, then the presenter, I would assume, must agree that the state does have a role in helping to solve contract disputes.

Mr. Green: Mr. Chairman, I do not agree. We had arbitration before the state was involved. The solving of contract disputes after a contract is arrived at is the same thing as two people who are commercially involved in a contract going to court to have that dispute decided. To decide an existing dispute on an existing contract is different from free collective bargaining, and everybody recognizes it as being different.

There is still in the States—and I sympathize with it because it happens to be my tendency to say that where the arbitration is unacceptable, the parties could be left to their resources. As a matter of fact, that happens. Even though you get an arbitration's award, ultimately they have to live together. I am willing to accept the arbitration of a dispute during the existence of a collective agreement after the agreement is arrived at as not being an interference of the same nature in any way with the arbitration of a dispute during the collective agreement. That is not part of the bargaining process; that is the administration of an agreement that has been arrived at.

Mr. Reid: Mr. Chairman, I will not belabour the point much longer. There seems to be some dispute in the facts here. There were statements that were made in support of binding arbitration, but the FOS process would not be a suitable alternative. Nevertheless, there was another question I wish to ask the presenter. He made a comment and stated that workers who ask for FOS are not able to engage in meaningful collective bargaining. I would like to know and maybe have him elaborate a bit further on that statement.

Mr. Green: I never said workers. I said the business agents and trade union organizers, that they are the ones, that they -(interjection)- Pardon me?

Floor Comment: Workers' representatives.

Mr. Green: Yes, just the same way as I represent my clients. It used to be that the business agent was on the floor with the men and worked, did the same thing as them. Then they hired a business agent who could not get paid more than them. Now it is business unionism, and they are representatives of the workers, the same way as I represent my clients. I am a business representative, but there is a distinction between the worker and the business agent. If you do not see it, it is possible that you have to be enlightened, or I have to be enlightened, but there is a difference. The fact is that I said that the business agents who did not trust their own capacity to engage in meaningful collective bargaining or who did badly—Bernie Christophe came to this Legislature to pressure the Legislature to get him out of a bad strike, because he could not bargain his way out of it, and that is how final offer selection materialized.

Mr. Chairman: Before we move on to the next presenter, would the committee wish to take five minutes to stretch? Recess of five minutes. Mr. Cerilli will be next.

* * *

The committee took recess at 9:45 p.m.

After Recess

The committee resumed at 9:55 p.m.

Mr. Chairman: Order, please. Mr. Cerilli. Did you have a copy of your presentation, Mr. Cerilli?

Mr. Albert Cerilli (Canadian Brotherhood of Railway, Transport and General Workers): Yes, Mr. Chairperson, I would like to have these circulated. It is my presentation of March 1, 1989 on Bill 31, as well as another document dealing with the National Transportation Act. We will be able to deal with the connection of those two in a minute.

Mr. Chairperson: Thank you, Mr. Cerilli.

Mr. Cerilli: We are particularly interested in Bill 12, because certainly, in our view, it moves us back a step rather than advance us towards the realities of the 21st Century in labour relations.

For the record, we do not believe in the law of the jungle. We believe in the facts of life as we perceive them in this new global environment, particularly when we see the European countries moving towards amalgamation in regard to not only their economic future and stability, but the 12 countries are also moving to stabilize their labour laws not only for the basis of minimum laws of wages and hours of work but certainly in the labour relations field. They are not going to be playing a stacked deck, if you like, of one country versus another in an economic community of countries. I think that separates us from the previous presenter.

We want to talk about the new era towards the 21st Century and beyond, particularly in the new framework of the level playing field in the labour relations for this country, our province. Maybe it is time that some leadership in regard to that is shown by not repealing this piece of legislation, and I will tell you the reasons why.

For the record, and I will not bore you with rereading the matter, but I would like it recorded as such, as circulated here, our presentation from our union on March 1, 1990 in regard to the Bill that was then introduced as No. 31, Labour Relation Amendment Act, to repeal that piece of legislation that is before us now.

If that is agreeable, I will not read all of it except for one section starting on page 268. I will take you down to the last two paragraphs on the bottom of the page, right-hand side: "The business community was influenced by the deregulation phenomenon and strongly supported the Governments to deregulate. The area most common, the transportation industry, was to accommodate manufacturers and shippers. In this regard, the same dispute resolution as final offer selection was introduced in the transportation legislation through the National Transportation Act of Canada."

I have circulated that particular section to this committee as the other piece of document that was handed out.

"The new National Transportation Act provides for a new framework for conflict management. Final offer selection, by the way, Mr. Chairperson, is no different. The objective is the federal Government's commitment to have competitive, efficient and viable transportation services in Canada. All levels of Government acknowledge that the transportation sector is a key element in Canada's economic growth. Therefore they sought the mechanism that would provide shippers and transport companies the opportunity to resolve their tariff disputes through mediation and final offer solution."

In this regard, Mr. Chairperson and Members of the committee, I want to be able to share with you my recent experience in travelling to Saskatoon as a result of our involvement in the transportation field, and how this mechanism works. The application went before the National Transportation Agency by the Container Port of Saskatchewan Corporation, an application to have CN and CP accommodate their tariff system and shipping of goods.

* (2200)

The mechanism there is no different from what we have, and I will go through the legislation with you in a minute. What took place there really was hearings by lawyers for their company, lawyers for the railways, legal counsel for the National Transportation Agency, legal counsel for the province. The City of Saskatoon was represented and a number of other interested groups, as well as our union. In all, a lot of the expense was paid by the public purse.

I think that is worthy to note for the simple reason that it is a mechanism to balance out the powers that appear in a dispute for the purpose of achieving their end, may it be a large carrier and a small shipper or a large shipper and a small carrier. It is to give them a mechanism to achieve a level playing field, if you like, for the purpose of survival.

What is before you in the legislation of final offer selection is simply that, and it allows those people

who want to utilize that piece of legislation to do so, workers and companies alike.

In the federal legislation under the National Transportation Act, 1987, the same provisions are applied. Let us go through them. We will take you, starting on page 901 in the second document, Section 46, Mediation and Arbitration, and we talk a little bit about mediation, because the process of bargaining does not only involve workers that belong to union X and an employer Y, but because of the nature of negotiations.

Negotiations is reaching the meaningful word worldwide in regard to how to resolve disputes, and here we are. The rest of the world is moving towards mediation and conciliation and yes, final offer selection, as in the transportation field, to resolve these disputes, and we, as a society in Manitoba that have had that peaceful solution for a while, are moving away from it. It does not make sense.

Our union, for the record, since the legislation has been enacted has not utilized that, but that does not mean that the time will not come in these hard times that we will not use it. I think that is important. The reason I say that is because there are workers out there, in this era of globalization and free trade blocs, that will move us towards another means of settling our differences, may it be at collective bargaining or negotiating rates for tariffs of moving goods and people.

The section of the Transportation Act, 1987, has similar roles as what we have in legislation in the final offer selection: "agreement to be bound by may be requested", and that is on page 903, Section 48(4). It tells us that once the parties have made that decision to head into a selection process by a selector, once that is accomplished within that framework, it is binding.

If you go to the next page, it gives us the procedure, Section 50. 50(3) gives us: "Exchange of information", which is necessary.

The reason I am dragging you through this means of process is that last time that I appeared before this committee on the same subject, what we simply handed out was the pamphlet. I think that it is a useful tool, but rather than have that simply recirculated, it was worthy for you people to have the legislation itself which deals with that, the decision of the arbitrator, if you like, or the selector, the termination of the proceedings. They even go as far as having a list of selectors or arbitrators. In the same fashion, the publication of the list, the request for investigating precluded—and last on Section 57 it goes on to say that once the "matter is submitted for final offer arbitration under Section 48", the party "is not entitled to request investigation of the same matter by the Agency". That simply means the Agency cannot go back and reinvestigate it.

Mr. Chairperson and Members of this committee, the fact of the matter is that many, many sectors of our society are moving towards a better means of settling their differences. Why should the work force of this province not have that same opportunity? Has the legislation caused any harm? I do not see anybody here telling you that this caused any harm. I do not see any presenters here from the business community. Maybe they think it is a cooked deal already. Is that the impression we want to leave with the peoples of Manitoba? We should not. I think we should resist all that.

If they were interested in really requesting this Government, rather than leaving the illusion that they have it already made or the fix is in, they should have been here arguing for it the same as we are. They should be here arguing for their position; they are not. I think that is worthy to note for the Members of this committee, to realize that, regardless of what you heard by the previous presenter, there is no cooked deal or fix that is automatic in this society. There may be impressions of suggestions that whatever is maybe possible, but in the long run, anyone who wishes to support their position should be made to appear, rather than given a blank cheque towards an end that leaves many people wondering if in fact it is in the best interests of all sectors of our society in Manitoba or just a few.

The hearings in Saskatoon that I was able to attend for a couple of days lasted from September 24 to October 2. I guess in circumstances of that nature of the implications involved, it is a normal period of time. Negotiations between workers and an employer take considerable time. In fact, it has taken longer because the free collective bargaining process is implemented by both parties to try and resolve their dispute.

Final offer selection does not mean that people sit on their hands. There are tough collective bargaining sessions between the parties, and sometimes, rather than have a dispute, contrary to forcing people out of business, the other actually happens, because it makes people move towards a realistic level of expectation. That is the difference.

I think that is important when you make a decision to recommend to the House to repeal this piece of legislation or to leave it alone. It is my view, with some 40 years experience in the field—and I am not trying to age myself—that this piece of legislation in the long run will be patterned by other provinces and maybe the federal Government. Thank you.

Mr. Ashton: I appreciate your distributing the Hansard from last Session's presentation.

Mr. Cerilli: Only in part.

Mr. Ashton: Of course, only in part. I do remember your presentation then, and it was certainly a very interesting presentation in terms of the perspective you bring from a federally regulated area. I think that is a perspective people need to look at.

One question I wanted to ask you, and I believe I asked you then on March 1, 1990 and I asked of many other presenters, was whether you had been contacted by the then Minister in regard to the proposal to repeal final offer selection. I want to ask you that question again, whether you have been subsequently contacted to ask you for your opinions as somebody who is very experienced in the labour movement, for your views on final offer selection, not just in the abstract sense, but how it has been working here in Manitoba. Have you in any way, shape or form been contacted by the Minister to determine your opinion on whether it is working?

* (2210)

Mr. Cerilli: Not as an individual union. They may have asked the Manitoba Federation of Labour. For the record, I believe in the process of the provincial Government dealing with the Manitoba Federation of Labour, not individual unions that are affiliated to the federation. The reason I say that is the position I am giving you is basically the same as I had given you the last time. It is in tune with the federation, but certainly I was not at a meeting with the Federation of Labour where the Minister asked us for any input, and as an area vice-president of the federation, if there was a meeting and I was in town, I do not know about it. You can ask the same question of the federation when they are up here.

Mr. Ashton: I certainly will, and it appears the pattern is continuing that the Government does not wish to ask the question, probably because the answer might go against what they are doing. The answer we had received from the people who came before the committee, yourself and others, was that final offer selection was working.

I also want to deal with a matter that was raised then and I thought put to rest by the 70 presenters who came before the committee, and that was the suggestion that somehow the labour movement itself was against final offer selection, or significant parts of it. We heard many presenters indicate that while their particular union had concerns about final offer selection, many had indicated they had subsequently changed their mind based on the experience.

I want to ask you once again, given your experience in the labour movement, in light of the Premier's (Mr. Filmon) comments just recently suggesting that somehow this Government was acting on behalf of the unions that he said oppose final offer selection, in your opinion, what is the position of the labour movement on final offer selection? Do they support or oppose it, and would they in any way, shape or form support this Bill which would repeal it?

Mr. Cerilli: The labour movement supports the present piece of legislation on final offer selection. Contrary to what is being said, the labour movement supports that piece of legislation, is on record as supporting that legislation, and after my presentation as part of the Federation of Labour and part of the labour movement, you will find that the support still remains. Contrary to what is happening within our environment in regard to labour relations, the business community, as I said earlier, is not here to put their position to see if they are against it or for it. I think they should go on public record if they are going to do anything, to let us know and let their workers know where they stand.

Mr. Ashton: I found that interesting, too, last year that there were very few presentations calling for a repeal of final offer selection. A vast majority, I believe 90 percent, supported its maintenance.

I would like to ask you though, further, you had rejected the views of the previous presenter which you I think described as the law-of-the-jungle view of labour relations. I was just wondering, you had indicated you feel this is very much an innovative move—in fact, it was brought into Manitoba with that understanding; it was brought in with a sunset clause. You are suggesting then that final offer selection may be brought into other jurisdictions based on the experience here in Manitoba?

Mr. Cerilli: Labour legislation is changing worldwide. As developed countries develop, they

are going to find themselves into legislation, and they are going to look towards other countries. If they find that a country like Canada is having difficulty in adapting to change in legislation, then I think those Third World countries will not look to Canada as they do with other means of wanting to move here. Also, they might look to united countries like in Europe, the 12 countries there where they are moving towards modernizing their legislation and where in many cases their legislation is much more advanced than ours.

Mr. Ashton: There was some suggestion earlier in terms of the number of presenters tonight representing a lack of interest in this. I just want to indicate when you first received notice that this would be coming to committee tonight.

Mr. Cerilli: I think it was about 11:30 this morning, and as a result of me heading for a meeting and coming back out, I called, that there would be a meeting here around four o'clock, 4:30. I did not mark down the exact times.

Mr. Ashton: In other words, there was very short notice available to you and presumably to other individuals?

Mr. Cerilli: Yes, that is exactly what happened, but we are here, and you have photocopies of the material we wanted to place on the record.

Mr. Ashton: I believe it is the strength of the presentation that certainly speaks for itself. Just as a final question, I am going to ask you, and I know I probably asked you this last time, but unfortunately we are here again. Unfortunately people did not listen well enough last year, although we were able to save final offer selection through some tactical manoeuvers, and I think also in a significant way from the presentations made by the committee, by people such as yourself.

What is your recommendation to this Minister and Government, to the Liberals who now, after the recent election, signal they want to somehow turn left? I am not quite sure if they quite understand what that means. What is your recommendation to them as someone who has been involved in labour relations for, as you said, a significant period of time, in terms of this Bill and also perhaps in terms of labour relations generally. There have been some disturbing comments coming from the Premier (Mr. Filmon) at least, if not necessarily the Minister of Labour (Mr. Praznik), signalling that this may not be the only change they are looking at in terms of labour relations in Manitoba. There may be other rollbacks. What is your final message to this committee?

Mr. Cerilli: The first thing I would want to say is that as a result of the last public hearings by this committee, the legislation received some breathing room, mainly because of the Liberals and that side of the House at that time, with the number of presentations and the people who presented expressing those views along with ourselves, put the proposition that it was not such a bad piece of legislation, particularly if it saves one dispute. Sometimes one dispute is enough to convince people that it is a good piece of legislation. What I would recommend to the Minister now is the same as I had recommended to the Liberals at that time. I think it would be a shallow victory to achieve a repealing of a piece of legislation that in fact is viewed by the public out there that the business community has this Government in its pocket. I think that is dangerous, and I would suggest to this committee and to the Minister of Labour (Mr. Praznik) that their absence from these hearings proves that point.

I would suggest that if they are going to have a recommendation to make to the House to leave the legislation alone, let us do it and see what happens at a future hearing.

Mr. Cheema: Mr. Chairperson, I would first of all like to thank Mr. Cerilli. I just wanted to be clear of the pronunciation. I always have difficulty due to the language barrier, so I did not want to offend by saying something wrong here.

Mr. Cerilli: If you say it "Cherilli," it will come home.

Mr. Cheema: Sure. It has been an excellent presentation. You have 40 years of experience in the labour movement, and certainly somebody with that much experience would have gone through a lot of ups and downs.

You have said that in the last Session the Liberals gave some breathing space. We wanted to give it even more breathing space that time to have the amendments which were very reasonable. If the NDP would have agreed to our amendments, we could have the study period now. I think we could have saved it, and I would like to know your views. I would like to know Mr. Cerilli's view on that.

You know, it looks like the Member for Thompson's (Mr. Ashton) feelings are being hurt, because we could have saved the whole thing, and

I would like Mr. Cerilli to give his opinion on that matter.

Mr. Cerilli: Mr. Chairperson, I think that what is happening is that everybody is looking for a way out, and I am suggesting the way out. I am saying look, we have given this Bill some breathing room. Some consideration is now saying hey, maybe in March we will think about it and we will repeal it then, or introduce it in the House to repeal, as I gathered anyway.

I think we should go beyond that. There are some very serious negotiations coming down the road in this province. Let us see what happens. It is a delicate year. There are a hell of a lot of plant closures. There are a lot of disruptions in transportation, even though it is a federal jurisdictional scene, but there are spinoff companies in transportation that are provincially regulated. We have some of them, and we would be coming up for negotiations.

* (2220)

I do not know what is going to happen because of the influence of the American transportation companies in trucking, rail and what have you, which have a spinoff effect to provincial jurisdictions.

We have hotel negotiations coming up. We have other negotiations in the general workers field coming up this year, and I think that those are very—I said before we never used them, but if the workers want to resolve their difference in that manner, I think they should be allowed to have that right to decide that question, rather than have a work stoppage to go ahead and do that. They may decide to do that.

The legislation in my view should be given additional breathing room other than the month of March. This Government's mandate has just started. You know, I think that if they are going to have a review of the legislation, let us do it properly. Let us go out there and really get the pulse of the community.

Mr. Cheema: Mr. Chairperson, Mr. Cerilli has said let us have a proper review. The proper review that we are proposing is a study of the whole process. It is almost three years, and as you know, most of the settlements have gone through. Most of them, about 90 percent, have gone through that process whether some unions have used it or not. Why not study it and then bring it back, if there is a further improvement that can be made?

You made a very good comment in saying that if this legislation has not done any harm to the public at large, why not study it? I mean, in the common sense, you do not do an experiment without studying the good or bad effects. Why not do it? If the NDP at that time had followed our proposal, we would not be in this trouble right now. We could have -(interjection)- no, not at all. We could have—

Mr. Chairman: Order, please.

Mr. Cheema: I would like Mr. Cerilli to give us his opinion on this particular committee. We are proposing to establish a committee to come up with recommendations. That committee will have ample opportunity to study the whole process. If further improvements can be made, why not?

Mr. Cerilli: The legislation is in place. The mechanisms have not bothered anybody in regard to who has applied for it and who has come under those applications. The study to do something that is already working is just a study.

If you want to make statistical studies to say well, here is what damage it did to this company, that can be done at any time within the structure of the labour committee, as I see it, through the Minister of Labour (Mr. Praznik). It does not need to have a group of people who come under that piece of legislation hanging on the edge wondering when the shove comes, to be shoved over the cliff.

I think that is the danger in those kinds of studies of pieces of legislation. You have to be very careful in the type of data-gathering information for the purpose of trying to determine if the final offer selection process has done any harm to a group of workers or to a group of employers.

Mr. Cheema: Mr. Chairperson, can the presenter tell us then, if you would have a committee where there should not be any representation from any specific groups, but an independent committee to study the whole process of the final offer selection and come up with recommendations, say, in four or five months, then have an improvement, will they accept that kind of establishment?

Mr. Cerilli: I think that any, as I have said earlier, proposals of anything from the Minister should go through the Federation of Labour. I think that would put into place a mechanism of discussion. If the Minister of Labour (Mr. Praznik) wants to invite other Members of the Legislature, so be it. I think that those are areas open to the Minister to deal with the

mainstream of labour in that fashion, and I think that would be proper.

Mr. Praznik: First, I would like to thank Mr. Cerilli for his presentation here this evening and for his comments with respect to the correct procedure in dealing with various labour unions in the province.

Upon being sworn in as the Minister of Labour, I had a very interesting, a very nice conversation with Susan Hart-Kulbaba, President of the Manitoba Federation of Labour, and with Mr. George Smith from the Canadian Federation of Labour.

I respect fully, as Minister, the process of dealing with various unions through those umbrella organizations.

Suggestions made by Members of the New Democratic Party that I should be meeting with individual unions is something that I will not do because of the respect for that process that is there.

Mr. Cerilli, I have a couple of technical questions for you on the National Transportation Act, 1987, that you have presented to this committee. Although I admit I have not had a chance to read it in detail, I understand you have a copy in front of you.

Mr. Cerilli: Yes.

Mr. Praznik: Just glancing through this so I understand the scheme—and these are the thrusts, Mr. Chair, of my questions—I understand—and I should indicate, Mr. Cerilli, that I am always very interested in looking at various mediation, arbitration and dispute settlement mechanisms that are out there. I am quite fascinated by what you presented to this committee tonight.

I just noticed, for my clarification, that this particular final offer arbitration process is applicable firstly where there is a difference on rates or the rate to be carried and conditions of carrying, so a relatively narrow array of issues. Would that be a correct interpretation?

Mr. Cerilli: The reason I brought the piece of legislation to the attention of this committee is because I had referred to it in the previous presentation and to show that there are mechanisms that are available between business interests that only relate to the business community.

* (2230)

In other words, a carrier and a shipper can have this mechanism available to them, and it provides a service to assist in that resolution. Yes, that mechanism is there for that purpose.

Mr. Praznik: Mr. Cerilli, again I thank you very much for bringing this to my attention. I am quite fascinated by it. I do not know if you had the chance to read my comments when I introduced the legislation that this committee is now considering.

As Minister, I certainly recognize that the final offer selection process, whether it is a legislated one or a voluntary one, has had success, for example, organized baseball where the number of issues have been limited. I just wanted to clarify that this process is where issues are rather narrow, the scope of the issues that are being arbitrated.

The second clarification question I have for you is with respect to I believe it is Section 48(3)(b)(i). Please correct me if I am wrong, but the dispute, as a prerequisite to this system of final offer arbitration being instituted—there is some requirement of the public interest to be part of the dispute. Is that a correct reading of that Bill?

Mr. Cerilli: It is a correct assumption, but here again, to tie both questions into the proper focus of what is being shown as comparisons, if you like, in the mechanism of negotiations, in the final offer selections between workers who are represented by a union who submit proposals for negotiations and an employer group who also submits proposals for negotiations, those proposals are eventually narrowed down to areas where the final offer selection will apply.

The same faction applies here to some degree, and I am just giving you a general overview of the impressions that should be given some thought. The public-interest approach that you are talking about, yes, there is, but the National Transportation Agency in the Act makes it so cumbersome, if you like, for the public interest really to get involved. It could not spend a week and a half in Saskatoon, for example, to get their turn to be heard in regard to that.

I think the process has to be compared in light of what is before you in final offer selection, to repeal that piece of legislation, and why I brought this piece of legislation to show that what is good for the business community and to resolve their disputes should be extended in whatever way the mechanism is put together for workers and employers.

Mr. Praznik: Mr. Cerilli, what I was getting at, perhaps you misunderstood my question, but in that particular section—please correct me if I am wrong,

but I believe—and again this is just on a cursory reading by myself and Legislative Counsel—it is a prerequisite to the system being used that the matter raises issues—this is the matter going to our final arbitration—must be of a general public interest, and that the interests other than those of the shipper and carrier concerned may be materially prejudiced by the matter submitted.

It has to be an interest to the broader public than just between the two parties in order for this system of dispute settlement to be used. Would that be a correct reading of that section?

Mr. Cerilli: To a certain degree, and again the interest by the public is certainly to achieve concerns about public safety, the environment, and a number of other areas that have to be considered when the applications are made under this piece of legislation.

Mr. Praznik: Thank you, Mr. Cerilli. I appreciated your comments and bringing this to my attention.

Mr. Lamoureux: I, too, Mr. Cerilli, do appreciate you taking the time in making the presentation. I do have a couple of quick, brief questions, if you will.

The first one is in regard to final offer selection. Do you believe the Bill could be improved?

Mr. Cerilli: I think, as I said earlier, that the Manitoba Federation of Labour makes annual presentations to the Cabinet, and we always deal with those areas that are bothering us in regard to what could be improved and what cannot be left alone. To my recollection, I do not see any suggestions to tamper with the legislation as it presently is. I think that the Federation of Labour may have something to add to that when they are presenting their views on why the final offer selection legislation should be left alone.

If there are suggestions for improvement of areas, that part is open, I guess, again from the labour movement to propose to the Minister, through the Cabinet presentation as well as by employer groups, to present those proposed changes that they might want to see. It does not necessarily mean that the legislation should be tampered with if in fact no mutual consent can be reached by those parties, because they are the ones that are utilizing the final offer selection for the purpose of settling a dispute rather than locking out or striking a particular plant.

Mr. Lamoureux: I would like to ask the presenter and maybe cite a couple of specific examples. The first one is some of the concerns—and I was here for many of the presentations of the last Session when this was before the committee. One of the concerns was the fact that the employees will determine if final offer selection ultimately will be asked for.

I am wondering if the presenter feels that it is fair to have the union able to ask the union membership—whereas I understand the management can, but in terms of the relationship with the union and management with the employees, if he sees that there is any natural injustice in that?

Mr. Cerilli: Again, if there is an area where proposed changes should be made, I think that the best way to do it is to approach the Manitoba Federation of Labour. I am sure the Federation of Labour can—I know for a fact they canvass their affiliates to find out what should be presented to the provincial Government for changes in legislation.

To my recollection, I have not seen any changes proposed to this point in time. We will be making a presentation—and I am sure the Liberal Caucus will be receiving a copy of it as well—to the Cabinet some time down the road. Certainly, if there are changes in there, we will be consistent in our presentation from this presenter to support that position from the Manitoba Federation of Labour.

Mr. Lamoureux: Mr. Chairperson, I am interested in the presenter's opinion on this, because at the onset of the meeting, on the onset of his presentation, he said that he has been dealing with unions for the last 40 years. I am interested in knowing if he feels that there are some injustices that could be fixed through positive amendments.

I for one, when I had the opportunity to speak on second reading on this particular Bill, had suggested that there is worth in taking a look at some form of final offer selection and would not want to rule it out carte blanche. I think that there is a responsibility for us who are in positions such as yours, such as mine, such as the Ministers and all Members or all of my colleagues, to do what is in the best interest of the workers in Manitoba.

I would ask for your personal opinion. Do you believe that final offer selection as it stands right now could be improved by making a change, so that the employer could have better access to final offer selection, or do you believe that it would not be necessary?

Mr. Cerilli: What I am saying, on behalf of our union and as an affiliate to the Manitoba Federation of

Labour, is that the legislation is working well right now as it presently is for those people who utilize it. We are saying leave that alone. If there are areas that have to be considered, I think that the Minister of Labour (Mr. Praznik) has to go to the Federation of Labour, and I mean that. That is the way I operate. That is why, I guess, I am a little gray around the ears, but not as gray as some people. When you are a part of a team in regard to what should be presented, you do it in uniformity, so that there is no scatterbrain approach to something that may have happened 40 years ago or 50 years ago in labour relations.

At this time, we are saying that we are going to be making a presentation to the Cabinet, and if there are changes that we are looking for in other pieces of legislation, we are going to do that. If the final offer selection—first of all, we are saying leave it alone—needs some fixing, which is beyond me, I do not think we should monkey with it until such time as we know what we want to fix. We have not heard from the Manitoba Federation of Labour in relation to what may need fixing.

* (2240)

Mr. Lamoureux: Mr. Chairperson, I support the MFL in terms of the cause and what it is that it does for the union movement, but as the Member for Thompson (Mr. Ashton) has pointed out, it is important that we reach out and hear from individuals.

During the committee hearings last year, for example, I received one phone call from a steward who worked at Superstore. She was concerned that I would be voting against or for the repeal of the Act. I asked her if she had some time to discuss the matter, and she said she did. We talked about the legislation, and after explaining it—and I tried to explain it in an unbiased fashion—she had suggested or was surprised to hear of some of the things that I had pointed out that I had heard at the committee—led me to believe, like I would suspect many people would lead me to believe, that in fact this legislation has potential.

This legislation with amendments could serve all workers in this province well. As someone who has been with the union movement for so long, I would appreciate your personal opinion.

Before I let you answer that, I wanted to make reference to another thing that was brought up to me. That is, of course, is it necessary for final offer selection to cover everything? Why not cover the wage aspect of it? Leave the benefits to the side. Let that continue on through negotiations.

Another thing that was suggested and the Member for The Maples (Mr. Cheema) has put quite well, maybe what we should be doing is looking at this legislation.

Mr. Cerilli: To leave bits and parts of proposals that are submitted by other parties aside would only lead into misgiving and misrepresenting the legislation. Once you start deciding only this can be dealt with or that can be left out and this can be dealt with, it is dangerous to do that approach for the simple reason that either side then can say this part cannot be looked at by this because you proposed it from the company's point of view.

The company could say well, we do not want to look at the benefit package because it is monetary. Everything is monetary anyway. The fact is, once you start leaving bits and parts of negotiations out to separate identities, that is the danger that leads the legislation to be destroyed and eventually be of no use to anybody.

Mr. Lamoureux: Just a couple more very brief questions, Mr. Chairperson. I think the presenter has in a roundabout way illustrated why I feel as strongly as I do that this legislation needs to be looked at, so that viewpoints such as that can be addressed and can be taken into account.

I wanted to comment in regard to some of the accusations that were thrown across the table when my colleague from The Maples (Mr. Cheema) was talking about our amendment that we had suggested. That amendment allowed for a process in which after 30 days of the repeal that would have taken effect at the end of this year, we would have seen an independent committee established that would have been mandated to report back to this Chamber with what could be acceptable amendments, but we will never know. We will never get that firm commitment unless the current Minister of Labour (Mr. Praznik) takes it upon himself to do just that. He made reference in terms of well, we were able to get final offer selection postponed until March 31.

I have to ask myself, even though that might make a few people happy by getting it postponed till March 31 by voting against the amendment—I must say they voted for the amendment in committee but voted against it when they entered into the

Chamber. I would ask the presenter, does he not feel that it is in the best interests of the workers that there be a study and something being reported back? Would that not have been in the best interests of the unions where it would have been mandated through the Legislature, that it would not have been optional for the current Government?

Mr. Cerilli: As I understand it, Mr. Chairperson—I was going to call you an arbitrator, but I had better watch my tongue.

As I understand it, the proposition was to repeal a piece of legislation, get rid of it, and then strike up a committee to report back to the Legislature with a recommendation to reintroduce the Bill. That is as I understand it. It might be out to lunch, but that is as I understand it.

Well, once you take something away and start reconstructing it, that is the danger that we are fearful of. We are saying let the legislation live beyond March, beyond June, beyond January of next year. Have an internal legislative committee such as this body here, with the Minister of Labour (Mr. Praznik), meet with representatives of the labour movement through the federation or other individual groups, the business community. Invite people to talk to you.

I think those are the mechanisms that may be available to this committee anyway, but to go ahead and destroy a piece of legislation first and then try to resolve it—I have a tendency of wondering, if there was a minority Government, I would say, hey, maybe there is a possibility. However, you have a majority Government, and let us be realistic.

If the Government, for some reason of internal pressures or external pressures by different groups, feels that piece of legislation is now gone, we are not going to reintroduce it, there is nothing that this body can do from the federation or anybody else to bring that back.

I am just saying to you that the legislation is not doing any harm. In fact, it is helping people despite what other people say. It is helping workers who would normally be on the street and taking away from their way of achieving their rent. The legislation does that for them. I am saying let it live beyond March and beyond next year and so on and then deal with it in a committee with the interested groups.

Do not threaten people that you are going to repeal the legislation and then start tinkering with something different.

Mr. Cheema: Mr. Chairperson, I just want to make a comment here. Mr. Cerilli has said that the last time it was a minority Government, and we had the opportunity. We heard from many presenters, and many of them made excellent points from their point of view.

The other side of the story was also heard. We have had this for three years, and I am repeating the same thing again. If the NDP at that time had followed our amendment inside the House, I think we could have done the same thing now. I mean, what we are debating today, we finished that. I think that is very important, because even as the present Government has a very different philosophy, and if they are following something from a very special interest group, we could have done for the workers of Manitoba. That was a real opportunity, but for a short-term political gain for a particular Party, we are in a way failing to give to the public of Manitoba the real answer to the problem.

The problem, if there is a problem in terms of after three years of FOS—and if there is, as has been pointed out by various groups that there are some difficulties, then why not fix those difficulties? Under the circumstances, I think we should have the attitude of accepting a few things and then improving upon them.

We could have done the same thing about six months ago. In a way I think it is very disappointing how a political group—it could be any political Party but in this circumstance—how the political Parties could use a certain section of society for their own benefit without thinking what is best for the people of Manitoba and in terms of the workers of Manitoba.

We come from a riding of working people from the north end. You know, many people from the community work in the CN, CP, all these places, and we are not against saying to the working people that was the message that was sent.

In a political way, I think it was a victory for the New Democratic Party for a short term, but they have done harm to the FOS process. I think eventually if you sit down and look at both sides of the story, you will realize that what we are saying is correct. If Mr. Cerilli wants to answer my comments, it is fine. Otherwise, I will end my remarks.

Mr. Cerilli: As I understand it, the Liberals' position at the time was uncertain and that the legislation, as I understand it, was to be to repeal it and support that position. Of course, after hearing presentations, there was a change of attitude. There is nothing wrong with that; that is what the process is all about; that is why we are here again tonight, to not only have you remain committed to leaving the legislation alone, but try to convince the Government to leave the legislation alone.

* (2250)

Again I have to repeat that the interests of working people, when legislation is working, is to leave it alone and to improve it by a consensus through the various bodies that are affected by that piece of legislation, in this case, the labour movement, the working people of Manitoba, the employers and, of course, the Governments.

I think that all in all the position at the time, as I understood it, by your Party—with all due respect, we had to do some arm twisting—was of an uncertain nature. As a result of that, people could not take a chance. You want an honest answer, you are getting one. They could not take a chance of trust in regard to having any changes of appealing and repealing the legislation and then bringing it back and trying to amend or fix it.

Mr. Cheema: Mr. Chairperson, I thought I finished my presentation, but I do not want to leave an impression on the record that our position was unclear. I think it is very important for Mr. Cerilli to know our position and probably have first-hand information rather than given by somebody else.

We are, like yourself, as a member of a major union—you listen to your members and make decisions. That is our job, to just listen to the public. That is where the common sense comes from, once you listen to their presentation and then make up your mind. That is why we have sided with that amendment, and that could have saved the FOS in the long run if this legislation is working. That message you cannot really put through in 20-second clips.

Also in the campaign, if the message goes that a particular Party is against the working people, than within three weeks it is very difficult to reverse that trend. We suffered the consequences. It is not a secret, we did suffer, but I do not want to leave the impression that any of our caucus Members are against working people. That simply is not true.

Mr. Chairman: Thank you. We will now ask for Mr. Leonard Terrick. Leonard Terrick? He is not here? Pat Martin, do you have a written submission?

Mr. Pat Martin (Private Citizen): I am afraid, Mr. Chairperson, on such short notice I just had time to make personal notes, and I will be speaking from those. I thank you for this opportunity to address the committee on this important subject. I have personal knowledge of FOS.

By way of introduction, I am the business manager of the Carpenters' Union and a member of the Manitoba and Winnipeg Building Trades Council, and I am the vice-president of the Manitoba Federation of Labour, Construction Division. In my capacity as business manager of Local 343 of the Carpenters', I represent the unionized construction carpenters in Manitoba as well as industrial shops involved in cabinetmaking and architectual millwork.

An important function of my job, of course, is the negotiation of collective agreements for the workers I represent.

As I say, I have had opportunity to use final offer selection in the course of my regular job duties, and I would like to talk about that a moment tonight.

As a different issue, as a combined aside, in October of this year, I had the honour of being invited by Mayor Norrie to join the Winnipeg 2000 leadership committee charged with a mandate to analyze and scrutinize and possibly implement the recommendations set out in the Price Waterhouse report of that same name.

Now as you are well aware, Winnipeg 2000 as such is not an economic development strategy in itself. It is an overview, it is a series of observations, and it is a polling of leaders of business to determine their perceptions and to hopefully make recommendations and set up task forces or committees to alter or encourage these perceptions of the Manitoba business climate, depending on whether those perceptions might be positive or negative.

One such perception in the Price Waterhouse report and the document that is pointed out, and the reason I bring this up—pages 84 and 85 of the Price Waterhouse report deal with what they refer to as the harsh labour legislation as well as high corporate taxes, high workers compensation rates, et cetera, as things that would need to be addressed if we are to improve the business climate and thereby invite investment and hopefully prosperity to the province.

(Mr. Gulzar Cheema, Acting Chairman, in the Chair)

In response to these observations, the recommendation on the next page suggests that we prepare and execute a five-year plan for improving the tax and legislative climate that is responsive to business needs and business concerns. Unfortunately, members of the business community and certainly Members of the Chamber seem to have embraced those suggestions—and they are merely suggestions, and very sketchy ones at that—as a road map for the future, as a panacea for success. They seem to have glommed onto key catch phrases within the report and seen that as an edict from people whom they hired to write the report, which is really nothing more than the venting of frustrated business people, venting their frustration that they cannot act without checks and balances and completely unfettered in the business community.

Further study of the document and an in-depth study of the document would indicate that the authors of the Price Waterhouse report are not being that simplistic or basic or naive. In fact, it indicates otherwise.

Items on page 28 speak to an ironic situation, that Winnipeg suffers from a confrontational labour reputation due to the 1919 strike 70 years ago. We are suffering from a negative labour perception. They are not saying it is true or false. They are simply saying that is a perception they twigged on in their interviews of the 80 business leaders who made up the report.

Here is what the Price Waterhouse report in fact has to say about the labour relations climate that we currently enjoy in Manitoba, and partly as a result, I would argue, of having the advantage of the final offer selection process to act as an optional form of settling negotiated collective agreements without strike or lockout.

First of all, about workers in Manitoba they say most employers interviewed indicated that Winnipeg employees are generally conscientious and good workers. Comparisons with other Canadian cities are typically favourable. Low turnover, less than 5 percent, and good work ethics are appreciated by employers of unskilled workforce, and the industrial tradition in pride and workmanship are present in the many skilled employees and trades.

They further go on to talk about specifically the labour relations in Manitoba and in Winnipeg at present. This is with the final offer selection advantage, 4.3 on page 28 of the Price Waterhouse report: Winnipeg has had an image of very confrontational labour relations, the Winnipeg 1919 strike, for example. The facts and the perceived situation today are quite different, in fact. Relations between business and labour in Winnipeg and Manitoba have been very positive. Business and labour are not prone to disputes.

In Winnipeg, person days lost per worker have been far below the national average for many years. They mean due to strikes and lockouts. For example, in 1988, person days lost per worker in Winnipeg were less than one-fifth of the national level. In 1988, Manitoba had the second lowest number of person days lost per worker.

Since the early 1980s, Manitoba has been one of the provinces with the least person days lost per worker. Positive labour relations and low person days lost due to strikes have been maintained, even though Winnipeg has amongst the highest union membership rate in Canadian cities. This rate is double that of the U.S. cities. Unions in Winnipeg are concentrated in Government and transportation companies, not as much elsewhere.

Really what I am getting at and what the Price Waterhouse report indicates—and what I have read should come as no surprise considering where it comes from—that business people should be recognizing one thing. In fact, it was pointed out to the leadership committee at a meeting by the authors of the Price Waterhouse report. The two individuals who actually wrote the book addressed the leadership committee and pointed out this delicate imbalance that I am intimating here, the delicate balance that exists.

We have two things that we can feature about Manitoba. One is that we have a skilled, capable work force and a relative labour peace throughout the province. That cannot be disputed. The second thing that they point out in contradiction later on in the report, or seemingly in contradiction, is that we must do something about labour legislation or we cannot create a business climate that will attract investors.

It is a problem, it is an incongruity, but it really comes from not reading that report carefully enough. The Buddy Brownstones in the Chamber should not

be hanging their hat on that particular myth, because it really is in fact a myth, and it was not the intent.

* (2300)

The one thing that was pointed out by the authors of the report to the leadership committee is that in their estimation the real sales feature is a stable working climate, and to upset the apple cart and to disrupt that would be to awaken a sleeping giant that may in fact truly interfere with the attractiveness of Manitoba to potential investors.

If the object of the whole exercise is to attract business and hopefully prosperity to the province and we harbour no illusions that the solutions they are looking for are corporate solutions, dollars-and-cents solutions and not lofty social issues, then it would simply be a natural conclusion to arrive at, that a stable, skilled, literate and bright work force is what we should be after.

(Mr. Chairman in the Chair)

My sympathies really go to the Business Enhancement Committee of the Winnipeg 2000 leadership, because their task will be much harder in the coming years to attract potential investors, given that the labour climate will in fact probably take a turn—the statistics that we are proud of will take a turn for the worse.

The numbers that I read earlier—in 1998 we lost 2,000 person days to strikes and lockouts in a year, which I admit is unusually low, even with FOS. In the previous year it was roughly 50,000. Even that is a number we can be proud of, because we have lost 550,000 person days in that same period of time, one-year period of time, due to compensable, lost-time injuries. That is the kind of alarming statistic that would deter investors, because our workers compensation rates are high to compensate for that amount of carnage in the workplace.

If there is anything that should be addressed in this sitting of the House, we would advocate something to do with the Workplace Safety and Health legislation where we have enough inspectors to visit the 45,000 workplaces in Manitoba once every five years, with the current number of inspectors and the current number of workplaces, we can get there once every five years. Of those 45,000 workplaces, there are only 1,200 Workplace Safety and Health committees that are mandated by law. Each of those workplaces should have a committee. Of those 1,200 committees, only 120 are active, so we have 45,000 workplaces with 120 active committees and, I would argue, the highest rate of incidence of accidents, although I cannot demonstrate that here tonight, certainly an alarmingly high incidence of accidents when you compare the lost time due to other factors.

What I am groping for here is that maybe our attentions are being directed in the wrong direction. We have one statistic we are very proud of, and we are tonight—I suppose, not fool ourselves, it is a done deal, we are going to eradicate that. We have another alarming statistic that is not being addressed in this current sitting of the House, that I know of at least.

As I was saying, I have personal knowledge of FOS in two instances, at least one that went virtually all the way right up to the 11th hour. As is the case with most applications for final offer selection, the final outstanding issues were not settled by the selector. We were brought back to the bargaining table and achieved a satisfactory resolution at the bargaining table through conventional free collective bargaining.

Briefly let me give you some of the background of this particular company. It is a small place that manufactures spindles, mouldings, architectural millwork, a small work force of 40 workers, 50 percent of which were women. Sixty percent of all the workers made less than $7 an hour. None of the women made more than $7 an hour. Their injury rate was absolutely atrocious, 40 percent of the workers receiving compensable, lost-time accidents in the six months prior to the bargaining. Forty percent of the workers had been injured, including lacerations and amputations of phalanges, et cetera. There was a great need here where they had no dental plan, no health and medical plan, no pension plan, none of the basic, of the very elementary, rudimentary things you would expect to find in a collective agreement.

As a bargaining agent in that situation, drastic action would be necessary. Obviously we would have to hit the bricks. There is no way you are going to implement that degree of change in a collective agreement at one bargaining session, even though the need was paramount.

In this case, we bargained to impasse. We achieved many gains in language, including some form of almost a pay equity clause. It is a hybrid

situation. We were still at impasse in a number of issues, and talks broke down. We would have had to hit the bricks.

In a case like this, it is a small, foundering company, and it is a small, weak bargaining unit who could never ever survive a six-month strike or whatever it would take. Frankly, neither could the company in a case like that. It would have been a brutal, vicious situation where there would be severe damage on both sides. Certainly they would have a real difficulty in putting the pieces back together to get back to work after a dispute of that nature would be over, because the damage done would be irreparable in terms of communication.

This is the perfect example. I think any of the unions that even had reservations about FOS in the past would agree that these small, weak bargaining units are the ones which can use FOS to their advantage, as it minimizes any imbalance that traditionally or historically may have existed at the bargaining table. The argument that it is one-sided because labour implements it is simply not accurate either, because either side can ask for FOS.

In this case, it was refreshing, and the reason that I relate this is that the owner of the company was as relieved to opt for FOS as we were. The workers voted unanimously to use the FOS process, because they knew that to gain any of the benefits we were after would be a lengthy strike.

We sent a letter to the Minister to ask the Minister to conduct a vote to determine whether to use the FOS process. The management even indicated to us the day after the vote that they may in fact be able to loosen the purse strings, knowing that they are not going to have to go on strike all summer, which was his busy season to supply the housing market in California, where it is his peak season. To be deprived of operating through the summer months would have ravaged his company and ravaged his sales and clients. In a business like that, once you have lost a sale, you have a difficult time getting that customer back for future sales. They find other avenues of supply.

We settled amicably on a selector, a person known to both of us who was in fact a former Member of the Legislature of this House, an NDP MLA. Even though the owner of the company had a picture of the Prime Minister on his wall with a personally inscribed message: Thanks for all your help, Bob. Love, Brian and Mila. Here is a guy who opted his suggestion that we hire this former NDP MLA of the Manitoba Legislature as the selector. We were delighted to accept, but both of us had the confidence that an impartial third party could reach a satisfactory conclusion and put the whole thing to rest.

To make a long story short, the renewed spirit of co-operation and removing the economic hammer that is a strike weapon from this bargaining process brought the two parties back to the table, and it was settled amicably. Both of the parties tempered their demands with reason. I think a lot of the rhetoric and a lot of the anger was taken out of the involvement, because we participated jointly in a resolve.

I do not think it could have worked better for either party. We did not get everything we wanted. He is operating today at a profit. It is a happy end to what could have been a disastrous story.

Critics of the system are fond of saying that it is biased towards labour. I touched on that before. Everybody here knows the details of FOS. I am not going to drag through it again. Either party can apply for FOS, and the workers vote as to whether or not they want to settle their contract negotiations via the FOS process. I do not see anything imbalanced about that. In my estimation, that is as it should be. All is right with the world, and it is unfolding as it should.

There are reservations that are still expressed. There are certain bargaining units that would never use FOS. We, with our main construction unit, would probably never consider using FOS. The innovative additions may be hard to achieve to a collective agreement using FOS, in which case the workers would simply opt to use the strike weapon and push harder, as Mr. Green said, strike until the cows won't have it, if that is their wish. They are free to do that. They simply would opt against. Even if management proposed it, they would simply vote against using it, they would take it to the bricks, and they would fight it out on that more primitive and barbaric battlefield.

We recognize that FOS is virtually gone, it is a done deal, it is buried, and this time we will not even get the entertainment value of watching the Liberals embarrass themselves. I really have nothing to gain by being here other than a sincere concern that we are about to make a serious mistake. We run the risk of opening up, as Mr. Cerilli indicated before me, an unprecedented era of labour disputes. We can toss those numbers that we are so proud of out the

window. It would be fair to say we could easily double the number of days lost due to strikes or lockouts without having that avenue.

* (2310)

Mr. Green indicated that it was atrocious that over 100 bargaining units were deprived the privilege of going on strike via the final offer selection process. Responsible labour relations practitioners celebrate numbers like that. We say that we avoided 100 possibly lengthy labour disputes via the FOS process.

Our own personal experience with FOS surely prevented a strike or a lockout. There would be no resolve without it. Simply it was an untenable situation. While it may be true, as some might say, that not all unions were wholly thrilled with FOS upon its inception—there were two or three people who were not thrilled with it—it is true that today all Manitoba unions oppose the repeal of FOS. I can say that safely. It was well researched at the last go-around in March and April, and through our research, through the Manitoba Federation of Labour, we have polled—even the worst critics of final offer selection CAIMAW, CUPE had its reservations. All unions in Manitoba are now against the repeal of final offer selection. There can be no doubt.

That is the end of my report, Mr. Chairperson. Thank you.

Mr. Reid : I would like to thank the presenter for an excellent presentation. It was very enlightening in comparison to some of the previous presentations we have had to hear here tonight.

There are, of course, a number of concerns that you have raised through your comments here tonight. I would like to know your thoughts on what is in store for us in the Province of Manitoba without the FOS process in place.

Mr. Martin: As I intimated, I think it is almost a given that we are going to see an increase—to be very conservative and to answer in a responsible way—I know what I want to say—we are in trouble in the coming years without FOS, but in a more conservative way I think you can safely count on an increase in the number of days lost due to strikes and lockouts without the option of the FOS process.

Mr. Reid: You talked about one particular company that utilized the FOS process and the success that you saw by the utilization of that particular process. Are there other companies that you have had experience with in dealing with the negotiations with those companies that you have had to use FOS as part of the settlement?

Mr. Martin: No, Mr. Reid, that is the only time that we have taken the FOS process through to that degree. We have kept it as an option, but with most of our bargaining, to be fair, it is done collectively with virtually all of the collective agreements I have bargained through the Construction Labour Relations Association, which is a plenary group. We really do not negotiate a great deal of individual collective agreements, and we have not found it necessary to use it in our other experiences.

Mr. Ashton: I found it interesting, your bringing one other example before the committee, the potential strike that was averted, because one of the arguments that has been brought forward in this debate again has been the suggestion that somehow final offer selection creates winners and losers, as if in a normal situation it creates winners and winners. I would be interested in your comments on that, because you are suggesting in that particular case there probably would have been losers and losers if there had not been final offer selection. I am interested in your response to that type of argument.

Mr. Martin: Certainly with this group we had been into bargaining long enough, and they had been paying attention, because the need was so great, to the progress we were making. There was a real recognition that we would be winning even if the selector opted for the management's package. We would probably be getting then a fair reflection of what the company could truly afford. We really believed that this process forces both sides to temper their demands with reason and with the knowledge that if they are unreasonable the selector is likely to choose the opposite package, so it will backfire on you.

Our members in that particular case were confident that no matter which side was chosen, the end result would be to the best benefit of themselves and to the company, so it would have been a win-win situation in that case, whereas very clearly in a strike in a sensitive industry like the manufacture of millwork in Winnipeg for an American market, we would have lost, I would say, four or five months on the picket line. At five and six bucks an hour, you cannot afford to go on strike for any length of time, interrupt your income. He would have lost a market in a foreign country that he would have a very

difficult time to recoup when he did finally get back to work.

Rather than a lose-lose situation, I could safely say that it was win-win, that the company is still healthy and intact, and the workers still have a bargaining unit.

Mr. Ashton: I find that very interesting, having had the experience myself of going through two strikes and seeing what can happen. The last one I was involved in was shortly before I was elected—in fact I was elected during the strike, a three-month strike. I can fully understand the consequences of a lengthy strike. You are suggesting to this committee that final offer selection in this particular case was key in preventing what could have been a lengthy strike that would have cost both the employer and the employees significantly.

Mr. Martin: In response to Mr. Ashton's question, yes, we are suggesting that certainly there are no winners to a strike. In this case, it cannot be argued that this system, the process—I know of no other way we could have averted a lengthy strike and still come away with any of our demands, which were not unreasonable demands. They were bringing people somewhere near the status quo of workers whether union or non-union in this province. These people were seriously deficient in every aspect of a collective agreement. Certainly, the process is the only one I know of that could have achieved that without the violence, the economic violence of a strike.

Mr. Ashton: I have one final question. I was particularly interested in your background in terms of the Winnipeg 2000 report and your reference to there being a perception amongst businesspeople in terms of the labour relations climate. Certainly that was a comment that echoed comments made by the few, not businesspeople but lawyers appearing on behalf of business organizations that were here in the last committee hearings. I just want to make it very clear with this committee.

You are suggesting that, based on the evidence that you have looked at and based on your own participation now in this process, that perception is wrong. You are suggesting that final offer selection is one of the key elements in assuring that we do have in reality, not in perception but in reality, one of the better labour relations climates in Canada.

Mr. Martin: Yes, Mr. Ashton, that is really the case, that it is a problem of perception and of a cursory overview of the 2000 report and of other things that have been printed by the Chamber that have been slamming final offer selection, because if you do address the issue with clarity and with fact and you look at the actual experience rating of the last year or the last year and a half, there could be no question that it has successfully brought people who are impassed back to the bargaining table.

You and I both know in bargaining how tough it is after you have reached a complete impasse to bring each other, while still saving face, back to the bargaining table. I am saying it was like a relief. It was like a huge relief settled on both parties' shoulders in this case in that the threat of strike was eliminated and the threat of lockout was eliminated because, let us face it, a hell of a lot of the time lost due to strike or lockout in this province and others these days is due to lockout more than it is to strike.

* (2320)

You have companies stockpiling materials. With a global economy, they can wait for a glut or a slump in the market, stockpile materials and force a union out on a lockout that can cripple the union, certainly smash its strength. That is another threat. The economic hammer is on both sides. The economic hammer of the violence of strike is on both sides and it is minimized. It is eliminated from the bargaining process, so people can negotiate like gentlemen or whatever the gender equivalent is without beating each other up, without hitting each other with sticks, which is barbaric.

Ms. Jean Friesen (Wolseley): Mr. Chairman, I wanted to thank you for a very informative presentation. I enjoyed the fact that it was not only a presentation which reflected the united views of the Manitoba Federation of Labour but also based upon your own personal experience as well.

I also I think took note of your comments upon Winnipeg 2000 and the report there and the alternative perspective that you offered on the real perception of labour peace that there has been in Manitoba over the last few years.

I wanted to ask you about female labour, women's labour, and if you could give us some kind of interpretation or perhaps your reflections or the reflections of the federation on the impact that FOS has had, particularly upon women in trade unions.

Mr. Martin: Yes, Ms. Friesen, partly the fact is clear that women are amongst the lowest paid and in industries that are amongst the lowest paid. Even in

industries where there is supposed to be some sort of parity, we still have an equation where women make roughly 60 percent of what men make. What that is saying is that women who are at the low end of the economic scale find themselves in a position where they are less able to strike, to use the strike weapon, for the same reasons that are cited with the workers at the plant that I was referring to, 50 percent of whom were women, some single parents, and making $6 an hour.

There is a truism in the labour movement that you never go on strike for your own benefit. You do it for those people that follow you, because you will never make up the time lost, the money lost. If you are on even a week strike, two-week, three-week, a month-long strike, it is unlikely you will make up the lost time in your remaining years at that plant, so you are doing it for the people that follow behind you. Women in the labour movement are amongst the least able to make a personal sacrifice like that if they have dependents and if they are in a low-income service sector or manufacturing job.

The final offer selection process is like a dream come true for people like that, really, because it eliminates the knowledge that the company would formerly have had, that this small, weak unit has not a prayer to achieve any of their outrageous demands in terms of innovative things, programs, day care, things that you maybe never have seen at a bargaining table before, things that are unique to the 1990s. We have an avenue where people can achieve those things now. It gives them a vehicle to empower them, not to empower them unfairly but to empower them to where it is a fair fight, a level playing field, so that you would win it by virtue of your merits rather than by virtue of having the larger clout or the ability to wait it out indefinitely.

I think your point is a very good point, that women and other less empowered groups, minorities really in terms of power, could utilize final offer selection to gain an equality at the bargaining table that they would never have enjoyed previously and will not enjoy if this is abrogated.

Mr. Lamoureux: Mr. Chairperson, I would like to get a better understanding of what the presenter's comments were in regard to the whole question of equality. He alluded to the fact that the workers decide on whether final offer selection will be taken. I would ask the presenter, is he aware of how many requests have come from management for the final offer selection process?

Mr. Martin: I apologize. I did not bring those numbers, Mr. Lamoureux, but of the hundred or so—I do not have those statistics on this short notice. I do know that of the hundred or so incidents to date, or in the 90s, the vast majority have been settled without going to a selector, without the selector having to make the ultimate determination. The ones that were settled by the selector, it is virtually equal. Roughly, 50 percent went to labour and 50 percent went to management or favoured management's position. Those who initially made application, I know there are cases of it, but I do not have those numbers.

Mr. Lamoureux: Mr. Chairperson, look to the Minister, because I know I did ask the question back in the Labour Estimates in terms of how many employers have requested. I believe, and I trust he will correct me if I am wrong, that one employer had actually put in a request for the final offer selection program. If I am wrong, I trust the Minister will let me know. -(interjection)- The Minister mentions that one was in fact voted down.

Now, given the comments that the presenter has made, does he feel maybe that the employer does not have the same feelings, or all of the employers have the same feelings that the one particular case he has cited, because offhand, if that is the case, it is only one, and that particular one was turned down. It seems to me, discussions that I have had with some of my constituents and some of the presenters who were here last year was in fact, well, maybe there is something that can be done to address that particular need.

Mr. Martin: I think I know where you are going with that, Mr. Lamoureux. You are suggesting maybe that the current package is not too attractive to management now. I would be willing to concede that those who are seeking to minimize the imbalance at the bargaining table are usually the workers, because the threat of lockout and unemployment and other economic retribution is usually in the hands of the employer.

If you are intimating that maybe we can live with an amendment whereby management could vote in the use of final offer selection, then what you are doing is truly getting along the lines of what Mr. Green was ranting about, which is eliminating the workers' right to strike, because you would have effectively defeated the strike weapon from the bargaining process. Every employer would implement final offer selection every time in that

case, and there would never be an option for a strike.

We would never get behind an amendment of that nature, because it would simply be far too sweeping. You would eliminate strike or the option to strike from the bargaining process.

Mr. Lamoureux: Given the comments you just made, would you not then say that your earlier comments in regard to it being equal to the employer and the union—would you stick to those comments that in fact it is equal to the two?

Mr. Martin: Yes, I would, Mr. Lamoureux, in that either party has an equal right to apply to the Minister to have a vote taken by the employees as to whether or not they choose to settle their contract negotiations via the final offer selection process. There is equal access from both parties.

Mr. Lamoureux: Then I will ask the presenter maybe to speculate, if he will, and tell me why in his opinion the employers have not been applying for this process.

Mr. Martin: The only thing I can speculate is that they have had such a negative impact from the employer agencies, the employer plenary groups, that really the process is probably being boycotted virtually, even by people who may otherwise be able to utilize the process to their advantage.

It is ultimately up to the workers. It is the workers' contract, it is the workers' certificate to be recognized as the bargaining agency for the company, and ultimately the workers will be the ones who will decide whether or not to settle the process by FOS.

In our case, what I was getting at with our case, it was not the employer who made application. I hope I did not intimate that. What I did say is that the employer was as relieved as we were to discover that we had an avenue out, a recourse where we could both come back to the table with full face, without losing face, and continue bargaining.

* (2330)

Mr. Lamoureux: Mr. Chairperson, I am not a labour specialist myself, but I am someone who is very concerned and does consult with my constituents. In any contract, there is an employer and there are the employees, and ultimately we do not want anyone to lose. We want legislation. If we are going to have the legislation, and as I have mentioned previously, potentially we could have good legislation that will benefit all of the workers.

I would suggest to the presenter that he might want to encourage people or politicians whom he might know and suggest to them that there is some worth in studying and bringing back what could be some positive, potential amendments that both sides—I too, like you, would like to see the workers benefit, but I have a responsibility to represent all of my constituents. Part of the concern is that the legislation be equal. I do not perceive that particular aspect as being equal, and I was hoping that through presenters such as yourself you would be able to explain to me how it is that it could be equal when I initially heard that one employer—and you can feel free to comment. That is all. Thank you, Mr. Chairperson.

Mr. Martin: I really do not think you have grasped what I was saying then, Mr. Lamoureux, in that it is equal and that both parties have equal access to make application to the Minister to order a vote be taken of the workers as to whether or not their negotiations will be settled via the FOS process. I do not know how it could be more equitable than that, other than introducing some amendment, which we would argue against, that would allow the employer to vote and have some kind of a binding arrangement where the negotiations would be settled by FOS.

That would delete the strike weapon, and it would eliminate the workers' right to strike. There has never been any argument for that from any Government in this province since there has been a labour relations Act. They are not trying to eliminate the right to strike. What they are trying to do is introduce an element of fairness into the bargaining process that up until now does not always exist when there is a real imbalance in the bargaining process.

Mr. Green was correct that the steelworkers have not used it, and they probably will not. They have large, powerful units. An average local might be 300 or 400 workers in a mine. It is unlikely a unit like that would use the final offer selection process. They are equally empowered, or much more equally empowered. To introduce that element of fairness, give both sides the opportunity to make application to the Minister for a vote to be held and you have equal access.

Mr. Praznik: It is always a pleasure to listen to Mr. Martin. We have had occasion to be involved in a number of discussions over the last few months in which I have become Minister of Labour, and I always enjoy our discussions and conversations. If I may just make the comment to Mr. Martin, I think I am aware of the particular workplace that he is referring to. Not wanting to get into particular names, but I would ask him at this committee, if there are particular Workplace Safety and Health issues there that are specific to that site, I would invite him to speak to my Deputy. We will certainly be more than prepared to have an inspector in there very quickly to alleviate those problems.

I also make the observation with respect to his comments on workplace 2000 and perceptions in Manitoba and his comments about a skilled labour force. I somewhat chuckled to myself when I read that, because one of the issues we are working on now—Mr. Martin is part of the process—is with respect to apprenticeship and training. We look at the average age of our journeypersons in the province, and we realize we have a problem. Perceptions are one thing, and I know Mr. Martin is well aware of those realities. I appreciate as well very much his comments with respect to safety and health issues and the number of days lost in Manitoba to injuries. That is something that we certainly share with him, his interest in that area and the desire to alleviate it.

I was particularly interested in his comments about the situation—although Members of the official Opposition keep speaking about FOS in general terms in terms of the broad perspective, I appreciated Mr. Martin's comments about large bargaining units and small bargaining units, because I appreciate very much that in small bargaining units it is a much different scenario in bargaining than it is in larger ones. The situation the Member for Inkster (Mr. Lamoureux) I think was referring to—and it does present a dilemma for us as policy makers and as legislators—was the Fisons-Western situation where Fisons and their employees were involved in negotiations. Before the expiry of the contract, Fisons asked for FOS, a vote was taken and the employees voted it down—I am going to make the assumption that was on the advice of their representatives—went to a strike position, exercised that right, had a very bitter strike—I know because I represent many of those workers in my constituency—and 60 days into a strike themselves were applying for FOS. That is the one example we have where an employer applied for FOS, employees voted it down and the tool was not used.

I think the dilemma that the Member for Inkster (Mr. Lamoureux) made reference to and that I face is, if we are going to use this tool—and I refine it to smaller employers, where one recognizes it does eliminate that situation to some degree or provides another option—it does become very inviting, and maybe Mr. Martin would agree or disagree, to have the compulsion to use it on both sides so that we are preventing those situations like Fisons. Perhaps he would like to comment very briefly on that.

Mr. Martin: I would not move on my opinion that to allow management to have the right to impose an FOS situation on workers would seriously erode the workers' right to strike. I realize it is an awkward situation with Fisons. I can sympathize that it would present a real quandary for the department on how to respond to that. It is particularly ironic when the unit itself makes application 60 days into the strike, but you would have to admit that making application 60 days into the strike was the responsible thing to do, because really, that bargaining agency had an obligation to its workers to minimize the damage to it and everyone had to get back.

Sixty days is long enough for anyone to be on a picket line. You have made your point; you have starved each other out. I really think that it is valuable to have that second window no matter who made application. It would be interesting to see what the reaction of the union would have been if the company had made application during the second window. I would postulate that they would have voted to use the final offer selection process then.

Mr. Praznik: Mr. Chair, having been involved as an MLA from the side in that particular issue, one comment I make—and it leads me to my next question—was that the expectation level of employees after they had voted down FOS on the advice of their union, a union I understand that has been a strong supporter of the procedure, accounts for 50 percent of the applications, is usually the applicant for FOS, which was kind of ironical, but the expectation level, in talking with many of the employees, visiting the picket line to talk with them, being invited there by shop stewards, was that the expectation level was so high that it made it very difficult and led to a very long strike in which no one who was on that picket line eventually won.

When I listened, Pat, to your comments about the particular industry—and I think I know the one you are talking about—what I am hearing is that you have a very tough set of negotiations. You have a real standoff between employer and employees or their representatives, so much so that you are suggesting to this committee that they would have both gone off over the abyss and committed economic suicide if it had not been for FOS.

* (2340)

I guess my question to you as a representative of the employees, as a union negotiator—and we negotiate here all the time as MLAs, in my role as Minister, with the Labour Management Review Committee on both sides—is: What has failed in terms of the employer and you as a union rep where, coming to that abyss, both sides would choose to jump off and destroy the entity, in essence, that feeds you both. You need some mechanism to come in to get you back to the table where you eventually settled anyway at the table, but what about conciliation and mediation services? What about your own skills as a negotiator and the company's own reality and a sense of survival, all of those things that are there? I just ask what has failed in that process?

Mr. Martin: Well, I think Mr. Minister, firstly, we did use the conciliation process as a requirement to get to the FOS process. I think probably what would have broken down in a case like that is that neither party would know if the bottom line, the last offer, the final resolution to their bargaining for that day was the true bottom line and last offer, or are they bluffing, or are they lying. How do you know that? How do you know if the company does not open their books to you, and if they do, they probably have two sets? It is simply not something you can predict. On basic ideological principles such as a pension plan and a health and welfare plan, the most fundamental elementary issues, yes, from an ideological point of view, we would have been cornered into pushing it to a complete breakdown.

The thing is: In the final offer selection there is no advantage to bluffing anymore. I mean, you cannot get away with bluffing, because if you are trying to pull a bluff you run the risk of having the selector choose the opposite party's complete package. As you know, there can be no trading off. It is their complete package or this complete package, not elements of both, not a compromise.

You get down to what the company can truly afford. Most workers are not unreasonable. If the company is being honest and says look, I cannot give you a 6 percent increase, we lost percentage points last year, it is just not doable, the plant will close, and we know that to be true, there is not a bargaining agent in the country that would provoke such a thing. Plant closure is the No. 1 one enemy in Manitoba. Nobody would be that irresponsible.

This process saves us testing and testing and testing and lying and lying and postulating to the point where we can find out the true position. I believe him. When he gave me that final position as their final offer, I truly believe that was all they could afford, because I did not think he would be stupid enough to risk everything.

By the same token, we tempered our demands enormously to where they were palatable to him. It turned out we did not need a selector. We shook hands over the table, and we enjoy an excellent reputation today. In fact, tomorrow I am going to invite him to present to this committee if he will see fit to do that.

Mr. Praznik: Just hearing you, Pat, what I am hearing from you is it gave you an opportunity to sort of quickly break the ice and get back to the table and negotiate. When I look back at the Fisons situation, that may be what was needed in that case much earlier, before they were involved in a dispute that cost all of those employees and constituents of mine their income for the summer—some of them very good incomes—the ability to compel them to break the ice again, or to get put back into a situation where they had to deal. That would certainly support your argument in that sense. In my opinion, it would support the need to have that mechanism available in both cases.

Again, I fully appreciate your concern about right to strike and what that does. That is one of the dilemmas that I faced as Minister and took this course of action, so I appreciate your concerns, and I certainly enjoyed this discussion very much with you. I look forward to our work together from various sides of the table on issues that are important to Manitobans besides FOS. Thank you.

Mr. Chairman: Roland Doucet, Ron Ruth, Dennis Atkinson, Robert Ziegler, Julie Antel, Nancy Oberton, Darlene Dziewit, Rob Hilliard. Do you have a written presentation, Mr. Hilliard?

Mr. Hilliard (Manitoba Federation of Labour): Yes, I do, but unfortunately I have no other copies. I will be happy to—except that I need to read it. I will be happy to give it to you afterwards, and I can leave copies behind.

Mr. Chairperson, I must offer apologies for our president, Susan Hart-Kulbaba, who happens to be in Montreal. At least—she may have arrived now, but she was in Montreal when we learned of this committee hearing tonight. As a result, I am appearing here in her absence.

The Manitoba Federation of Labour represents and speaks on behalf of 88,000 workers and their families in Manitoba. The Manitoba Federation of Labour applauded the enactment of final offer selection provisions within The Manitoba Labour Relations Act in January of 1988. Its objectives were simple and straightforward: provide an innovative method to encourage good-faith bargaining and a settlement of collective agreements. It added to the list of bargaining aids already provided for in The Labour Relations Act such as conciliation and mediation. The MFL is convinced the experience under FOS has met the expectations that the labour community had for it before it was proclaimed into law.

There can be no doubt that the best way to establish and maintain a positive working environment for employees is to promote and nurture the collective bargaining process. When both parties to an agreement negotiate in good faith, mutually acceptable contracts are the result. Unfortunately, there are too many employers who behave in a predatory manner at the bargaining table, determined to hold the line at all costs, to force wage and benefit concessions and takebacks on their employees only for philosophical reasons.

There are too many employers who do not respect their employees' legal and moral right to form unions and bargain collectively. Their aim is to break the union and operate in an environment where workers have only those rights their employers choose to give them. Before final offer selection existed, this approach destroyed bargaining units, jobs and peoples lives, all on the altar of expelling the union from the workplace.

A return to pre-FOS conditions through the passage of what many trade unionists are now referring to as the David Newman Bill, that is, the Bill to repeal FOS, will mean in some cases a shift away from good-faith bargaining it induced to unreasonable attacks on the workers' basic right to organize and bargain collectively. Some employers will declare open warfare on workers and attempt to break their unions.

Recent changes to the Canadian political economic environment embodied in the Mulroney free trade deal with the United States only encourages this attitude. The regressive move to match U.S. social and workplace conditions by eroding Canadian standards will add fuel to the anti-union fire in some workplaces in Manitoba. The extra pressures that employers face in attempts tc remain or become competitive bring hard-line positions to the table.

The value of final offer selection is its capacity to force on the parties meaningful, good-faith bargaining. It is a tool that encourages the parties to work toward agreements which meet both sides' needs in the workplace. It is a disincentive for predatory employers to use the collective bargaining process for another sinister purpose, union busting, through unreasonable concession demands and forced strikes and lockouts.

One of Manitoba's qualities that attracts the attention of new investors is its positive labour relations record. It is incomprehensible that when Manitoba's economy is under stress that consideration is being given to the repeal of FOS by passing Newman's Bill.

It is no secret that misguided Progressive Conservative policies at the federal Government level have plunged Canada and Manitoba into an economic recession. Some analysts worry this recession will deepen and last at least until the end of the last quarter in 1991.

We would have thought the Government of Manitoba would be interested in attracting new investment to Manitoba to improve our economy. I also assume the Government would like to attract the kind of good corporate citizen that views a healthy collective bargaining system as an asset, not a liability. This type of employer is a valuable addition to the community, likely to help establish a long-term, stable economic base.

* (2350)

The FOS statistical review: final offer selection has been used exceedingly sparingly since it was proclaimed, as it was meant to be. Since January 1988 only 97 applications for final offer selection had

been received by the Manitoba Labour Relations Board. This is for the period ending September 9 of this year. Of these, only seven resulted in selector decisions, four in favour of the union, three in favour of the company. In the vast majority of cases, 72 in all, the application was withdrawn because the two sides resumed bargaining in good faith and a negotiated agreement was reached without the assistance of a selector. Those numbers will indicate a variance of 18, which would account for some being in process and a couple which were dismissed by the board as being inappropriate.

This statistic more than any other makes the case for final offer selection's positive impact on the collective bargaining process. It clearly shows that faltering negotiations can be revived by the presence of FOS, bringing good faith bargaining back to the negotiating table. Contrary to the expectations of some FOS critics, it has not resulted in intentional foot-dragging at the bargaining table in anticipation of having an agreement imposed later by a third party.

Statistics compiled by the Manitoba Department of Labour outline more beneficial effects of final offer selection. Since enactment, final offer selection has been brought into play to end lengthy strikes and lockouts before they could develop into interminable, destructive standoffs.

In the first three quarters of 1989, the average strike or lockout duration was 6.3 days. Clearly, the existence of FOS did not draw out the disputes to the second window to take advantage of a selector decision, nor has it replaced the traditional means of resolving a bargaining table impasse, the strike or lockout option. The average strike or lockout duration since FOS was proclaimed is well within the pre-FOS experience range.

What FOS did accomplish was provide encouragement to bargain in good faith to reach a mutually acceptable collective agreement. At the same time, it provided a means to settle a protracted dispute by means of a fair decision-making process without precluding the fundamental collective bargaining principle, the employees' right to strike and/or the employer's right to lock out.

Final offer selection has the capacity of creating the conditions necessary for those new to the collection bargaining process to grow into their new role. Many newcomers to the collective bargaining process fear it and resist it for unwarranted reasons. Too often this results in confrontation and sometimes a destructive strike or lockout. Instead of passing the Newman Bill, this committee should be pressing the federal Government to make final offer selection available to workers in the federal sector.

If FOS existed in federal jurisdiction, David Newman and Moffat Communications would not now be conducting a union-busting campaign at CKY-TV. Nearly 100 locked-out workers there are experiencing the kind of management rights to operate that people like David Newman promote. Ask them how they feel about Newman's Bill.

I would like to take a few minutes now to deal with some of the propaganda that supporters of the FOS repeal are using to prop up their case.

Myth No. 1: Final offer selection creates an imbalance of power in the union's favour. Fact: There is not now, nor has there ever been, an equal sharing of power in the employer-worker relationship or anything even approaching it. Management has always enjoyed tremendous powers and legal rights that greatly exceed any that exist for unions. For example, management has the ultimate right to open or close a workplace, hire, fire, lock out or lay off workers, determine the nature of jobs and control safe or unsafe working conditions. Management determines corporate strategy, which determines the viability of the enterprise and job security for the workers.

The relationship between employer and worker has been focused on by Government and employers for centuries. In fact, as early as 1348, when the Black Death swept Europe and England creating a shortage of workers, ordinances and statutes began to appear, mainly in an effort to control workers in their new-found bargaining power which stemmed from the labour shortage. The Statute of Labourers and the accompanying common law of master and servant, a name which speaks volumes, have given legal weight to management rights through the subsequent centuries.

Statutes passed by Governments, funded and supported by employers, rarely pass legislation to benefit workers. When they have, it has been due to overwhelming public demand, not because it is what they perceive as the right thing to do.

In the United States, for example, many jurisdictions have been passing so-called right-to-work legislation in recent years. Far from

being a description of workers' rights, the right to work invariably boils down to the right to work for less. These legislative adventures are characterized by their anti-worker nature, making it harder for workers to organize into unions and easier for employers to break unions. Thanks to the free trade deal, some Canadian employers want similar legislation passed here. Workers, on the other hand, have the right to associate with each other, the right to bargain collectively, the right to grieve and the right to strike, at least in most cases, without employer involvement in the decision. Whatever else is gained by workers, it is through the collective bargaining process.

Having access to a tool like FOS to facilitate the bargaining process can hardly be described as tipping the balance of power towards unions. It is a measure that brings greater fairness to the relationship, but even now it is not equal. Enemies of final offer selection worry that it makes the employer-employee relationship one-sided. It is already one-sided in the employer's favour.

One of the favourite targets in the workplace for antagonistic employers is women. They are viewed as vulnerable to intimidation tactics when unions are initially formed, and they are often the target of union-busting activities once unions are in place. Much of this arises from the fact that for the most part new union activity involving women occurs in the service sector which has little, if any, experience in establishing harmonious relations with women and unions.

Final offer selection discourages that activity. Take away FOS and you run the very real risk of encouraging anti-women action and, indirectly, denying them their right to organize, to improve their quality of life, and prevent them from enjoying full economic partnership in society.

Myth No. 2: FOS destroys the collective bargaining process. The facts: The vast majority of applications for FOS resulted in negotiated and a mutually acceptable collective bargaining settlement. Far from being a disincentive to bargain in good faith, it has restored the good faith atmosphere to the bargaining table, enabling the parties to reach a fair and equitable settlement.

Final offer selection has built-in incentives to bargain in good faith, to settle as many issues as possible prior to selector involvement and to provide the selector with as realistic a position as possible in the form of a final offer package.

Myth No. 3: Final offer selection makes strikes and lockouts longer. The facts: This is a concern voiced by Liberals and Conservatives seeking to justify the attack on workers which the repeal of FOS represents. It is usually made by those who have never been involved in a strike or walking a picket line. It is made by someone who has never faced a lengthy strike or lockout without any income. It is a statement made by someone who has never had to explain to their children why Santa Claus will not be coming this year or why birthday presents have to wait.

Only a fool would believe that workers and their union reps would sit down and seriously propose a guaranteed strike of 60 days. If a strike is lengthy, it is because extremely serious issues are at stake. Clearly, final offer selection is a mechanism that can shorten what would have been a much longer strike. The 10-day FOS application window which opens 60 days after a strike or lockout commences, is designed to provide an incentive to bargain and reach a mutually agreeable settlement. In the event that a strike or lockout occurs, the length of time before the window opens provides the parties with an opportunity to reflect on their positions and to resume negotiations and settle the dispute.

The second window is also meant to address those situations where bargaining deteriorates after the first window of application opportunity passes. This removes the temptation to bargain in good faith only until that first window passes and then switch to their bad-faith bargaining strategy. The only important point to be made is, FOS has resulted in the two sides bargaining in good faith and reaching an agreement on their own without a selector in the vast majority of cases. The fact is, FOS works.

Myth No. 4: FOS creates winners and losers. The facts: The best way for the sides to avoid a winner-loser situation is of course to bargain in good faith at all stages of the negotiating process, hence reaching a mutually acceptable collective agreement. However, bad-faith bargaining by employers has created legions of winners and losers throughout the years of collective bargaining. The winners have been predatory companies. The losers have been workers.

* (2400)

When an employer is bent on destroying the workers' union, forcing unreasonable concessions on the work force, slashing wages and benefits in order to increase profits and dividend payouts, the tools used are bad-faith bargaining, forced strikes and lockouts. The reservation has been expressed that a winner-loser situation decreases the commitment of the loser to the collective agreement. Bitter strikes and bad-faith bargaining have not been big contributors to commitment to the collective agreement.

In any event, the winner-loser relationship is not unheard of in labour legislation. For example, in the grievance arbitration process there is a winner and a loser. When this occurs, the parties' commitment to the process or the collective agreement does not go out the window. The issue is simply addressed at some point in the future at the bargaining table. If final offer selection creates winners and losers, then workers are willing to take their chances.

The Manitoba Federation of Labour is absolutely opposed to the repeal of final offer selection. Those bent on this course of action cannot point to a single major union that speaks in favour of the repeal. Even those unions who put greater store in other collective bargaining tools recognize that FOS is a valuable asset for many other unions and are totally opposed to its repeal. The Manitoba Federation of Labour believes FOS is working well and will only bring greater improvements to the labour relations climate in Manitoba as the experience continues. The statistical evidence is irrefutable.

In the final analysis, it is the people of Manitoba who benefit from final offer selection. The positive effect it is having on employer-worker relations through good-faith bargaining brings stability to the economy. This alone must improve our province's attractiveness to potential new investors. Employers benefit from the atmosphere of good-faith bargaining FOS brings to the bargaining table. Workers benefit from the greater measure of fairness it brings to the employer-worker relationship. Equality at the bargaining table remains to be a goal the MFL strives for on behalf of its 88,000 members and their families.

I would like to thank the committee for having given me the opportunity to present.

Mr. Ashton: Earlier in the brief you made reference to the impact of the free trade deal. In fact, during our last set of committee hearings, of the few presenters who were here arguing for the repeal of FOS, this was one of the arguments made. We are beginning to see that agenda unfold. I do not know if you have seen, in fact I am sure you have probably seen reports at least of the minimum wage report from the employers, which recommends cutting the minimum wage in the future because of the free trade deal and the recession.

I am just wondering, in your opinion and the opinion of the Federation of Labour, the extent to which you view this Bill in that way, as being a lessening of standards in terms of workers in this province. Are you saying, as I read this brief, that essentially this is part of a larger picture in terms of items that are going to impact negatively on workers over the next period of time?

Mr. Hilliard: Yes, in fact right now the experience is more often than not at the bargaining table that employers have many more concessionary demands than they have had in the past.

Many of the arguments that they are putting forward are that we have to be competitive with our American counterparts, which do not have as much labour legislation, worker rights legislation in the United States. They do not have as strong worker compensation laws. They do not have as strong environmental laws, health and safety laws. We are hearing all of those things.

In fact it is a pretty steady refrain right now coming from employers that we are going to have to compete with employers in jurisdictions where there are very few restrictions on their behaviour, which really means it is becoming now, when what we are talking about is not competing with the southern United States, which have no standards, but now we are talking about competing with Mexico. Quite frankly, it is not a realistic option for Canadians to do. I do not think any Canadian would venture forth a reasonable argument to suggest that our working standards ought to be harmonized with those of Mexico.

Mr. Ashton: I want to deal with some of the myths and facts, as you pointed out, some of the ones that keep arising, because one of the purposes of these types of committee hearings is obviously to get information from people such as yourself and from organizations that have direct experience with matters, experience that other Members of the committee, Members of the Legislature may not have.

I know your background as a steelworker. I noticed there have been some suggestions that somehow some unions are against FOS or some might not use it, as if this in some way means that the labour movement currently does not support maintaining FOS and would not be concerned about its repeal.

I am wondering, given your own background and given the role of the Manitoba Federation of Labour and its representation of the many affiliates that it has, what is the position of the labour movement in that sense? What is your assessment? Is there a division or are people united in opposing the repeal?

Mr. Hilliard: The labour movement is absolutely united in opposing the repeal of FOS. It has been said by previous presenters, and I mentioned it in some fashion myself, I do not believe you can find a single union anywhere in this province that will advocate the repeal of FOS.

It is true that when FOS first came into being there were some labour organizations that were opposed to its introduction. Many of those organizations have changed their view as a result of the experience of FOS. Some who originally opposed it now actually endorse its usage. Others who originally thought it would be a bad thing to introduce into the labour relations climate have since changed their position, and while they may not feel it a good idea to use for themselves, certainly are now of the opinion that there are other bargaining units out there that should use it and should have access to it.

Yes, the labour movement is absolutely united in opposing the repeal of FOS.

Mr. Ashton: I appreciate that statement, because there appears to be some difficulty on the part of some Members of the Legislature in understanding that fact. I keep hearing references to the 1987 committee hearings whereas we have come a long way since that period of time.

I want to deal with two other points. In fact I have one further question after this.

There is some reference in the brief to the whole question of winners and losers. I referenced this earlier, and I want to ask you this as well, from your own experience and from the general perspective of the Manitoba Federation of Labour, the criticism that somehow there are winners and losers created out of final offer selection itself.

It has been suggested that somehow final offer selection disrupts the collective bargaining process or threatens free collective bargaining. We heard just earlier of an example where in fact FOS in that particular case created a win-win situation rather than a lose-lose situation. I would like to ask you for your own personal opinion, not just in terms of the theoretical background, but the experience that you have obviously had over the past period of time of observing this from your perspective of the Manitoba Federation of Labour. What is the bottom line with final offer selection? Does it enhance collective bargaining, does it inhibit it, and does it create difficulties? Does it create a win-lose situation or does it create the type of win-win situation that we heard earlier?

Mr. Hilliard: More often than not it enhances collective bargaining in that it provides a mechanism for the two parties to I guess get out of some posturing positions at times.

There can be a lot of reasons why parties in a collective bargaining process wind up at loggerheads and in positions where neither one of them is comfortable. It very often involves a long history, probably something that went on before the bargaining process began, before the collective agreement expired.

I think that the Minister of Labour (Mr. Praznik) made the reference to the previous presenter about "why would the two parties go to the edge of the cliff and voluntarily jump off." Well, I am not sure that they are voluntarily jumping off. What they are looking for is trying to find a way where they do not jump off, and sometimes the way where they do not jump off requires a lot of creativity. Final offer selection is one of those creative options.

* (0010)

Final offer selection, as we mentioned in our brief, induces good-faith bargaining. It in fact forces good faith bargaining in some cases. Collective bargaining really cannot be successful if one or the other party is going to bargain in bad faith. What final offer selection does more often than not is get rid of that bad faith option and force the parties to bargain in good faith.

I would conclude that in the great majority of cases it enhances collective bargaining. There might be the odd, rare occasion where—as we mentioned in the brief there have been seven in almost three years. I am not sure what percentage that works out to, but I am sure it is less than 1

percent of all the collective agreements that were bargained. That may be.

Somebody might put forth the argument that there are some winners and losers in that situation. Well, the fact is that collective bargaining sometimes creates winners and losers. Certainly when there are long strikes there are winners and losers. Sometimes there are both losers.

I do not think we can look through the world with our rose-coloured glasses and suggest that collective bargaining always creates winners and winners. There are some unfortunate circumstances where winners and losers are created. Certainly final offer selection, I would suggest, does not increase that but probably diminishes that.

Mr. Ashton: I have just one final question. I notice the reference in the brief to Mr. David Newman who made a presentation when we last were discussing this matter in committee.

He and the few, as I indicated not business representatives, but lawyers appearing on behalf of the Chamber of Commerce and other organizations indicated their concern not just about final offer selection but other legislation. In fact, I asked how far they would roll back the clock. It was clear the first contract was part of it, provisions of the 1975 Labour Relations Act that even Sid Green, I assume, would support. He was part of the Government that passed it. Perhaps that is assuming too much.

I want to ask you whether you are expressing a concern that goes beyond final offer selection, that deals with those other issues as well. Are you concerned that this might be seen by the Government or perhaps by the big business interests that it is attempting to appease as just a first step in repealing labour relations legislation that has been in place in the province not just for years but for decades? Indeed if that is the case, what is your message to the Government in terms of this Bill and labour law generally?

Mr. Hilliard: Yes, we are quite concerned that many people in the labour movement had the sad experience of dealing with Mr. Newman over the course of a number of years. His views are quite well known to most of us. In fact, if memory serves me correctly, I was here when he presented the last legislative committee hearings. I believe he said we would have to roll back The Labour Relations Act to pre-1972.

We are really talking about going back in history a long ways here. This man is not progressive in any way whatsoever. He often talked about workers and union reps as being noble forces against all the odds, to stand up there and face all the odds and usually get trampled in the process quite frankly, which he did not bother to mention.

He likes to hold all the cards. He does not like a fair game at all. He wants all the cards in his hand. Then he wants the people who hold one or two cards in their hands to do battle with him, and he will tortuously hold you out, and he will not even have the mercy to put you away. I have no respect for Mr. Newman at all. Mr. Newman is going to be coming back to this Government if final offer selection is repealed, and he is going to be saying okay, now I want first contract legislation, and he is going to present another one. He will have a long list, and he will not go away.

Mr. Reid: I have a few questions I would like to ask the presenter. The presenter made some reference to bad-faith bargaining. I would like to ask the presenter's opinion or thoughts on what role he sees the FOS playing when there is bad-faith bargaining taking place.

Mr. Hilliard: Bad-faith bargaining is a tool that is used not to reach a collective agreement. When bad-faith bargaining is occurring it is because a solution to the problems are not being sought. What final offer selection does is take that tactic or at least minimize that tactic.

It means that an employer who is bound and determined to break the union through bad-faith bargaining by a lot of different bargaining tactics, by putting forth incredibly unreasonable demands from the employer's side—for example, Mr. Newman is famous for putting forth demands that require standards that are even less than what the legislation requires and then putting them forward as if you should accept them. He changes them. If you have your back to the wall, and you say okay, I agree, then he changes them. That is bad-faith bargaining. It is a tactic not to reach a collective agreement. When that happens there is very little a union can do to find a collective agreement. There is very little left other than to just stay out, do everything that is in their power to hurt the employer

economically. Sometimes that will take months, sometimes it will even take years.

What final offer selection does is minimize the effect of that tactic. In fact, if the employer realizes that final offer selection can be utilized at some point down the road, they are probably not even going to embark on a strategy of trying to break the union, because it will not be successful.

We are right now witnessing a strike with Moffat Communications and their employees. Many of the demands and the bargaining tactics taking place there are typical of David Newman. They are typical of an employer bargaining strategy that is not designed to reach an agreement. They can do that, because they are covered by federal labour law, not by provincial Manitoba labour law. They do not have the final offer selection option. They can stay out there for months and months and months. Indeed it appears, from what we have learned about what has been put forward by the employer in those bargaining sessions, that is exactly what the desire of the employer is. He locked out his employees; he wants them left out; he does not want a collective agreement.

Mr. Reid: Mr. Chairperson, to the presenter, I would like to ask a question on his thoughts on the proposal that was put forward by the Liberal Party whereby we would kill the current legislation and therefore study the results of that legislation after it was killed. I would like to know the thoughts on the presenter of this topic.

Mr. Hilliard: We have been studying the final offer selection legislation already. We have taken a look at the statistics. We have some opinions on its usage, as I have indicated. There is nothing preventing studying any piece of labour legislation, and if we are going to do it, I wholeheartedly endorse anybody else doing it as well.

The MFL went on record as opposing the Liberal amendment for one very good reason. It does not make any sense to us at all to kill the legislation, then study it and do a post mortem. If we study the body and we conclude that the body is better off alive, it is usually too late to revive the body. If we want to study it, let us study it when it is alive.

Mr. Reid: Mr. Chairperson, I would like to ask the presenter—he made some reference to the successes that the FOS process has shown throughout its three-year history, a success rate of approximately 75 percent—what his thoughts are on why this process has been so successful over its three years.

Mr. Hilliard: I think it has been successful for precisely the reasons that we thought it would be successful. The statistics clearly show that there is an incredibly small number of imposed contracts. What that shows is that the parties, when they are having difficulty bargaining, find a way to bargain when they become worried about somebody else imposing the collective agreement. They really get down to being very reasonable in trying to find the solution. I think the statistics clearly show that.

Seven collective agreements in the last three years, I do not know what the percentages are, but I am sure it is way less than 1 percent. Even in those seven the evidence shows that the selection process has been quite fair and even in that four were awarded to the union and three were awarded to employers. I do not know how you can break those statistics down any more evenly.

Mr. Reid: One last question, Mr. Chairperson, the presenter has mentioned women in bargaining units, and although there was no direct reference to particular types of industry, there seems to be some very serious concern that women in these bargaining units are being adversely affected by the negotiations that could take place without the FOS process. I would like to know the presenter's thoughts on that and if he has any experience he might care to share with us here today.

Mr. Hilliard: Yes, one of the reasons that the labour movement began to advocate for final offer selection which, despite what Mr. Green indicated earlier, did not happen when Bernie Christophe was out on strike, it had been going for years before that, we were very concerned that there are an awful lot of bargaining units that do not have the strengths of numbers, do not have the strength of experience.

* (0020)

Quite frankly, they do not have much tradition in the labour movement and do not know how best to utilize its tools and its strengths. These kinds of bargaining units are very often found in the service sector, which traditionally have been very difficult to unionize, have also, where unions have managed to be certified in many of these areas, particularly in restaurants and places like that, they very often have an experience of being broken by being forced out on strike for lengthy periods of time. They are low paid. Statistics clearly show that women earn

approximately two-thirds of what men earn. They cannot afford the economic violence of being out on strike.

I have to get back to one comment that keeps on being made about unions will put people out on strike for 60 days just so they can use final offer selection. That statement can only be made by people who have never walked a picket line and never had to do without their pay cheque, because it is the most outlandish, ridiculous statement I could ever hear. Strikes are not fun. Picket lines are not fun. They are lousy experiences. They are embarked on only out of desperation, out of a strong sense of outrage. Women, because they are low paid, they are often in work ghettos, like in the service sector. They do not have the economic clout and the strength of numbers to exercise their economic warfare in the marketplace like Sid Green would like them to do. It is just a ridiculous notion that they can do those things, and very often they cannot.

Another group that would be adversely affected if this legislation is repealed is young people, who also basically have a lot of the same economic characteristics as women in the work force. They are low paid, they do not have a lot of experience, they do not know what all of their rights are. It is easy enough to bully them and bluff them. Certainly, the experience of young people and women in a lot of these service sector industries has been when they organize without the benefit of things like first contract legislation and final offer selection, the unions usually wind up being busted after a couple of years by forcing these kids and women out on picket lines that they cannot sustain.

Mr. Reid: One last question: Does the presenter have any recommendations that he would care to make to this Minister, who is in the process of repealing this legislation, any thoughts that he would care to share with this committee?

Mr. Hilliard: Well, my first recommendation would be do not repeal it.

Floor Comment: I am not surprised.

Mr. Hilliard: Yes, I knew you would not be.

My second recommendation would be that if you are seriously thinking, for your own philosophical reasons, that there is something wrong with this legislation, you must also address—I believe you are morally bound to address—those who it is intended to protect, that being primarily women, young people, small bargaining units that really do not have the economic ability to exercise their right to associate, their right to form unions and their right to bargain collectively. If you take this protection away from them, what are you going to put in its place?

Mr. Lamoureux: Mr. Chairperson, I just wanted to really make a comment, and the presenter can maybe add to it or feel free to respond to it.

He can maybe possibly express my thanks and gratitude to the MFL organization over the past couple of years FOS has been on the table. I have found their presentation in the caucus discussions that we have had—I know myself and our current Labour Critic for The Maples (Mr. Cheema) and in fact all of our caucus—extremely informative. I appreciate the effort and the time in putting together a presentation of this nature.

I did want to make the comment, when the presenter on numerous occasions has talked about Mr. Newman's Bill, I have heard from one side that we have before us Mr. Newman's Bill, not only from this particular presenter but from other individuals, individuals in particular from the New Democratic Party. Then I have heard on the other hand, the final offer selection Bill itself as the Bernie Christophe Bill or the Bail-Out-Bernie Bill.

Mr. Chairperson, through you to the presenter, I think what we need is good legislation, good labour legislation. Had the Government at the time consulted with the public, both the unions and the management, in fact we would not have had a Bernie Christophe Bill back in 1988, and we would not have a David Newman Bill at this time to deal with. I still believe that it is important.

I would request through you to bring it back to the MFL to support what was—or at least reconsider what was I felt a very responsible amendment brought forward by the Liberal Party.

Mr. Hilliard: I think I have already stated my views on the Liberal amendment. I do not know what more I can add.

Mr. Praznik: Mr. Chairperson, I do not think my friends in the Liberal Party fully appreciated the political alliance between the MFL and the New Democratic Party, which is a very open alliance. They make no bones about it, but it is certainly there. I would be very surprised if representatives of the Manitoba Federation of Labour carried back Liberal amendment suggestions, et cetera.

I want to just assure, Mr. Hilliard—Rob, I really want to assure you that I do not even know what David Newman looks like to be quite honest. If I ever met him I do not remember it, and he certainly does not brief me on an irregular or regular basis.

I must admit I am quite amused by the David Newman Bill and a number of the assertions made in the presentation. I accept that. I appreciate where the MFL is coming. I appreciate their relationships. I appreciate their positions. I appreciate some of the history behind this legislation as well, some of which was discussed tonight. That is all par for the course. I also appreciate some of the very real concerns that we have discussed, other people have brought forward with respect to smaller bargaining units and those situations. I do want you to take that message back, that is appreciated.

One question I do have for you—and it came out in Pat's comments earlier. I think you reiterated the need, particularly in small bargaining units, to have an innovative, creative means to get back—and maybe I not quoting you exactly—but getting back to the bargaining table to break an impasse, and FOS, I gathered from what you were saying, provided one of those kinds of tools to break that impasse, get the parties back bargaining. Whether you had a selector or not really did not matter. It was to break the impasse and get back to free collective bargaining.

I ask this for the comments of the MFL with respect to our Conciliation and Mediation Branch, which tells me as their Minister that they have an 85 percent success rate where they are involved. I am just wondering if that branch is fulfilling its mandate, is it a useful tool, any suggestions you would have for me on improving that particular branch run by Mr. Davage.

Mr. Hilliard: No, I do not think we have ever advocated that the Conciliation and Mediation Branch did not serve a useful purpose. I myself have utilized them. I think they do provide a very useful purpose.

At the same time, just because one tool in the labour relations bag is effective—you did say that they are successful 85 percent of the time. What about the other 15? Maybe there is another tool that is needed in those.

Whether or not Mediation and Conciliation has a good track record, which I agree with you it does, I do not think that necessarily precludes the usefulness of FOS.

* (0030)

Mr. Praznik: Mr. Chairperson, one of the examples that was discussed tonight and the only one I understand we have when we go through the list—I am sure, Rob, you are well familiar, as am I and other Members of the committee with the applications, the vast majority, of course, coming in that period prior to the expiry of a collective agreement, and one more tool being utilized as one goes into negotiations. I refer just back to that Fisons situation, because there was clearly a case that affected my constituency.

I remember very well where we had an application by the employer, a situation where discussions had either just started and were not being taken seriously or were not going anywhere, that I do not know, but the employer making application for FOS, the employees voting it down, again I am assuming on the advice of their union, very high expectations set, I would gather because the harvesting of peat is a seasonal business. They were entering the summer season when the employer was most vulnerable, all fair ball, part of the collective bargaining process, the company making a decision to fight this one; a long, protracted, difficult strike, one that was very destructive to the community, very destructive to the workers involved, very destructive to the women who worked for that company, one that I think everyone would have wanted to see not occur, one in which the employer tried to use that method, was in essence voted down on the union's recommendation.

Why would a Legislature not want to ensure that did not happen by providing some mechanism, maybe not an equal compulsion, but to avoid that very destructive situation for those employees and that community simply because a union had overjudged its position when the employer wanted to use this mechanism? Why would we not look at making some form of compulsion available there that would have prevented that very difficult situation for those employees, for the women involved and for the community?

Mr. Hilliard: Okay, before I answer that question directly I would like to correct one of your statistics. I am aware of another employer application that was rejected, and I had some personal involvement in it. Hudson Bay Mining and Smelting applied in 1988

and it was voted down then as well. I do not know why; the statistics do not show that.

To get back to your direct question, I was not directly involved in the Fisons strike, but I was certainly talking to the people who were doing the bargaining.

You mentioned that the union perhaps misjudged their strength. That is not the case. The union in fact was very worried that the workers were being very unrealistic. They said so. They were encouraging them. They were telling them that they were being unrealistic.

I do not know what led to them holding that position, but usually when those things happen it involves other industrial relations problems that happened previously. For whatever reason the workers get their backs up and decide when they head into negotiations, they are just going to get their pound of flesh, and very often you will not get a settlement no matter what in that situation.

I can assure you, the union was not advocating that position. In fact it was very worried that they were getting themselves into a strike that was going to cause them a great deal of difficulty. -(interjection)- Excuse me, I am not quite finished.

However, you mentioned a legislative option in terms of avoiding that situation. I do not believe you could have done that. I think if you would have legislated something that tried to prevent that strike you would have created a lot of lawbreakers. That strike was going to happen and nothing was going to stop it.

What we can be thankful for is that once people let off steam there was a mechanism to then get back to the table and solve the problem, and that was FOS.

Mr. Praznik: Well, having spoken to many who were on that picket line, there were a lot of mixed feelings, and some of the comments that were coming back to me at the time, as an MLA—I would disagree a little bit with what you are saying as to expectations that were created, but that is a matter of opinion and who one talks to, and I appreciate where you are coming from.

Pat, I certainly appreciate the concerns in the brief of the MFL and your comments that have been conveyed to me here tonight, to Members of the committee, personally to me as Minister. Although we may agree to disagree on some of these issues, I know there are others that we are working with on the MFL that are of interest to Manitobans, and I look forward to continuing that relationship as Minister. Thank you tonight for your comments and presentations, and all the best to your president.

Mr. Chairman: What is the wish of the committee? Are there any more presenters? No more presenters. Committee rise.

COMMITTEE ROSE AT: 12:35 a.m.