



Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

Chairman

William Jenkins, M.L.A.

Constituency of Logan



2:30 p.m., Thursday, June 10, 1976.

THE LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON INDUSTRIAL RELATIONS
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CHAIRMAN: Mr. William Jenkins

MR. CHAIRMAN: Order please. We have a quorum. Can we proceed.

BILL 16 - AN ACT TO AMEND THE WORKERS COMPENSATION ACT

MR. CHAIRMAN: Bill 16. An Act to amend the Workers Compensation Act. Page 1--pass. Page 2--pass. Mr. Sherman. I thought you said you were going to ask something, I'm sorry. Page 3--pass; Page 4--pass; Page 5. I believe there is an amendment. There is an amendment I see here. The amendment has been distributed. Would someone move it.

MR. HARRY SHAFRANSKY: Mr. Chairman, I move, that the proposed subsection 25.1(3) of the Workers Compensation Act as set out in Section 21 of Bill 16 be amended by adding thereto immediately after the word "invalid" in the third line thereof the word "widower".

MR. PAULLEY: I understand, Mr. Chairman, this is simply inserting an omission of a word.

MR. CHAIRMAN: The motion as moved. Pass? (Agreed) Page 5 as amended--pass. Page 6--pass. Page 7--pass; Page 8--pass; Page 9.

MR. SHERMAN: Clause by clause please, Mr. Chairman.

MR. CHAIRMAN: Clause by clause, okay.

MR. PAULLEY: Just a minute till I find it, find the Act. Page what, Mr. Chairman?

MR. CHAIRMAN: Page 9, Clause 33 subsection 61.1(3). Any discussion on this clause or subsection--pass; Clause 33--pass; Clause 34(a)--pass; Clause 35 subsection 52. Mr. Sherman.

MR. SHERMAN: I have an amendment, would you give copies to the Clerk, Mr. Chairman.

MR. PAULLEY: It's on page 9 of Bill 16?

MR. SHERMAN: Page 9 of Bill 16 Clause 35.

MR. CHAIRMAN: Would you move the amendment, please Mr. Sherman.

MR. SHERMAN: Moved that Section 35 of Bill 16 be amended by adding after the word "gardening" at the end of the last line thereof the following: "except that in the case of the activities described in this section, a worker shall qualify for coverage under this Act when he has earned a total of \$1,000 within a calendar year as a result of employment in any of these activities with one employer."

If I may speak to the amendment, Mr. Chairman, it's based on examination of the difficulties and the detail and paper work involved when one takes into consideration the unique and seasonal aspects of agriculture and farm labour. The mobility of the labour force itself, the short tenure of some labour assignments, the rotation aspect of workers working in different locations or working for different employers, and the detail and paper work that would be imposed on a farm operator should there be no such qualification as this contained. We had a presentation from the Manitoba Farm Bureau which underlined some of these aspects that I know have been made known to members of the Committee up to this point. And in discussion on the bill itself in the House, there was an exchange between the Minister and myself that pointed to what I choose to feel is a fairly sympathetic understanding of the Minister on this point and that's the reason for the amendment.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I urge upon the Committee rejection of the proposed amendment, in all due respect to the honourable member who thought he had an understanding between myself and he in respect of the possible application of workers compensation in the agricultural industry. I think that this understanding arose when I indicated in the House that this was a matter that would be under consideration insofar as assessment is concerned. I urge upon the Committee rejection on the basis of principle. At the present time under Workers Compensation that where a worker,

(MR. PAULLEY cont'd) regardless of the type of industry that he is involved in, if he has an accident five minutes after he enters the plant or commences to perform work, he is covered under Workers Compensation. He does not, or she, have to accumulate any monetary value or remuneration because of involvement in work.

If this particular principle, as admirable as it may be in the eyes of the Member for Fort Garry and also some of the employers and possibly employees as well in the agricultural industry, it would mean in effect that if a man or a woman got on top of a tractor or a furrow or a harvester and two or three minutes after having become engaged in employment in that particular area of activity, fell down and was injured or had a leg taken off or an arm taken off, because of the fact that they had not earned \$1,000 or had not been actually at work for a designated period of time, would not be entitled to Workers Compensation.

So I suggest to the Committee that before we take a look, or not before necessarily we take a look, that before we legislate accordingly that we take a very very close look. I have given as Minister my assurance, and I believe they accept it and I believe my colleagues will accept my undertaking as the Minister of the Crown responsible for Workers Compensation, that we would look into essentially at all aspects of compensation. So as much as I admire the intent of the Honourable Member for Fort Garry, I could conceive a person in the agricultural industry working, say, 999 - 9/10ths hours and having an accident --(Interjection)-- dollars, yes thanks - working for \$999.99 then having an accident because of the non-entitlement of that extra cent, being not entitled to Workers Compensation.

The purpose of course as we all know of Workers Compensation is to endeavour to protect income of workers and if we put this type of a constraint on workers, then I feel, Mr. Chairman, that we're defeating a basic principle of the Act, not to the detriment of anyone except the workers involved. And I recommend non-acceptance by the Committee.

MR. CHAIRMAN: Mr. Dillen.

MR. DILLEN: I'm quite taken back by the amendment. I was under the impression while the Manitoba Farm Workers Association was here, and in particular Mr. Atkinson, that, to use the Member for Fort Garry's words, exact words - I don't remember what he said - but he did give the Farm Workers Association the assurance that they could depend on the support of the Conservative Party with regard to one portion at least of their brief which said in effect that - and I quote directly from their brief: "that the existence of Workers Compensation will give us security we never had before." And Mr. Atkinson moved off his brief at that time and requested specifically that we ignore the brief that was being presented by the Manitoba Farm Bureau requesting the exact wording of the amendment that is now proposed by the Conservative Party.

It seems that while they were confronted by the Manitoba Farm Workers Association that they were prepared to give their support to the Farm Workers Association and that support is on the record. They turn around a few days later in the absence of the Farm Workers Association and propose an amendment that goes absolutely contrary to the assurances and support that they had pledged to them at that time .

MR. CHAIRMAN: Mr. Johannson.

MR. JOHANNSON: Yes, Mr. Chairman, I think we should turn down this amendment, and I think that the fact that it's proposed by the Conservative Party is very interesting.

The Manitoba Farm Workers Association of Manitoba come before us and ask for coverage under Workmans Compensation. They represent the people in the agricultural industry who are at the bottom of the economic ladder. The Farm Bureau comes before us and asks for this amendment. They represent the elite of the farming industry, and it is interesting to find out who the Conservative Party works for. They work for the Farm Bureau, they do not work for the farm workers and I think we should turn it down, turn down the amendment.

MR. CHAIRMAN: Mr. Henderson.

MR. HENDERSON: Mr. Chairman, I've been listening to the remarks but there's an awful lot of things that you people who aren't involved in agriculture don't know anything about, and that is that an awful lot of these farmers are not bookkeepers and they don't like fooling around with Workmens Compensation and the like, and neither are the people that are working for them. And they're very happy in many cases not to be bothered

(MR. HENDERSON cont'd) with this, and especially when there's an exemption where they after a certain time they'd be in but not before.

Now I don't see why if the employee and the employer are both not wanting to enter into this contract that they have to. And I think that a clause of that nature could probably be put in there and it'd be far more sensible. I can see people that go into the mining industry or something like this where they have paid bookkeepers and that that look after it, that's fine. But you can't get the farm people to want to take care of this book-keeping and look after this stuff. By the time they get these forms filled out and such like maybe they've only hired a fellow for seasonal work, and maybe only a couple of weeks and he's through. So why can't they have some exemption for this so-called type of seasonal help.

If you people had any farm background you'd realize this. And when you speak about the MFU and its brief, don't forget that the MFU hasn't got all that number of members anyhow and the Farm Bureau, and the Farm Bureau has an association of all those members with their different executives to come together and their opinion is not so foolish as you think. You have some people in some of the other organizations like they have met you from time to time which think that they can present a brief and get headlines and justify their position. And the group that you talk about from Portage is just because you sent a few social workers out there to try to organize them that they got them supporting this kind of a thing. You couldn't get an ordinary sort of a farm worker wanting to support that kind of legislation at all.

MR. CHAIRMAN: Mr. Enns.

MR. ENNS: Well, Mr. Chairman, I'm not a member of the Committee but it's my right of course to contribute to the remarks.

MR. SHAFRANSKY: Not according to Mr. Sherman.

MR. CHAIRMAN: Order please. I think that remark is not called for. I think that any member - Order please. As long as I'm in this Chair and occupy this Chair, any member of the Legislative Assembly is entitled to attend here, to make comments, ask questions; the only thing that he can't do if he's not a member of this Committee is vote. Other than that, Mr. Enns, you have all the right in the world to participate in this debate.

MR. SHERMAN: That is correct, Mr. Chairman, but on a point of privilege I would request that that remark by Mr. Shafransky be withdrawn. That is an unethical remark and an unethical accusation. If he'd listened to the point of order I attempted to make the other night he would have understood what I was saying.

MR. SHAFRANSKY: Well, Mr. Chairman, I . . . last night Mr. Sherman objected on the basis that Mr. Cherniack had just come into the Committee and he was trying to give the argument that Mr. Cherniack had not been attending that a lot of these questions were being asked before. The fact is that there was a new delegate before us and Mr. Cherniack had the same right as any other member of the Legislature to ask questions, and you were objecting on that basis. And I indicated the same ruling as the Chairman does today.

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

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

MR. PAULLEY: On a point of order. A decision was made of an incident last night, that decision having been made last night is a dead issue, and I suggest that this committee proceed in accordance with the rules of the House which you very very competently administer.

MR. SHERMAN: Mr. Chairman, on the point of privilege that I raised, Mr. Shafransky has made and left on the record an accusation that is unethical, unjust, and untrue. Now Mr. Shafransky had 35 or 40 seconds to spell out his point. My point of order that I raised two nights ago was that Mr. Cherniack not being a member of the committee had not been present at Saturday hearings when a certain amount of ground was gone over by some 12 or 15 delegations before the Committee. I felt at that time that Mr. Cherniack was engaging in a private debate that was delaying the work of the Committee and delaying the appearance of other delegations who had been here since Saturday morning. --(Interjection)-- That was my point. Mr. Shafransky's point was that I don't believe that a Member of the Legislature has a right to ask questions at this committee,

(MR. SHERMAN cont'd) not being a member of the committee. And that was not my point and I want Mr. Shafransky to stop

MR. CHAIRMAN: Order please. Mr. Barrow on the same point of order.

MR. BARROW: On the same point of order. I can understand, Mr. Sherman, we've heard it's been very repetitious, repetitious to us also them. Mr. Cherniack had the right and we had to listen to it. I think we could waste an hour on this one point. . .

MR. PAULLEY: That's right.

MR. BARROW: . . . and delay the whole proceedings. If Mr. Enns has something to say to add to something important, let's just overlook it, and if there is any apology from Mr. Shafransky, I will make it for him. Thank you.

MR. CHAIRMAN: Order please.

MR. PAULLEY: Let's carry on the business.

MR. BARROW: Let's get going.

MR. CHAIRMAN: Can we proceed with the clause by clause discussion.

Mr. Enns.

MR. SHERMAN: Mr. Chairman, on a point of privilege. I don't want to delay the progress of the Committee, but I ask Mr. Shafransky again to withdraw that accusation which is a distortion of the point I made.

MR. SHAFRANSKY: That is not so.

MR. CHAIRMAN: Order please. I'm leaving it up to Mr. Shafransky. It is not a point of privilege. ORDER. It is not a point of order, it is not a point of privilege. The Chair has stated that I recognize Mr. Enns. Mr. Enns has all the rights to make any comments he wants here and I'll fight to the death to make sure that he's heard. Mr. Enns.

MR. ENNS: Thank you, Mr. Chairman. My faith is restored that merely by attempting to ask a few questions that I still have that capacity even at this late hour in the session to arouse some feelings of controversy around the committee table.

A MEMBER: Carry on, Harry.

MR. ENNS: To the amendment proposed by the Honourable Member for Fort Garry. It's an eminently sensible amendment and the government's rejection of it simply points out their dismal lack of understanding of what's happening on the farm these days. By the way, Mr. Minister, what is a furrow? How do you fall off a furrow? I just underline that little point. It also demonstrates a continuing penchant that this government has for all things compulsory

MR. CHAIRMAN: Order.

MR. ENNS: . . . for all things compulsory rather than allowing a perfectly good piece of legislation to stand, which is being used by many responsible farmers and is available to every farm worker, namely, to arrive at an agreement voluntarily to cover himself, as he should under Workman's Compensation. Any employer that I have had on my farm for any period of time that arrangement was arrived at. It's now possible.

It's bad law that you're enacting because it encourages its abuse. Gentlemen, it will be abused. Farmers throughout the Province of Manitoba will be breaking the law and you're passing legislation that encourages that breaking of the law. Because the fact of the matter is 90 percent of the farm work done by farm labour is being done by such a wide-ranging classification of workers in most instances, family members, in most instances, retired farmers, who come in and work for two or three days, 1,000 acres gentlemen are being put in in three or four days. You have this kind of a fluid labour situation on the farm. It's just bad law. I know it doesn't really excite me too much because it will be broken every day. But I as a legislator object to making bad law. And from some farm experience it indicates to me again the difficulty when people legislate in areas of which they have no understanding.

I can understand the ideological approach which members of the government are bringing into this area again. Mr. Johannson outlined that to us very correctly. He indicated to us that those farmers engaged in raising their poultry, the Farmers Association, Sugar Beet Growing Association, Sugar Beet Growing Association, the Manitoba Pool Elevators groups of grain farmers, the Cattlemen's Association, the cattle farmers, the Hog Producers Association, all these are elitists to be ignored, he chooses, and with the active help of his colleague the Minister of Agriculture, chooses to move about in a militant

(MR. ENNS cont'd) manner to mitigate a division that currently doesn't exist, but they will enable to do that and that is the basis and the ideological basis on which they propose this kind of farm legislation.

But, gentlemen, the amendment before you puts some form of compulsion, if you like, into it. It makes it possible that most farmers can at least abide by the law and most workers of long-term nature can be covered under the Workers Compensation. But the Act as you are passing it, by its rejection, you're ensuring - and you're not ensuring any extended coverage of compensation to the farm workers, I can assure you of that, all you're assuring is that more Manitobans will be invited to break the law. And that's why it's bad legislation. Let me remind you once again, as it now stands, responsible farmers cover their employees for Workers Compensation and any employer. If you want to spend a bit of time in education and if you want to send those same militants around telling and advising farm workers of their rights that they can apply voluntarily for workers' compensation, and should do so, specifically in the specific industries where perhaps a risk factor is greater.

Farm workers can now under the present legislation apply for workmens' compensation benefits and be covered by the Workers Compensation. What we're doing here is nonsense, gentlemen.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I appreciate the expertise of the Honourable the Member for Lakeside. I recognize the fact that he has for a relatively short period of time been engaged in the occupation of hog-raising and general farming. I in my lifetime too, have had the opportunity of being engaged in the industry of farming. So I want to say that even though I may live in Transcona it doesn't necessarily mean that I haven't had an association with the agricultural industry, and that is one of the reasons for this particular clause being here.

Apparently, Mr. Chairman, Mr. Enns has not taken the time or the trouble to take a look at the legislation that is being proposed because if he would go to the end of the bill itself dealing with the commencement of the Act he would find that Sections 6, 11, and 35, the section under "Consideration" comes into a day fixed for proclamation, or on proclamation. The reason for that being that way is in order to give the farm workers, the farm employers and the Workers Compensation Board an opportunity of working out a reasonable and feasible methodology of arriving at reporting of the incident of accident for the protection of the farm worker and also for the protection of the farm employer.

Now, Mr. Enns mentioned, Mr. Chairman, quite properly, that under the present Workers Compensation Act there is provision for a farmer to voluntarily bring under workers' compensation the benefits of that Act. There's no question. Now then as Mr. Henderson pointed out, one of the difficulties he envisions in 35 is the filling of the reports and statistics for the farmer. I don't think that I have to indicate to Mr. Henderson where the agricultural employer voluntarily, in accordance with the present Act, fills out the forms that are required, they are exactly the self-same forms that are filled out by usch employers as the CPR, the Timothy Eaton Company, or what-have-you.

Mr. Chairman, one of the reasons for the delay for the purpose of proclamation is to see if not in co-operation with the farmer, the farm worker, and the Compensation Board, that an arrangement might be worked out so that we offset the necessity of all of this bookkeeping and red tape. Now that is the reason; but the amendment proposed by Mr. Sherman in, I'm sure, in all sincerity would mean that only the farm workers who had earned X number of dollars after the Act comes into proclamation would be entitled to compensation. It's our desire in this legislation to cover the worker.

Mr. Enns very facetiously referred to the question of a "furrow". I will agree with him not too many people get buried in a furrow. But I think he would agree with me, though that if they fell off of the machine that was creating the furrow and the machine fell on top of him and killed him, under the present arrangement he would not be covered, or the benefits that may evolve of his falling off to his family be covered, and that is the objective of this legislation. That is why, Mr. Chairman, realizing and accepting the sincerity and the motivation of the Member for Fort Garry in the amendment and having a little bit of experience in the agricultural industry, I say that we would carry on the prejudice of the farm worker if we adopted that amendment.

MR. CHAIRMAN: Mr. Sherman.

MR. ENNS: Mr. Chairman, some sections . . .

MR. CHAIRMAN: Mr. Sherman.

MR. ENNS: Excuse me.

MR. CHAIRMAN: Mr. Sherman was next on the list after Mr. Paulley. Then Mr. Henderson, and then I'll take Mr. Enns.

MR. ENNS: Okay, thank you.

MR. SHERMAN: Thank you, Mr. Chairman. Through you to Mr. Paulley I would only wish to point out that the amendment as it is phrased or enframed is not intended to mean that voluntary application of workers' compensation, the coverage and benefits could not continue to be applied as it can be at the present time; all it means is that at this level specified, this minimum level, it would then become compulsory.

On another point, Mr. Chairman, I would like to lay to rest the fears expressed earlier by Mr. Johannson and Mr. Dillen, although it may be a futile attempt, for the benefit of Mr. Johannson this amendment was not framed or based on the Manitoba Farm Bureau's position. This amendment this approach to this legislation has been taken in our caucus for some time, and in fact when I spoke on the bill in second reading in the House, I said that there were many complications related to seasonal employment of this kind and there would have to be some careful details worked out. This is one of those that we had in mind.

The amendment in fact differs from the amendment proposed by the Farm Bureau. As for Mr. Dillen's allegations I think this same answer can apply. We are interested and supportive of the concept of extending compensation benefits as far as it's practical. This amendment merely acknowledges that in some areas of this kind of legislation --(Interjection)-- it's difficult and impractical.

MR. CHAIRMAN: Order please.

MR. SHERMAN: That it doesn't detract in any way from the support for the concept of coverage and the concept of making it as practical as possible. This amendment does not eliminate the voluntary aspect of the legislation as it exists right now.

MR. CHAIRMAN: Mr. Henderson.

MR. HENDERSON: Mr. Chairman, Mr. Sherman was saying practically the same thing as what I mean. I'm not saying that this isn't a good Act for anybody that's going to be employed for any length of time that it isn't a good thing to be used. What I'm concerned about is for the farmer that just hires occasional help, maybe just hires somebody to drive his truck for a few days at combining or some other thing like this, and he has to go through this. I wish that somewhere along the line that there could be some sort of an exemption for them even if they sign a paper to the effect - each one of them - that they knew it was available but that they didn't want to bother with it because of such a short time or something like this, because I can see many many people just absolutely breaking this and paying no attention to it, and I'm sure that this will happen. Anybody that's hiring a lot of help will be glad to have it and so will the employees. But these other people won't and they'll be breaking the law.

MR. CHAIRMAN: Mr. Enns.

MR. ENNS: Mr. Chairman, the Minister indicated that he, too, had some farm experience although I think he admitted it was some time in the past. The legislation would indicate that because he is legislating in the past and this government should think about and pride itself in legislating for the present than indeed for the future.

From the remarks already made by Mr. Henderson and others, the other point perhaps that should be raised, that so many farmers have offered to them constantly accident programs through their pool elevator organizations that provide for themselves and their workers for farm accidents that happen and many avail themselves of this.

The Minister has left me just briefly, but I would want to indicate to him anyway, you know, some three or four sessions ago I publicly made him an offer for his barbecuing events that I would supply him with a suckling pig that he could enjoy. I have never fulfilled that promise because I suppose instinctively I knew that sooner or later he was going to do something to us farm boys that we didn't like. Well, he's done it now. I want to publicly withdraw that offer for that suckling piglet to the Minister, and he's not going to get the piglet.

MR. CHAIRMAN: Thank you, Mr. Enns. I don't know what that last portion had to do with the amendment that's before us.

MR. ENNS: It was a question of honour, Mr. Chairman, between the Minister that I just wanted cleared up.

MR. CHAIRMAN: Well, I thank you for the information. Order please. Order. Mr. Uskiw.

MR. USKIW: Mr. Chairman, I want to point out to the Member for Lakeside that I'm not too far removed from the farmgate yet. I'm fully aware as to the problems that members foresee with respect to this legislation, and it's for that very reason that we had decided to not implement this bill on Royal Assent but rather by proclamation in order to give us an opportunity to discuss with the farm community ways and means of implementing that section. It can be done. I know it's problematical. But we think we can find ways of dealing with it in a way which would be satisfactory to all.

I think it should be pointed out that we have had correspondence from I believe various judges in this province who have had to deal with a number of cases with respect to employees who were injured on farms where there was no protection of that nature, and they are virtually condemning the government for having this particular industry not covered by workmen's compensation, and I think it's a valid criticism on the part of the judiciary and it's time that we cleaned it up.

MR. CHAIRMAN: The motion before the committee. Mr. McKenzie.

MR. MCKENZIE: I just can't accept the comments of the Minister. There are some 35,000 farmers in this province and I just wonder how you or the Minister of Labour, in all his wisdom, and with all the bureaucracy that he can possibly get, attract to his office, can implement and impose this kind of a law. It's just absolutely humanly impossible. You must have the co-operation of the farm community, otherwise it's not going to be possible. Here's an easy vehicle for you to get on the side of the farmers, and basically speaking most farmers do protect their workers with liability insurance that they buy from other firms. But I don't see how - it's absolutely going to be impossible - any way that you're going to implement this kind of legislation, unless you're going to tool up with a vast bureaucracy and sweep this province and find out what farmers got some . . . if you do it this way it will be on a voluntary basis and you'll have the co-operation of the farm community.

MR. CHAIRMAN: Mr. Einarson.

MR. EINARSON: Mr. Chairman, through you, Sir, I would like to say that this particular section of the bill does concern me as well and one who is a farmer, have been all my life, and in the experience of hiring people . . . Some of them do have protection through the Manitoba Pool Elevators at the present time but this probably is not sufficient. But there are many farmers who hire help on a very periodical basis. They might hire someone for a week, for two weeks or for a month, and I'm wondering what consultation the Minister of Agriculture and the Minister of Labour had with the farm organizations in trying to establish the feelings of the farmers in this province as to what kind of legislation they would like to see on the books. I would like to pose that question, Mr. Chairman.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Well, Mr. Chairman, if I may answer. I notice my colleague, the Minister of Agriculture . . . I indicated in the House we had met with representatives of the farm organizations and that we gave a joint undertaking, the Minister of Agriculture and myself, that we will have a meeting after the session to consider these points. I believe that my colleague, the Minister of Agriculture, would verify that statement to me, and also he would confer with me or confirm with me that this is one of the desires of the agriculture industry in Manitoba to sort of smooth over - to use that term in its very broad sense - some of the points of aggravation that have been prevailing in the agricultural industry in Manitoba for a long period of time. And that is why, again, Mr. Chairman, if I may refer back to the proposal, that we would like to have that meeting with the agricultural industry before any firm legislation is passed. And again as I indicated, that's one of the reasons of the holding back until proclamation of this portion of The Workers Compensation Act, it was not there before.

MR. CHAIRMAN: Mr. Einarson.

MR. EINARSON: Mr. Chairman, I want to thank the Minister of Labour for his comments. I do want to say for the record too that I think there's been a lack of communication between the farmers through their organizations in this province and I probably feel that the Minister of Agriculture has some responsibility here and I'm pleased to hear now that, while this has not been the case since they brought this legislation before us, and I am hopeful that the kind of consultations that are going to be carried on before proclamation will be to the satisfaction of the farmers of this province.

MR. PAULLEY: That is our hope too, Mr. Einarson. I suggest, Mr. Chairman, if I may, and I'm not trying to curtail debate - I think we've had a pretty good one on this - but it may be the opportune time to call for the question on this.

MR. CHAIRMAN: The question has been called for. All those in favour that the question be now put? Against?

Is it now agreed that the question be put? (Yes) The question before the House is the motion that the Honourable Member for Fort Garry moved. If you want me to read it I will read it. Do you all understand what it is? All those in favour of the motion --(Interjection)-- Order please. Just the members who are members of the Industrial Relations Committee are the only members eligible to vote.

QUESTION put, MOTION lost.

MR. CHAIRMAN: 35--pass; 36--pass; 37--pass; 38--pass; 38(2)--pass; 38--pass; 39--pass; 39(1), 39(2), 39(3), 39--pass; Preamble--pass; Title--pass. Bill be reported.

BILL NO. 57 - AN ACT TO AMEND THE LABOUR RELATIONS ACT

Bill No. 57, An Act to amend The Labour Relations Act. I believe there are some amendments. --(Interjection)-- I'll just wait until we get the amendments distributed and then we can proceed clause by clause. Do we have all the amendments distributed, the various amendments of all parts and quarters? Is it agreed that we proceed with the bill?

Bill 57, Clause 1, subsection (t)(i)--pass; (ii)--pass; (t)--pass; Clause 1--pass. Clause 2 subsection 5(1)(a)--pass; (b)--pass; (c)--pass; 5(1)--pass; 5(2)(a)--pass; (b)--pass; (c)--pass; 5(2)--pass; 5(3)--pass; 5--pass; Clause 2--pass; 6(1)--pass; 6(2). - Mr. Sherman would you move your amendment please.

MR. SHERMAN: Moved THAT section 6(2) of Bill 57 be amended by striking all the words between the word "union" in the 9th line thereof and the word "policies" in the 12th line thereof, and substituting therefor the words "that the".

The effect of the amendment, Mr. Chairman, is to take out the infractions listed as actions that could be deemed to be interference under subsections (a) and (b) and in effect so that the clause would read "indicates to an employer who would reasonably be expected to be within the unit or to be requested to join the union, that the policies of the employer will change in any way if the union is certified, etc., etc."

My reasoning was I think spelled out, Sir, in earlier sessions of the Committee and the House. I believe that the provisions and the restrictions contained in subsection (a) and subsection (b) constitute an infringement on the freedom of speech of an employer and would do as great a disservice to the employee in many instances as they would do in terms of depriving an employer of his right to freedom of speech. The disservice to the employee or employees would result from the fact that if this clause, section passes as written it would be impossible within any reasonable sphere of conversation for an employer to convey information, convey news of an informational value to employees with respect to the prospects of the business and the difficulties that might be known to the employer in the marketing and production areas that would not normally be known to employees. So I think that the amendment serves both sides of the labour community, as proposed.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I feel that we should reject this because while Mr. Sherman does appear to make plausible reasons to some degree for the amendment suggested, the fact still pertains that most of the workers, if not the greater percentage of the workers are under the rule and thumb of the employer, and if the employer were to be in a position to simply say to Bud Sherman, Bud Sherman I don't believe you should belong to this union because it might be prejudicial to your job some time in the future, so therefore that is the basis for the suggested deletion as I understand the amendment of the Member for Fort Garry. I think this is unalterably an indication in opposition to what

(MR. PAULLEY cont'd) we're trying to overcome in Manitoba.

You know, Mr. Chairman, there are those in Manitoba that think that this government is diabolically opposed to management for that purpose and that purpose alone. I suggest that it is exactly the opposite, that since becoming government, and as we are going to be the continuing government, what we are trying to establish in the Province of Manitoba is a climate of trust, a climate of acceptability between the employees and the employers. We've no desire, and expressed the desire on numerous occasions, of having an exodus of employers from the Province of Manitoba because of our labour legislation. I think this was proven by the statement that I made in the House just the day before yesterday, that of all of the provinces in the Dominion of Canada, Manitoba's rate of employment, current employment, is about the lowest that there is, that Manitoba's rate of industrial dispute is about the lowest that it is in the Dominion of Canada. And I suggest, Mr. Chairman, that this is based on the premise that Manitoba's legislation is based on real trust between the employee and the employer and for this Committee to adopt the suggestion of the Honourable Member for Fort Garry would go opposed to the principle that we have established over the last seven years or so in Manitoba, a principle of trust, a principle, where necessary, of reconciliation, a principle where we realize that it is a violation for an employer to say one thing to an employee to prejudice his rightful choice of belonging to or rejecting membership in a trade union. And as we look, no matter how the words are clothed, as we look in the proposal of the amendment of the Member for Fort Garry, we can come to no other conclusion but this is the intent. And I suggest to the committee it be rejected.

MR. CHAIRMAN: Mr. McKenzie.

MR. MCKENZIE: Well, Mr. Chairman, I deem this, like some of the members that appeared before the Committee, as the gag section of this bill, where freedom of speech is being denied. I just can't understand the Minister or the government, in this section, making it illegal for a manager or a supervisor in a plant to talk seriously with his employees if in fact whether they should join a union or not. And, Mr. Chairman, where it says in the latter section, "bargaining agent of a unit of employees of the employer, is attempting to enlist members from amongst the employees indicates" - Now what is indicate? Put your hand up; does it have to be in writing; does he just have to go to the union organizer that's in the plant and take one strip off the supervisor and then of course, then the section goes on, Mr. Chairman, "he shall then be deemed to be interfering." Now if that's not denial of rights or a gag section of this legislation, I'd sure like to have a better explanation. I don't think the unions of this province need that kind of powers to go into a plant to organize, Mr. Chairman. And I think the amendment is a very timely one and I sincerely hope that we don't have to grant those powers. I support the union concept; I think it's an excellent way to look after matters, but I don't think that those kind of powers are needed for the unions of this province to go in and talk to the matter of signing up the employees to join a certain union.

MR. CHAIRMAN: Mr. Dillen.

MR. DILLEN: Mr. Chairman, the members of the Committee may have a distorted idea about the so-called organizational powers that the unions are able to muster in negotiations, in attempting to organize where a group have indicated a willingness to proceed to select a bargaining agent that for so many years the employers have held all of the cards, have held all of the power, and I think what this legislation will do is simply even out the amount of power that has been exercised over the lives of the working people by the employers for as long as history has been recorded.

It is interesting to hear the comments from the Member for Roblin while at the same time the Canadian Manufacturers Association, which is the largest Association of manufacturers I believe in Canada, have been saying now - and it hasn't been reported - in an announcement by their president that the union and management must take a greater share in the determination of policies in Canada. While at the same time that they are making this kind of a statement, I think that labour organizations in Canada would welcome that opportunity to have a greater say, and it's only if they are organized to the extent that they have some voice in legislatures across Canada and at the federal level can we ever hope to achieve it.

But it is the kind of double-talk that comes out of the Canadian Manufacturers

(DILLEN cont'd) Association that creates a system where every union has to fight for its life and the employees have to fight for their life for the basic right to organize and to bargain collectively for improvements in wages and working conditions, and what have you. As long as unions have to fight for their life to exist, how can they hope to have the kind of management-labour relations that will lend itself to providing the kind of policy so necessary in provincial or Canadian life. It's just impossible to accept that employers have held - and I don't blame them for wanting to hold on to the positions that they hold. I don't blame them for that. You know that is the continuation of the exercise of power, and they're entitled to it. The only thing that is provided by this legislation is to evening the odds a little bit.

MR. CHAIRMAN: Any further discussion on the motion? Mr. McKenzie.

MR. MCKENZIE: Mr. Chairman, again I just can't understand where a manager or supervisor indicates that he objects to unions or union or that he prefers one union to another then he's penalized. And that in my opinion is denial of the freedom to speak, and he's penalized accordingly by this section of the Act.

QUESTION put.

MR. CHAIRMAN: I wish the honourable members would stay at the table instead of lobbying at the back of the room so we know what the motion before the committee is.

A COUNTED VOTE WAS TAKEN the results being a tied vote.

MR. CHAIRMAN: Again we have a tie vote, the Chair casts a ballot against the motion. The honourable member, as I stated the other day, has the opportunity to make the same motion on report stage of the bill. I declare the motion LOST.

Motions. (Clause 6(2) and 6(3) was read and passed)

MR. SHERMAN: Mr. Chairman, it would be agreeable with our group if you wanted to go page by page until coming to a page that has the next proposed amendments.

MR. PAULLEY: That would be agreeable as far as I am concerned, Mr. Chairman, unless my colleague the Member for Radisson has some amendments of a House tidying nature.

MR. SHAFRANSKY: Not until Page 7 to 14.

MR. PAULLEY: Well possibly we could go then.

MR. CHAIRMAN: (The remainder of Page 3 and Pages 4, 5 and 6 were each read and passed)

Page 7. Order please.

MR. SHAFRANSKY: I move that the proposed subclause 14(a)(3) of the Labour Relations Act as set out in Section 2 of Bill 57 be amended by adding thereto at the end thereof the words "or any other Act of the Legislature or of Parliament."

MR. CHAIRMAN: The motion as moved. Is there any discussion on the motion?

MR. SHAFRANSKY: 14(a)(iii).

MR. PAULLEY: "That the employee exercise any right conferred by this Act upon." Okay.

QUESTION put. MOTION carried.

MR. CHAIRMAN: Page 7 as amended--pass;

(Pages 8 to 12 were each read and passed)

MR. SHAFRANSKY: Mr. Chairman, I move that the proposed Clause 26(2)(c) of the Labour Relations Act as set out in Section 5 of Bill 57 be amended by striking out the words and figures "of less than 18 months" in the 1st line thereof and substituting therefor the words and figures "of 18 months or less" that is on the top of Page 14.

MR. CHAIRMAN: The amendment as moved. Any discussion on the amendment? Pass. Page 14 as amended--pass.

MR. SHERMAN: I have an amendment on Page 14 which I have classified as Section 29(3). It would actually be Clause 7 of this bill, Sir, and my amendment is as follows: I move, that Section 29(3) be amended by adding after the word "union" in the fourth line thereof the following new sentence: "the professional organization that is authorized by statute in force in Manitoba of which the professional employee is or is eligible to be a member shall be the authority in deciding who is practising the profession."

The reason for the amendment, Mr. Chairman, is to define the authority for determining what is meant by the word "practising". And since we're dealing here with

(MR. SHERMAN cont'd) practising professionals, they are persons, citizens who belong to professional associations recognized and authorized by statute. The amendment proposes that that authority would be the fair one to determine who actually is practising his or her profession. I'm sure you'll appreciate, Mr. Chairman, there could be professionals who are functioning perhaps in instructional capacities or jobs of that type in which by one definition it could be argued that they were not practising their actual profession. So there is leeway here for a good deal of discrepancy in interpretation unless there is an amendment of this kind written into the legislation.

MR. CHAIRMAN: Mr. Dillen.

MR. DILLEN: . . . Mr. Chairman, the way I see 29(3) as it's in the wording and that which is being proposed as amendment, it says that Section 29(3) be amended by adding after the word "union" in the 4th line thereof the following new sentence, and yet in the bill the word "unit" is used. It's obviously a typographical error, Mr. Chairman.

MR. SHERMAN: I'm sorry, it's obviously a typographical error, Mr. Chairman. I'm sorry the word should be "unit" not "union". In other words it's adding a new sentence to that section, that clause. I'm sorry, that's a typographical error.

MR. CHAIRMAN: Any further discussion on the motion? Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I've just had an opportunity of taking a look at this amendment and I can understand of course that in Committee occasionally it does occur. Amendments are produced that we haven't had a real opportunity of taking a look at, but it is my interpretation, it is my interpretation as I read the proposed amendment of the Honourable Member for Fort Garry, it seems very innocuous but I suggest that it's very significant and that we should be very very careful before we consider the adoption of this thing because it, in my understanding, in my interpretation, takes on the decision of the Labour Board the right of declaration as to the individual who is performing the service. Because the amendment is, by adding after the word "union" the following sentence: "the professional organization that is authorized by statute in force in Manitoba," instead of a decision being made by the Labour Board as to the rights or privilege of the individual to be a member of a particular unit, it will be the professional organizations, such as in the case of professional engineers, the decision will be made by the professional engineers or the agronomists, or some other professional group. Now we have in our legislation powers granted to professional associations for certain declarations and also certain requirements for them to be able to practise under a licence therewith, but to accept I suggest, Mr. Chairman, the proposition of the Honourable Member for Fort Garry, it would mean that the association and not the Labour Board would be the ones that were deciding who are eligible to be covered as far as the particular unit is concerned, and I think on that basis we should not accept the recommendation of the honourable member.

MR. CHAIRMAN: Question on the motion. Mr. Sherman.

MR. SHERMAN: Mr. Chairman, if I could speak to it again. The point at issue is the determination of what is practise and what isn't, who is practising and who isn't.

MR. PAULLEY: And who decides?

MR. SHERMAN: Now the existing legislation as the Minister knows refers to professional employees. The new legislation refers to professional employees practising a profession.

MR. PAULLEY: In the Labour Relations Act.

MR. SHERMAN: The section goes on, this particular clause goes on to make reference to the necessity of satisfaction that a majority of the professional employees practising that profession wish to be included in the unit. In other words, there is no threat to the democratic process where the wishes of a number of professionals might be involved, might be concerned. What is at issue here in our view is that the way the legislation is presently worded, enables the Labour Board to include professional employees who perhaps by the strict definition of the term are not practicing their profession into units, into bargaining units which they don't wish to be forced to join.

MR. PAULLEY: Oh, but they don't have to join. It's just a definition of qualification. I'm sorry I believe I stepped in either before you were finished, Mr. Sherman, or before Mr. Cherniack started. And I don't want to be caught between two distinguished gentlemen.

MR. SHERMAN: Well, Mr. Chairman, I suppose it depends on one's interpretation of the application but the section very clearly means to a good many people, including me, that certain professional employees under this legislation as it's worded now, who would lose their right to determine whether or not they should be in a bargaining unit against their will.

MR. PAULLEY: I don't think so.

MR. SHERMAN: And by defining the authority of who shall determine what practising is, we would guarantee that individual choice to that particular professional unit provided there was a majority who felt in one way.

MR. PAULLEY: I agree with your majority position, Mr. Sherman, but I believe the designation should not be by the professional unit but by the Labour Board and that's the intent of the legislation.

MR. SHERMAN: Just by way of speculation, Mr. Chairman, might I ask the Minister, through you, what would be in his view the opinion of the Labour Board with respect to a professional engineer instructing for example at a college, what would his view be . . .

MR. PAULLEY: It all depends on what use he is making of his particular expertise. This is one of the - if I may just continue for a moment, Mr. Chairman. This is one of the big difficulties we had at the time of the formation of the supervisory associations or the unionizations, to use it that way, of the professional groups at the University of Manitoba - was a lawyer who was lecturing at the university also using a portion of his time outside practising in law - was he eligible to be a member of the bargaining unit at the university or was he excluded? There was a great deal of difficulty in ascertaining which was which. And the purpose of the present content of the legislation is to give to the Labour Board judgment as to which he was; that is the reason for that, and that is the reason I say that it - that sounds dictatorial and I'm not, I'm just a peaceful ordinary individual as you all know. The point is, that if we gave that authority to a professional organization who was not answerable basically to the Assembly for their determination, rather than to the Labour Board, we could conceivably be getting ourselves into a lot of difficulty. That's the purpose behind this.

MR. SHERMAN: Let me just ask the Minister, Mr. Chairman, does this section not protect the freedom of choice up to the point of a majority decision which I am perfectly willing to abide by? Does it not protect the freedom of choice of the professional employee who is classified as a professional employee practising his profession, but threaten the individual choice of the professional employee who doesn't obtain classification that he is practising his profession.

MR. PAULLEY: My answer to that would be, Mr. Chairman, that he has his professional protection under the law of the Province of Manitoba dealing with the professional association of his inclination, that is where he establishes that aspect. When we come down to a determination of coverage in a bargaining unit where there is a duality of involvement, either as a professional or as a teacher or someone else, then we feel that assessment should not be made by the professional association but by the likes of the Labour Board. There's the difference.

MR. SHERMAN: There's the difference. Mr. Chairman, that's the reason for the proposed amendment.

MR. PAULLEY: That's right, and we appreciate that too. I would suggest Mr. Chairman, that we turn down the proposal - and may I say in my suggestion I am not discounting that there is some validity and merit in the proposition, but in view of the difficulty that we encountered when, for the first time, as a result of legislation of this government, the professionals at the university were eligible to form themselves into bargaining units, we ran into this difficulty. We're hopeful this will get over that.

MR. CHAIRMAN: Okay. Any further discussion on the motion? Mr. Cherniack.

MR. CHERNIACK: Will there be a vote on this?

MR. CHAIRMAN: Yes there will be a vote.

MR. CHERNIACK: On this section?

MR. CHAIRMAN: That's right.

MR. PAULLEY: On a point of order. May I suggest, if I understand the procedure thus far correctly, the amendment has been rejected by a vote.

MR. CHAIRMAN: No, we haven't voted on the amendment.

MR. PAULLEY: Oh, I thought we did.

MR. CHAIRMAN: No, we are . . . the question has been called on the motion.

QUESTION put on the Amendment, MOTION lost.

MR. CHAIRMAN: Page 14 as amended--pass.

MR. SHAFRANSKY: Mr. Chairman, Page 15, I move THAT section 8 of Bill 57 be struck out and the following section substituted therefor:

"Sec. 30 rep. 8 Section 30 of the Act is repealed."

MR. CHAIRMAN: We have the motion that Section 30 of the Act be repealed. Mr. Sherman.

MR. SHERMAN: Mr. Chairman, would Mr. Shafransky speak to the amendment?

MR. SHAFRANSKY: No, I am making the motion, I will ask the Legislative Counsel.

MR. TALLIN: It is sort of a technical legal answer that I'm going to be giving to you. Section 50 of the Act already gives the Board the authority to call a vote on a certification at any time. The previous Section 30 had certain rules that said in certain instances they must call a vote and that's why it was in there, because it went beyond what Section 50 had said, that there were certain requirements. The amendment that has been put in here is just really changing that so that, again, the Board is authorized to hold a vote. And seeing as how they are already authorized to hold a vote under Section 30, it seems logical to take out Section 30 altogether, take out this new Section 30 of this bill which would be duplicating the authority which is already granted by Section 50.

A MEMBER: It's just a technicality.

MR. SHERMAN: Yes, it's a 50 percent figure.

MR. TALLIN: No, no, they must still . . .

MR. PAULLEY: Let's say it's cluttering up the Act, is that it?

MR. TALLIN: That's right.

MR. PAULLEY: By a duplication.

MR. TALLIN: Yes.

MR. CHAIRMAN: So the clause as it now stands will just read that Section 30 of the Act is repealed, am I correct?

QUESTION put on the amendment, MOTION carried.

MR. CHAIRMAN: Mr. Shafransky.

MR. SHAFRANSKY: Mr. Chairman, on Page 16 . . .

MR. CHAIRMAN: Just a moment, it's Page 15 as amended--pass; Page 16 - Mr. Shafransky.

MR. SHAFRANSKY: Mr. Chairman, on Page 16 I move THAT the proposed clause 44(2)(c) of The Labour Relations Act as set out in Section 13 of Bill 57 be amended by striking out the words and figures "of less than 18 months" in the first line thereof and substituting therefor the words and figures "of 18 months or less".

MOTION presented and carried.

MR. CHAIRMAN: Page 16 as amended--pass; Page 27 . . .

MR. SHAFRANSKY: Mr. Chairman, I move THAT the proposed subsection 47(2) of The Labour Relations Act as set out in Section 15 of Bill 57 be amended

(a) by adding thereto, immediately after the word "agent" in the 5th line thereof the words and figures "and where the Board is satisfied that more than 50 percent of the employees in the unit support the application" and

(b) by striking out the words "as to the selection of bargaining agent to act on their behalf" in the last two lines thereof.

MOTION presented and carried.

MR. CHAIRMAN: Page 17 as amended--pass; Page 18--pass.

MR. SHERMAN: Page 19 clause by clause, Mr. Chairman.

MR. CHAIRMAN: Page 19, clause by clause. 20 subsection 65.1(1)(a)--pass; (b)--pass; (c)--pass; 65.1(1) in its entirety--pass; 65.2(2)--pass; clause 20--pass; clause 21--pass; clause 22 - Mr. Sherman.

MR. SHERMAN: I have an amendment, Mr. Chairman, THAT Clause 22 of Bill 57 be struck out.

I won't take up the time of the committee in elaborating on the intent. As the

(MR. SHERMAN cont'd) committee knows, Section 68.3 is the subsection that would be repealed if this clause of this bill passes, and that is the subsection which we feel grants right of conscientious objection, carries right through the principle to include non-payment of union dues in the case of conscientious objectors. I think the case has been made eloquently by many representatives and delegates that have appeared before the committee. There will be others who will wish to speak on the subject. I simply offer those remarks in support of the amendment, Sir.

MR. CHAIRMAN: Mr. Enns.

MR. ENNS: Well, Mr. Chairman, I don't want to take up any time either. I am not a member of the committee, but I was four years ago when the clause was initially inserted into the bill, and from all the statements that I have heard, I haven't been given a good reason why the clause, which was relatively new legislation four years ago, why it is now felt in the wisdom of the government to withdraw it. The arguments as Mr. Sherman has stated have been well presented by people both in the Chamber and by outside representation. Again, Mr. Chairman, I can't help but indicate to the members of the government that in this specific instance they are showing a lack of sensitivity to what some people consider their rights. I remind honourable members that all governments naturally rule by majority, but the justice of a government is often measured by their tolerance for the minorities within their jurisdiction, and I think that the minority groups have indicated in very clear understandable language their position on the matter. The Minister has failed completely to indicate that it is of great consequence to the union movement or to organized labour, or in any way is causing severe loss of income to organized labour as a result of the clause being there. I understand the practice or the use of that clause was minimal throughout the four years that it's been on the books and I fail to understand why the government chooses to once again demonstrate its insensitivity to what some people - they may not be your views - but what some people consider a matter of basic human rights.

MR. CHAIRMAN: Mr. Banman.

MR. BANMAN: Thank you, Mr. Chairman. I just have a few comments on it too. The government in its wisdom saw to include this particular section in the Act only a short four years ago, and basically what has happened with regard to this Act is very much the same thing that has happened in Ontario, another jurisdiction. They've had that Act with very much similar wording and have gone through very much what the Province of Manitoba has with regard to the interpretation by the Labour Board and then the decision by a judge laying down exactly what he felt the conscientious objector, or a person by conscientious religious belief, could opt out of this section. Now the experience in Ontario - and I just spoke with somebody down there - shows us that there's only about 125 people that have availed themselves of this particular clause. In other words, out of a province which has a population about eight times Manitoba's, there has not been a mass rush or an exodus out of the union movement. I think the government would be wise in allowing people who feel very strongly on this particular issue to opt out of it. I think the Labour Board is in a good position to tell whether a person is really by conscience or religious beliefs opposed to this particular thing about joining a union and I think that the government would be wise in allowing people, especially in a minority group such as this, and it might be a very small minority group, to opt out on personal religious beliefs. Thank you.

MR. CHAIRMAN: Any further discussion on the motion?

MR. PAULLEY: Yes, Mr. Chairman, I have one observation to make on the motion. I am well aware of what transpired in 1972 in respect of this matter. This matter has been given the consideration of the government and it in its wisdom has come to the conclusion that the proposition of the opposition should not be accepted. However, as I indicate, Mr. Chairman, we have an alternative, but in order to deal with that alternative, it is first necessary I suggest, Mr. Chairman, in parliamentary procedure, to defeat the amendment proposed by the Conservative Party. So I feel that I have no alternative as a member of the committee, to recommend the deletion of the amendment as proposed by the Conservative Party and then a member of the committee will introduce an alternative proposal.

MR. CHAIRMAN: Mr. Enns.

MR. ENNS: Mr. Chairman, we're really accustomed to being dealt with this way

(MR. ENNS cont'd) by the government, but I would remind the Minister, through you, Mr. Chairman, that he's putting us into a difficult position. He's asking us to waive our rights in this particular area and defeat this motion before us. He hasn't indicated to us, hasn't spelt out to us what his substitute motion is. He's expecting us to buy a pig in a poke you might say, and we have no alternative but to voice strongly our objections for the government's attitude in defeating this motion before us. I think if they wish to demonstrate that among the other freedoms that they can trample on, religious freedom is one of them, so the vote can be carried down on that line. I like things black and white; and this is another instance that the government is providing me the opportunity for saying that.

MR. PAULLEY: Mr. Chairman, I appreciate the comments of the Honourable Member for Lakeside. I recommend to the committee that the proposition for the deletion of section 22 be voted on and deleted.

MR. CHAIRMAN: Mr. Johansson.

MR. JOHANSSON: Mr. Chairman, the Honourable Member for Lakeside is joining our discussion at a very late stage. He's missed much of the debate that's already gone on and in fact the reason for the proposed change in the Act was put forward very clearly by the Minister of Mines. We had an intention in 1972 when the original Act was brought in of granting rights for religious beliefs of a religious group being exempted from payment of union dues. And that was very clear, that was clearly our intention and we gave notice at the time that if the courts chose to interpret this differently we would change the Act. The courts have chosen to change the interpretation of that particular clause in the Act so that in effect anyone of any particular religious belief can on the basis of his own individual conscience rather than the beliefs of his church be exempted from paying union dues. That was not our intention at the time when we proposed that particular clause and therefore we're dealing with this now. We will not have the courts change the interpretation which we gave to that particular clause in the Act.

MR. PAULLEY: This is defeating the amendment, Mr. Chairman, and I call for the question.

MR. CHAIRMAN: Question has been called on the motion. Order please. Motion has been moved that the previous question be put. Now it is the duty of the Chair to call for the question on the motion, shall the motion be put. Order please. There is no debate on that type of a motion before a committee, the honourable member knows that. Order please. It is not closure.

MR. PAULLEY: Whether it is or not it's a motion that I sincerely propose.

MR. CHAIRMAN: The motion is within the rules of this House and it's within the rules of this committee, we abide by the rules of the House. When a motion is moved that the previous question be put, it is a non-debatable motion, the only motion that can be raised is a point of order or privilege of the committee. But there is none before the committee. I call for the question. All those in favour of the motion that the previous question be put?

QUESTION put. MOTION lost.

MR. MCKENZIE: Mr. Chairman and committee members. In my time I have always believed it was the duty and the obligation of government to look after the rights of minority groups regardless of what their philosophy was, what their beliefs were. The government of this province has the power, it has the money, it has the treasury, it is in control of the people of this province, and surely on this issue and other matters if this government isn't prepared to stand up and defend the rights of minority groups and the individuals, then this government should be removed at the earliest possible date, Mr. Chairman.

MR. CHAIRMAN: Order please. Mr. Barrow.

MR. BARROW: Mr. Chairman, we've heard a lot of discussion on minority groups and the fact that a group is in a minority doesn't entitle it to any more consideration than a majority group. These people who do not want to pay union dues and not belong to a union may have a point, they may have a point saying, "We pay union dues we do belong to the union. On the same tone they're saying, "We will give it to the charity of your choice". To me this is pure hypocrisy. What the hell difference does it make whether they give it to the union or charity, they're still giving it. I mean the whole

(MR. BARROW cont'd) thing is false to me. I hate to disagree with my friends on that side of the House.

These people receive, and we went through this over and over and over again, it boils down they're receiving all the benefits and don't pay anything for it. In my language that's free-loading, they want something for nothing, minority group or not. If I'm a union member I want him to pay for it. If you get me an 8-hour day I want him to pay for it. If they don't belong to this world, well then the alternative is leave it. If they don't want to work for organized labour, let them work some place that's not unionized. It's as simple as that. Let them become farmers, whatever --(Interjection)-- okay, right, right. That's right. Question.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, the question before the House is the question of the deletion, and not an oration of one's philosophical approaches to religion or religious beliefs.

MR. CHAIRMAN: Mr. Patrick.

MR. PATRICK: Mr. Chairman, I wish to say a few remarks on this clause. I listened to the delegation and I think that we have to give some consideration to the points that were raised by the delegations here the other day.

On the other hand, Mr. Chairman, I believe if this would have created a problem as far as members opting out of unions then I think perhaps we could have maybe looked at the Rand Formula much closer and quicker. As far as I know I believe that it hasn't created a problem. If you look at Ontario which has the same clause as we had last year or in the Act at the present time; with some over two million union members in that province, I understand there's only 125 opted out. So it hasn't presented a problem at all in that province.

Now I haven't got the information, but I know that there's only been two cases or so that wanted to opt out, with the exception of the ones that are presently, The Plymouth Brethren. Now I know this may have caused some extra work for the Labour Board. I don't know how many cases it had before them, so it may be a small problem. If there's only a few applications before the Board, then, Mr. Chairman, I see nothing wrong to leaving the legislation the way it was. If it becomes a great problem that everybody starts opting out then perhaps we can look at it next year, but at the present time I see it isn't a great problem, there hasn't been the members opting out, so I will support the motion.

MR. CHAIRMAN: Mr. Steen.

MR. STEEN: Mr. Chairman, we have heard numerous delegations regarding this aspect of the bill and we've had much debate amongst members of the committee and other members of the Legislative Assembly. What puzzles me is that four years ago this government - same government with the same Minister of Labour - permitted such a privilege to so few persons in Manitoba and yet today they're not prepared to offer this privilege again, and I find this a very puzzling aspect of the whole debate.

MR. CHAIRMAN: All those in favour of the motion as presented by the Honourable Member for Fort Garry.

MR. PAULLEY: That is the deletion.

MR. CHAIRMAN: Order please. All those in favour of the motion.

MR. PAULLEY: What is the motion?

MR. CHAIRMAN: To delete section 22.

A COUNTED VOTE was taken the results being as follows:

Yeas 5; Nays 6.

MR. CHAIRMAN: Declare the motion lost.

MR. CHAIRMAN: Mr. Shafransky. Order please. ORDER. Order please.

Now before we proceed any more, until there is something before this committee we are not going to have a debate going on between members. Now, Mr. Shafransky.

MR. SHAFRANSKY: Mr. Chairman, I move THAT section 22 of Bill 57 be struck out and the following section substituted therefor:

Subsection 68(3) repealed and substitute

22 Subsection 68(3) of the Act is repealed and the following subsection is substituted therefor:

(MR. SHAFRANSKY cont'd)

Exemption for Religious Groups

68(3) Notwithstanding subsections (1) and (2) where a union that is a bargaining agent for a unit of employees in respect of which there is a collective agreement is satisfied that an employee in the unit is a member of a religious group which has as one of its articles of faith the belief that members of the group are precluded from being members of or financially supporting any union or professional association, a union may on such terms and conditions as it and the employee may agree upon, exempt the employee from any obligation to pay the regular membership dues payable by a member of the union and upon the employee being so exempted the union ceases to be obligated in any way to represent or act for or on behalf of the employee, and in the case, if the employer complies with terms and conditions, if any, agreed upon by the union and the employee with respect to the deduction and remittance of equivalent amounts from the wages of the employee, the employer is not in breach of any provision of the collective agreement that requires the deduction of regular dues from the wages of the employee and the remittance thereof to the union by reason only of his failing to deduct the regular dues from the wages of the employee and remit them to the union.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, this proposed amendment is a "con" job. There is nowhere in this amendment that there is any reference specifically to the point of conscience or the principle of conscience which we have been arguing and which delegations before this committee have been trying to put forward for some four or five days, and in fact raising back over the past four years at various meetings on legislation of this kind.

The government is obviously holding out an olive branch of a kind here and obviously will satisfy a particular sect or group. But, Sir, I submit to you that the amendment is cunningly devised and cunningly worded so as to put the Progressive-Conservative members of this committee - and I can't speak for the Liberal members but I assume their position is the same - in a corner that is intended to get the government off the hook and embarrass the opposition.

Sir, there are members of religious groups and faiths who have appeared before this committee among whose tenets and articles of faith is no such condition or no such admonition as it pointed out or specified in this amendment. What the amendment does is attempt to make the government look as though it's being charitable and humane and attempt to confuse the issue on the basis of a specific tenet or a specific article of faith. We're talking about the broad area of conscience of a religious nature that is not necessarily tied down to a spelled-out article of faith, and I think, Sir, that it does a disservice to those who in conscience object to this kind of legislation and it's designed to put those of us who have fought for this in a very embarrassing position.

MR. CHAIRMAN: Mr. Enns.

MR. ENNS: Mr. Chairman, I don't want to take issue with my colleague, the Member for Fort Garry, but I want to assure him that I suffer no embarrassment about how I will vote on this amendment before us and I will, of course, reject it. I have never fought the issue for a specific group, I fought it on principle, and if you stay with principles, gentlemen, you don't have pangs of embarrassment when asked to slide off on either one side or the other side.

I would just simply indicate to you, Mr. Chairman, that I reject this amendment although I recognize that it is an amendment that will be favourably received by "a" group that it specifically covers, but I have to reject it on the basis of the remarks that I made on this matter four years ago, the reasons that I fought for this matter four years ago and those reasons haven't changed. I simply see that there is some encroachment on the religious freedom that I would think is a basic and fundamental right to all Manitobans, not specifically spelled out under any sect or any particular group and as a legislator in Manitoba that is what governs my actions. I reject the amendment, Mr. Chairman.

MR. CHAIRMAN: Mr. Patrick.

MR. PATRICK: Mr. Chairman, I know the amendment was moved and it's a very large amendment. I wonder if the Minister of Labour can explain just the mechanics, how you see it working.

MR. PAULLEY: Well as I understand - if I have your permission, Mr. Chairman.

MR. CHAIRMAN: Yes, proceed, Mr. Paulley.

MR. PAULLEY: My understanding of the resolution, and I'm sure the members of the Committee will agree that it's couched in legal terms . . .

MR. PATRICK: Would you want the Legal Counsel to explain it? I think it would be of some help.

MR. CHAIRMAN: Order please, the Minister is explaining, the honourable member asked the Minister to explain. Don't interrupt.

MR. PAULLEY: I'm trying to explain it as much as I can in layman's language. We had some legal technicalities with the previous section 68(3) because of the interpretation as what is meant by religious inclination, be it of the church or the individual and that's part and parcel of consideration to the amendment.

Now as I understand this, where a union that is a bargaining agent for a unit of employees in respect of which there is a collective agreement, where they are satisfied that the employee in the union is a member of a religious group which has one or more of its articles of faith the belief that the members of a group are precluded from being members of or financially supporting any union or professional association, the union may on such terms and conditions as it and the employee may agree upon, exempt the employee from any obligation to pay the regular membership dues payable by a member of the union.

I'm going to stop there for a moment because most of those that are here this afternoon did attend the meetings - I don't believe the Member for Lakeside was here, despite his interest, and I don't mean that derogatorily of my dear friend from Lakeside - but in answer to some questions, some of the representatives that were here pointed out that really and basically, notwithstanding the previous clause, they came to an understanding, particularly insofar as the - I believe it was CUPE and City of Winnipeg - they came to the understanding that in view of the long service of the individual concerned and in view of the religious inclinations of that particular individual, they would not insist on the provisions of the law. Now by virtue of other sections of the Labour Relations Act, one of which says that where there is a collective agreement, there is an obligation on the employer to deduct the union dues of the union from that employee. An agreement was made, and the purport as I understand this - and I hope Legal Counsel will correct me if I'm wrong in my basic approach to this - the concept of this is that that employer will not run afoul of the law if there is an arrangement between the employee concerned and the union that there will not be a charge or a violation of the Labour Act levied against the employee. On the other hand, however, the union ceases to be obligated in any way to represent or act for on behalf of the employee, and in that case if the employer complies with any terms and conditions agreed upon by the union, the employee with respect to the deduction and remittance of equivalent amounts from the wages of the employee, the employer is not in breach of those other sections of the Act.

In other words if action is not taken by the union, as I understand it, on behalf of this particular employee in accordance with the collective agreement between the employer and the employee, the employee is deprived of the right of any charges against the union because they didn't adhere to the terms of the collective agreement. On the other hand, because of the non-deduction of the dues, the employer is not liable to penalty under the provisions of the Labour Relations Act. Now that's my broad understanding, and I ask Legal Counsel if in layman's language, I'm not too far out. I may be out in some minor details but, Mr. Tallin, I believe that this is the broad general purpose behind this amendment, and, Mr. Tallin, Mr. Patrick indicates to me that my interpretation and my assessment of this particular section is correct. As far as the amendment posed by the Conservative Party, it is a saw-off, it's not an endeavour to circumvent responsibility, but in my opinion despite the rigidity of approach that would be taken by my friend, the Member for Lakeside, it's an endeavour, a compromise to some degree, but at the same time a reasonable understanding, so that at least in part of the case we can have harmony.

MR. CHAIRMAN: Mr. McKenzie.

MR. MCKENZIE: Mr. Chairman, I reject this motion on many grounds. Mr. Chairman, the Minister of Labour is a highly respected member of his church. The

(MR. MCKENZIE cont'd) members of this committee and the people sitting around this room no doubt have their same rights in their various churches. Mr. Chairman, I don't see how in our wildest imagination we can legislate the conscience of a man or a woman. I don't think we have the right, I don't think we have the knowledge, I don't think it's a matter for us as legislators to deal with; that's a matter of conscience, it's something that's most difficult, in fact in your wildest imagination, how could you possibly describe it in legislation? Mr. Chairman, I say that the right of a person to have a conscience is a right that we must protect as legislators, as citizens of this province, and it's a right to have a conscience and let us not try and put it down in black and white what a conscience is. It's a God-given blessing and let's not try to legislate it that you can't have one. I reject it on the strongest possible grounds.

MR. CHAIRMAN: Mr. Shafransky.

MR. SHAFRANSKY: Mr. Chairman, I believe at least two delegates had expressed the view that in the case of their particular unions there were provisions made under the agreement which exempted them from belonging to the union; and they've had in the case of the people in Winnipeg that are I suppose governed by the CUPE union, there have been exceptions made, and it's been of long standing. I understand the Executive Director who was before us indicated to us that certainly the unions are not in any way opposed to the fact that this provision is now made, is just to put it into the Act. Now if I had my druthers I would simply delete the whole section altogether and leave it as it was in the long tradition over the past twenty-some years, in which conscientious objectors were able to make those arrangements, in the case of CUPE to be exempted from becoming members of the union. But this just puts it into words for all other cases.

MR. CHAIRMAN: Mr. Banman.

MR. BANMAN: Thank you, Mr. Chairman. I think this particular amendment is watering the whole thing down, and I think it is sort of a bit that the government is using it as a bandaid approach in trying to soothe the waters. I think the motion before us right now, the key to that whole motion, in that whole long paragraph, is that the union may - which I think is totally unacceptable to me, it leaves the option to the union and affords no protection of the rights of the individuals who by religious beliefs are opposed to joining unions. I can't see that we can leave this power within their hands, and I think that it should have been enshrined in legislation and we should have left it the way it was.

MR. CHAIRMAN: Mr. Barrow.

MR. BARROW: Mr. Chairman, I feel that I should protect the integrity of the union. They're quite capable of making judgment, and I think if people have a worthy cause they will look into it. Do you think the union people are any less intelligent, more intelligent than any of you people who sit over there? --(Interjection)-- We make laws. We make laws and the union follows it. I think it's a good amendment.

MR. CHAIRMAN: Order please. Are you finished, Mr. Barrow?

MR. BARROW: I think that trying to make hay on an issue that's so common sense, Mr. Chairman, is absurd. You know, it's like buying beef from my honourable friend from Lakeside and not wanting to pay for it. --(Interjection)-- Well I wouldn't buy it.

MR. CHAIRMAN: Order please.

MR. BARROW: I move the question be put.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, I'd just like to make a comment in response to the position that Mr. Shafransky took. The fact of the matter is when he talks about going back to a system that existed before, and the fact that individual arrangements could be made with unions and that that system in his view and perhaps in the view of many works very well and that's what he would like to see, the problem is with this proposed amendment before us, Mr. Chairman, that that system cannot be pursued. What this amendment says is that the employee that we're considering in this particular kind of situation is a member of a religious group which has as one of its articles of faith the belief, etc., etc. That narrows the whole concept, the whole area down, Mr. Chairman, to a very narrow, specific element of the community we were talking about. And of course there will be a sect or perhaps two sects who will be satisfied with this kind of Pyrrhic victory, but it's

(MR. SHERMAN cont'd) a Pyrrhic victory indeed when measured in terms of the community at large, because what's happened here, Sir, is that a right of a person to follow his or her own religious conscience and religious convictions regardless of whether specific tenets are spelled out in a doctrine or in an article of faith, that right is being denied and rejected and repudiated in this amendment. And what is going to happen, I know, when we vote against it, because on principle we must, is that the government is going to suggest to all the members of one or two sects who will find their freedom of conscience reinforced by this amendment, that we stood against it, and I want to make it very clear that we are standing for something here, for more than just those one or two sects but for the community at large. That's why we can't accept it on principle. This is a compromise and in this area, Sir, of freedom and conviction and conscience, compromise is cheap and chintzy and shouldn't be undertaken.

MR. CHAIRMAN: The question on the motion. Order please. Mr. Enns.

MR. ENNS: Thank you, Mr. Chairman. I just have one further comment to make and it's triggered by the remarks of Mr. Shafransky. He indicated that given a personal choice he would be quite prepared to leave the legislation as it was, and I would request through you, Mr. Chairman, to the Minister, that indeed we're dealing with a conscience clause, and we have a tradition, Mr. Chairman, of dealing with conscience matters as a free vote. In fact we had that experience, although it wasn't exercised by members of the government just recently in this Chamber, but I do now make a special request through you, Mr. Chairman, to the Minister, would he consider calling the Whips off on this vote right now? The member from his side has indicated a willingness to vote, to simply delete the consideration and leave the legislation as it stands, and I welcome that support. Any time I can find support from members opposite, my antipathy against the NDP isn't such that I won't accept it.

MR. SHAFRANSKY: Mr. Chairman, on a point of order, I indicated that if I had my druthers I would repeal the whole section altogether from the existing Act, as it read last time.

QUESTION put, MOTION carried.

MR. CHAIRMAN: Page 19 as amended--pass; Page 20 - Mr. Shafransky.

MR. SHAFRANSKY: Mr. Chairman, I move that the proposed subsection 75.1(3) of the Labour Relations Act as set out in Section 24 of Bill 57 be amended by striking out the words "most recent increase in the rate of wages or alterations in terms or conditions became effective prior to the request being" in the 3rd and 4th lines thereof and substituting therefor the words "request was".

MR. CHAIRMAN: Agreed? Any discussion on the motion? Passed. Page 20 as amended--pass; Page 21--pass.

MR. SHAFRANSKY: Mr. Chairman, I'm just trying to find section 28.

MR. CHAIRMAN: Page 21--pass; page 22--pass; page 23--pass; page 24.

MR. SHERMAN: Clause by clause.

MR. CHAIRMAN: Clause by clause.

MR. SHAFRANSKY: Mr. Chairman, on Page 24 . . .

MR. CHAIRMAN: Order please. I think there's an amendment before the one that you are ready to move, Mr. Shafransky. Mr. Sherman.

MR. SHERMAN: Mr. Chairman, I move that section 119.1 of clause 27 of Bill 57 be struck out. In speaking to the amendment, Mr. Chairman, the section deals with associated businesses as the heading indicates, and operates to the disadvantage, once again I suggest to you, Sir, of both employee and employer. What it says in effect is that closed shop or open shop arrangements cannot exist simultaneously in the case of companies that enjoy common ownership or common direction, common management. The section as it's written appears to me and appears to my colleagues to be iniquitous in that it takes into no account the various considerations that businesses and business managers have to take into account in terms of legitimate cultivation of markets, legitimate structures, corporate structures for taxation reasons, legitimate opportunities that can be made available to provide for more business, to provide for expansion of operations and by definition to guarantee and in fact ensure that jobs exist and there is potential for additional jobs being created. What really happens under this section as it's written at the present time is that the potential for increasing the certification of unions is increased without first giving all interested parties, Sir, a chance to

(MR. SHERMAN cont'd) voice their opinions as to whether they want to be members of unions or not. I remind you that closed shop employee groups are involved in this legislation as much as open shop employees, and vice versa, and those who have voted to join particular collective bargaining units have done so unquestionably on the basis of their own desires. Those who prefer the open shop or the non-union type of arrangement obviously would like an opportunity to express opinions as to whether they want to be in unions or not; this denies them that opportunity.

One other point I would like to mention in connection with the amendment, Sir, is that this provision is one in this legislation that received little prior notice in a general sense, and as a consequence the business community and the labour community in general and certainly the opposition, had very little opportunity to examine the concept contained herein. It was not one of those concepts that was discussed at the time we examined the White Paper. The purpose of the amendment, and I put it to the Minister through you, Sir, is not to reject out of hand the concept that he embodies in this provision. What I would like to suggest is that that provision of this bill be referred for further study, intersessional study, and I can't do that in this committee, so the only course of action I have at this juncture technically is to move that it be struck out. But I want to make the point through you to the Minister, Sir, that my motive is not to reject it out of hand, my motive is to ask him for further time to study it.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I appreciate very much the approach of the Honourable Member for Fort Garry, but may I first of all make reference to his remarks, as indeed similar remarks have been made by so many who have attended these meetings and who have spoken in the House, that is, in reference to the time element for study. Surely to goodness the honourable member, the members of the House, and the community as a whole does not imagine that we constantly just sit back on our posteriors dreaming up ideas for some consideration at some time, but in accordance, and here this may sound a little - being a little braggadocio, that in accordance with our responsibilities, we feel that we should be constantly at work endeavouring to achieve and consider ways and means of improving the legislation of this province and work conditions in the total community. Surely, Mr. Chairman, if all we did was to sit back and wait till something happened, and then say, well boys we'd better get those 56 members of the Legislature in to discuss something that has just come to light, this isn't the way government operates, or at least it isn't the way in my opinion that government should operate. It's true here in Manitoba in industrial relations and other relations as well, we make mistakes, but it's equally true that before we bring matters for the consideration of the Assembly, we see what is happening in other jurisdictions.

Now I can appreciate one or two representatives who appeared before this committee really raising hell and blowing his top, figuratively speaking, because of Section 119.1. As a matter of fact, I was informed that he was ranting and raving on one of these idiot programs that we still have here in the City of Winnipeg because of the lack of consideration, the lack of understanding.

Mr. Chairman, is it necessary for me to say to the legislators of this House here, I am not discriminating against Liberals, New Democrat or Tories, Conservatives, because in Tory Ontario, because in Tory Alberta, in Tory British Columbia, in Nova Scotia, whatever the Devil they are, in Prince Edward Island, and in federal legislation, this precise clause is part and parcel of its labour legislation. And may I say that there has been a few situations in the recent past where two or more corporate entities have been operating either out of the same premises or on the same site and the employees have been mixed interchangeably between the two companies and usually paid by a holding company. In these circumstances for purposes of certification, it has been difficult for the employees, unions, and boards to identify the employer. They don't know who to get at because of type of corporate setup. These provinces and the federal authorities that I named out, Mr. Chairman, have recognized that over the objection, and the strong objections of individuals such as managers of employer labour-relations organizations without mentioning any names.

Section 119 subsection (1) is intended to overcome this problem by providing that where the Board is satisfied that two or more associated or related businesses are carried

(MR. PAULLEY cont'd) on by more than one corporation, firm or individual, all of whom are under common control, the Board may treat them as a single employer of the employees in proceedings before the Board. Now what management likes, or at least certain types of management likes is to adapt that old principle of divide and conquer. Say, well we have nothing to do with you on this hand, or you on that, and that is the objective of this situation, or this legislation.

The provision itself stipulates that the businesses must be associated or related and they all must be under common control. In certification proceedings, for example, it must be remembered that the Board must find that the union is appropriate for collective bargaining with the proper degree of community interest and that the majority of all employers involved support an application before the Board passed it. We have to have some reliance in our Labour Board, even if they don't like the individuals or their expertise, they are here and we have to recognize that.

This amendment which has caused some criticism, and we've heard lots of it, has wording substantially the same as the provisions now existing in those communities for our jurisdictions that I laid out to you. There is a body of jurisprudence stating that the Board now has the power given to it by Section 119.1. The amendment therefore merely confirms and clarifies the court's decisions in this case. And the purpose again I say, Mr. Chairman, one of the purposes of this is that the courts, and I believe, Mr. Tallin, the courts in Manitoba have in effect by another section in this Act confirmed what is contained in one section, the 119.1. So as much as I appreciate, not the introduction particularly of the Honourable Member for Fort Garry, but as much as I appreciate the ranting and raving of some individuals that appear before this committee in respect of 119.1, I think that the Committee should adopt it as laid out in Bill 57.

MR. CHAIRMAN: The motion before the Committee - Mr. McKenzie.

MR. MCKENZIE: Mr. Chairman, the concerns that I would like to put on the record regarding this Section 119.1 is the fact that the Labour Board has the right to group firms as one unit and those firms do not have the right of appeal. I think that is very unfair; I think it's high time, Mr. Chairman, that somebody in this Committee or this province starts speaking up for the non-union people. And it doesn't look to me that this government or the Minister is going to stand up for the rights of those management firms that are non-union shops and for the non-union people that for various reasons don't want to join a union. And, Mr. Chairman, here we have a classic example where it's quite possible that some group of employees who are non-union, and there was one of the witnesses here that gave us an example, that don't want to join a union now because if the other part of the company happens to be a union shop they are now asked to . . . and there is no right to appeal. Now, Mr. Chairman, I think that this is very unfair without them having a chance for a representation, without their consent basically, and it could happen possibly without their knowledge, and I think the least the Minister could do in this section is give them the right to appeal.

MR. PAULLEY: I'm giving that individual the right to come in to see me, to be educated.

MR. CHAIRMAN: Any further discussion on the motion? Question on the motion that 119.1 be deleted.

QUESTION put, MOTION lost.

MR. CHAIRMAN: 119.1--pass; Clause 27--pass - Mr. Shafransky.

MR. SHAFRANSKY: Mr. Chairman, I move THAT section 28 of Bill 57 be amended by striking the word "and" in the last line of Clause (a) thereof and by striking out Clause (b) thereof and substituting therefor the following clauses:

(b) by adding thereto immediately after the word "would" in the last line of Clause (k) thereof the word "directly".

(c) by striking Clause 1 thereof and substituting therefor the following clause:

1 an employee is by reason of his religious beliefs opposed to joining or belonging to a union; and

(d) by striking out the words "the Board shall decide the question and its decision is final and conclusive for the purposes of this Act," in the last two lines thereof.

MR. CHAIRMAN: Motion as moved. Is there any discussion on the motion?

Mr. Sherman.

MR. SHERMAN: Mr. Chairman, I wonder if the motion can be explained by legal counsel.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: The first part of the motion is striking out the word "and" is just the conjunction between what is now Clause (a) and what was Clause (b). We're adding a new Clause (b) which adds the word "directly" in Clause (k) of 121.1. This is the section which says "the Board is authorized to determine whether work that an employee refused to do would directly facilitate another employer. You recall that section in which there has been some discussion before the Committee. This is just to bring this clause in line with the section of the Act which is not being changed by this bill but the wording is not quite the same. So we're putting the word "directly" in so that it's consistent with that section.

The next one which is being added by Clause (c), the Board in effect may determine whether an employee is by reason of his religious beliefs opposed to joining or belonging to a union, that's to bring that clause into line with the new 68.1 so that the wording is precisely the same, so that the determination that the Board makes is in the same wording as the section is, 68.1.

And the last line is being taken out because the words that are being added in Clause (a) of this amendment are really the substance of that. They may determine the question. Just the rephrasing of the opening words makes these latter words unnecessary.

MR. CHAIRMAN: The motion as moved--pass; Page 24 as amended--pass; Page 25--pass - Mr. Banman.

MR. BANMAN: I wonder if I could ask a question for clarification, Mr. Chairman. The section 30(2), does this mean that all people who have been granted exemption from joining a union because of their religious beliefs by the Manitoba Labour Board will now come under - when this Act becomes in effect, is proclaimed, will not be able to exercise that option any more.

MR. TALLIN: Yes, because there will no longer be a provision in the Act authorizing the Board to make that consideration and the rights that people have under what was 68 sub (3) are being removed, therefore it would be impossible to give those people any thought that they might continue to have those rights that were given by the Board. And this is to make it clear that they don't.

MR. BANMAN: So the rights that have been afforded those people, on the day of proclamation those rights will no longer exist, and to that extent it's sort of retro-active legislation.

MR. TALLIN: No, it's prospective legislation. As of a certain date those rights . . .

MR. BANMAN: Those rights are taken away then on that date. Thank you, Mr. Chairman.

MR. CHAIRMAN: 25--pass.

MR. SHERMAN: Section 30(3), Chairman, I'd like to ask the Minister a point with respect to this section in the situation that was spelled out the other evening for the Committee by representatives for the bargaining unit from the American Newspaper Guild, Mr. Stephen Riley, whether the Minister has given any further thought to the point raised by Mr. Riley and why this particular wording was adopted in the legislation.

MR. PAULLEY: Perhaps, because, Mr. Chairman, Mr. Sherman, 31 dealing with proclamation is part of your . . .

MR. SHERMAN: No, no. What it means is that any . . .

MR. PAULLEY: As enacted by Section 24 does not apply where the union . . . is certified as a bargaining agent, the union passed the 90-day period that's in connection with whether or not the code of employment will be retroactive the answer is, no.

MR. SHERMAN: In other words, Mr. Minister, through you Mr. Chairman, in other words it would be necessary in those instances where there was prior certification for those units to be decertified and apply for recertification.

MR. PAULLEY: I was almost going to say technically yes, I believe the absolute answer is yes, and the reason is, I think, very very obvious. You either have a date which you go back to which could be almost forever and a day, or else you say, here it is, here's the ball game, we've given you new legislation, we've given you a new

(MR. PAULLEY cont'd) opportunity of dealing with the type of employers that were dealt with at that particular time. Here you can take the second swing at the cat but you can't take the second swing at the cat three years after. The cat has licked all the cream off of the milk. So there's a definite answer as to retroactivity is concerned. Does that answer your question, Mr. Sherman?

MR. SHERMAN: Yes, thank you.

MR. CHAIRMAN: 25--pass; Preamble--pass; Title--pass. Bill be reported.

MR. PAULLEY: Mr. Chairman, the formal motion of course is that the Committee rise. It's my understanding that the Committee will rise, go back into the House, but there is no immediate rush for about five minutes to get into the House, because the Clerk as I understand it will be preparing the report of this Committee to give to the House; and then following that, it's my understanding that the Speaker will leave the table and the Law Amendments Committee will then take over to consider matters referred to them. And His Honour the Speaker has just told us so that we don't have to worry about what is meant by a reasonable time that the bell will ring.