PUBLIC HEARINGS ON BILL 44
LABOUR STATUTES AMENDMENT ACT, 1983

Monday, April 25, 1983

[The committee met at 2:30 p.m.]

MR. CHAIRMAN: I call the Standing Committee on Public Affairs to order.

I would first like to introduce the vice-chairman and myself to those who are not familiar with us. I am Mickey Clark, the MLA for Drumheller, and on my left is Al Hiebert, the MLA for Edmonton Gold Bar.

The Committee on Public Affairs will be meeting over the next four days for the purpose of holding hearings on Bill 44, Labour Statutes Amendment Act, 1983, as directed by Motion 13. I will read the motion for the record:

> Notice of motion:
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> Be it resolved that Bill No. 44, Labour Statutes Amendment Act, 1983, after it has been read the first time, stand referred to the Standing Committee of the Assembly on Public Affairs for the purpose of providing an opportunity to representative, province-wide organizations and groups, in existence as at April 11, 1983, to make written submissions to the standing committee respecting the said Bill.
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> Be it further resolved that hearings by the standing committee be conducted on April 25, 26, 27, and 28, 1983, from 2:30 p.m. to 6 p.m.
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> Be it further resolved that when the Assembly adjourns on Friday, April 22, 1983, it shall stand adjourned until 8 p.m. on Thursday, April 28, 1983, unless reconvened at such earlier time as Mr. Speaker may determine upon the request of the standing committee.
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> Be it further resolved that Al Hiebert, the hon. Member for Edmonton Gold Bar, be vice-chairman of the standing committee for the purposes of the said hearings.
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> Be it further resolved that public notices in a form approved by the chairman and vice-chairman of the standing committee, be published at the earliest practical date in such publications as the chairman and vice-chairman direct:
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> (1) inviting written submissions;
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> (2) specifying 5 p.m. on Wednesday, April 20, 1983, as the latest time at which notice of intention to present a written submission may be delivered to the office of the chairman;
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> (3) specifying 5 p.m. on Friday, April 22, 1983, as the latest time at which such written submissions may be delivered to the office of the chairman.
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> Be it further resolved that the chairman and vice-chairman of the standing committee shall:
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> (1) determine which submissions will be heard by the committee during public hearings and, in determining whether or not a submission is from a representative, province-wide organization or group in existence as at April 11, 1983, the chairman and vice-chairman shall ascertain whether or not there is substantial overlapping or interlocking membership between two or more submitting organizations or groups and choose the organization or group which, in their view, is most representative of a province-wide interest;
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> (2) determine the order in which submissions will be presented to the committee during public hearings;
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> (3) inform each organization intending to present a written submission as soon as is practical whether that organization's submission will be heard by the committee during public hearings and, if so, when it is likely to be heard;
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> (4) take into account in deciding which submissions will be heard and the order of presentation of submissions during public hearings, the need for a broad cross section of the views expressed in the submissions to be presented to the committee, as well as the directness of the provincial interest in the matters in issue on the part of each organization or group proposing to make such submission;
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> (5) determine the procedure for tabling written submissions received by the committee which:
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> (a) the chairman and vice-chairman have found not to have qualified for presentation to the standing committee,
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> (b) the chairman and vice-chairman have found qualified for presentation to the standing committee, but which are unable to be heard by 6 p.m. on Thursday, April 28, or
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> (c) are received by committee members from organizations or groups requesting that such written submissions form part of the record of the standing committee's proceedings;
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> (6) be available at specified times before 5 p.m. on Wednesday, April 20, 1983, to inform any interested organization or group in advance whether or not the organization or group would qualify to be heard prior to preparation of a submission.
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> Be it further resolved that the time allotted for the presentation to the standing committee of any submission during the hearings shall be 40 minutes, including time allotted for committee members to ask questions, and that no member who asks a question shall be allowed more than two supplementary questions.

The motion lays out the duties and responsibilities of and the vice-chairman, and the proceedings these hearings will be held. In this regard, the hearing has been advertised in all the daily papers and on radio stations across the province during the period April 14 to April 22. All the briefs have been recorded, and lists of those who will be presenting oral briefs and those who will be presenting written briefs have been prepared.

I now ask the vice-chairman to report on the briefs received and give the reasons for the decisions made not to hear every group that applied.

MR. VICE-CHAIRMAN: Mr. Chairman and members of the committee, in accordance with Motion 13 as reported by the chairman, public notices inviting written submissions from province-wide organizations or groups were issued. Within the time frame approved by the Legislative Assembly, it was possible to schedule 20 groups, five per day, to appear before the Public Affairs Committee for the purpose of making oral presentations.

The chairman and vice-chairman determined which submissions would be heard by the committee during public hearings, based on the following criteria, so as to meet the need for a broad cross section of views as well as the directness of interest in the issues of Bill 44: organizations presently in existence; directness of interest in the issues of Bill 44, with a priority to all groups in the health field; representative, province-wide organizations or umbrella groups from both the public and private sectors.

By the deadline of 5 p.m. Wednesday, April 20, 53 contacts were made. All were invited to make a written submission for filing with the Public Affairs Committee. The following was arrived at. Twenty groups or organizations complied with a written submission and will be

heard according to the schedule. Twenty groups or organizations complied with a written submission. Thirteen groups, organizations, and individuals chose not to submit a written brief.

Late Friday and this morning, the schedule and accompanying briefs for Monday, April 25, were issued to the members' offices through the Clerk's office. This afternoon the remainder of the schedule for the 20 groups to be heard, along with the list of the 53 contacts, has been circulated to members' desks. The remaining 15 briefs to be heard have been distributed by the Clerk's office. Furthermore, I wish to file with the committee the 20 written submissions for the groups who will not be heard, so their efforts become part of the record and deliberations of the committee.

Mr. Chairman, that is my report. Thank you.

MR. CHAIRMAN: I would now like briefly to run over the way we intend to handle the hearings, so all hon. members and presenters will understand the procedure.

The time allotted for each presentation is 40 minutes, including the time for committee members to ask questions. The group presenting the brief may use that 40 minutes in any way they choose. For example, they could use 30 minutes to make the presentation and 10 minutes in the question period, or they could use 10 minutes for their brief and 30 minutes in the question period. The matter is entirely their own choice.

A bell will ring at the 35-minute mark, signifying that five minutes remain. A bell will ring at the end of the five-minute period, signifying the end of the presentation or the questions from the committee, at which time there will be an automatic five-minute adjournment of the committee while the next group of presenters make their way into the Assembly.

Special sections have been reserved in the members gallery for presenters of submissions, invited guests of members, and the public. The hearings will be conducted under the rules governing the procedure of the Legislative Assembly. During the hearings there will be no interruptions from the galleries, nor will there be any standing in the galleries.

I remind the members that as a committee of the Legislature, all members will be treated as equals. And I remind them that questions to the presenters should be short, to the point, and for clarification on the presentation only.

Because of the sound system being at table level, I ask the presenters to remain seated while giving their presentation. I also ask the members of the committee to remain seated while asking questions for clarification. Due to the time constraints, any member asking a question will be allowed only two supplementary questions.

There will be full *Hansard* coverage. That of course means that all the proceedings of these hearings will be recorded in their entirety by *Hansard*.

I now ask the first group to make their presentation.

MR. NOTLEY: Mr. Chairman, on a point of order. Due to comments made by both you, sir, and the vice-chairman during the course of the question period last week, in which you indicated that matters would be put to the committee and presumably if committee members had some concerns, there would be some opportunity to address questions to you and the vice-chairman, it would be appropriate to do that at this time.

Mr. Chairman, I'm not here to make any comments with respect to the resolution that was passed by the Legislature. I recognize that both you and the vice-chairman have to operate within the constraints of the resolution passed by the Legislature. However, within the terms of that resolution, you must of course be answerable to this committee in making the decisions you've made. That being the case, Mr. Chairman, there are several observations I'd like to make on behalf of me and my colleague in the Official Opposition.

First of all, we express some genuine concern that we did not have the entire list of the groups which were accepted until this afternoon. We think it would have been useful had that list been given to the members of the Legislature on the 22nd. I point out to members of the committee that in 1972, when the same process was followed, all briefs were presented to all members of the Standing Committee on Public Affairs on the Friday before the hearings commenced. At that time, we had a list of the groups that were going to make presentations; we also had the presentations. That's important, Mr. Chairman, because if we as members of the committee are going to give sufficient consideration to the briefs, having them over the weekend would have been useful.

The second concern, Mr. Chairman, is the decision on the part of both you and the vice-chairman as to which groups were included and which were excluded. I regret that we don't have time to deal with all 20. I simply give oral notice at this point in time that when the committee reports to the Legislature, it will be the intention of my colleague in the Official Opposition and myself to propose a motion that the matter be referred back to public hearings to complete hearings on those groups which would still like to make submissions to the Standing Committee on Public Affairs. That will of course be the property of the Legislature at the proper time and place.

However, there are some concerns I would express about groups that have been left out. I certainly have no quarrel with the inclusion of the Canadian Organization of Small Business or the Canadian Federation of Independent Business. But I would like to say at this point in time that it troubles me a great deal that the Alberta Teachers' Association is not going to be able to make a formal presentation. It troubles me as well that as a committee that's going to be asked to deal with a very detailed Bill, we're not going to be hearing from the labor subcommittee of the Bar Association. Knowing full well that many of these people are professional arbitrators, the experience and ability they would be able to bring to this committee would be enormously important in our deliberations. In view of the impact this Bill may or may not have on civil liberties in the province of Alberta, it troubles me too that the Alberta Human Rights and Civil Liberties Association is not among the 20 groups making a submission to the committee. Finally, as I ascertain the groups included and excluded, I find it particularly troubling that we have not included the social justice committee, a commission of the Catholic archdiocese of northern Alberta, especially in light of the bishops' statement this year.

Having said those things, Mr. Chairman, I invite a brief response. It's not the intention of my colleague or I to hold up the initial proceedings. We realize we have people who've gone to some trouble to make submissions. But as a member of this committee, it would be totally inappropriate not to take at least some time and express concerns that we have about the ordering of groups at this point in time. The larger issue of these hearings and the way in which they're conducted is a matter which,

appropriately, will be dealt with in the Legislature when the committee reports.

MR. VICE-CHAIRMAN: Mr. Chairman, I could respond, since we're dealing with the selection of groups. In responding to the Member for Spirit River-Fairview, I would like to indicate that as a committee, we lived within the confines and time restrictions of the motion. There were certain deadlines. Notices of intent were received until Wednesday at 5 p.m. That left us two days in which to make the decision as to who would be scheduled for the hearings. The groups were advised that they were to get their submitted briefs in by Friday at 5 p.m. Human nature being the way it is, many of those came late on Friday.

I think all members of the committee are aware that on Friday, the Clerk of Committees issued a memo indicating that briefs that were already submitted could be picked up for perusal by the members over the weekend. The initiative was to be the member's in seeking those particular submissions.

Insofar as making decisions as to the groups, a certain degree of judgment had to be used. I have outlined to the committee members the criteria that were used. We think that within the umbrella of those criteria, we have decided on the 20 groups that would be here before the committee. I also indicate to the members of the committee that although we have groups who made contact and submitted briefs in writing, many of them did not ask for an oral hearing. They only requested making a written submission.

With regard to the Alberta Teachers' Association, which was specifically stated, I have a letter from the association which served notice of intention to present a written submission on the proposed legislation, not the opportunity to come before the oral hearings. I hope that corrects that particular misinformation that might be out there. Likewise, many of the groups that did not request appearing before this committee indicated that they could pursue the regular channels of being in touch with members of the Legislature as the Bill proceeds through various stages.

We think we have dealt with the matter in a fair and reasonable way and that the groups making submissions and appearing before the oral hearings certainly represent a balanced grouping of organizations in the province of Alberta.

Health Sciences Association of Alberta

MR. CHAIRMAN: If there are no other questions, we will proceed with the first hearing, the Health Sciences Association. Mr. Larry Haiven, would you like to introduce the people with you? We'd like to welcome you to the hearing today. The time is your own for the next 40 minutes.

MR. HAIVEN: I can't hear you.

MR. CHAIRMAN: I guess they forgot to turn on my mike. I would just like to welcome you to the Assembly and to the Public Affairs Committee for the hearings. If you'd like to introduce the people with you, feel free to do that. You can now begin to make your presentation.

MR. HAIVEN: Mr. Chairman, I'm the executive director of the Health Sciences Association of Alberta. On my immediate right is Louise Meikle-Neelley, who is the president of the Health Sciences Association, and to her right is Catherine Nicol, the past president of the Health Sciences Association.

The Health Sciences Association of Alberta is one of the trade unions representing the employees of hospitals in Alberta. We've been certified by the Board of Industrial Relations — now the Labour Relations Board — and the Public Service Employee Relations Board as bargaining agent for two particular bargaining units in the hospital and nursing home industry. The first is called paramedical technical, which includes all employees engaged in providing qualified technical services. These employees work in all the major technologies like radiation, laboratory, and respiratory, and as technicians in dietary, EEG, cardiology, orthotics/prosthetics, pharmacy, medical records, and others. The second unit is called paramedical professional and includes employees in such diverse occupations as dietitian, pharmacist, psychologist, social worker, occupational or physio therapist, laboratory scientist, speech pathologist, and others. We are sure you'll forgive us, and we hope our members will, if we do not mention all the 63 occupational groups we presently represent.

To a great extent, we think our members are the most unknown employees in the hospitals. Health Sciences has represented paramedical technical employees since 1972 and paramedical professional employees since 1979. We now represent approximately 3,700 of these employees in almost all hospitals in Alberta as well as in some other institutions and private establishments. As you can see, our members are fairly new to the realm of unionization and collective bargaining.

Prior to representation of these groups by Health Sciences, relations with the employers were conducted either through their professional associations by way of a voluntary recognition agreement — that is, without legal certification status — or as part of the larger all-employee unions, or not at all. These methods were clearly unsatisfactory in meeting their needs, and that is why they voluntarily decided to seek representation by Health Sciences. In the little over 10 years for the technical, and a mere four years for the professional, through collective bargaining the Health Sciences Association has attempted to achieve due recognition by hospitals of the unique qualifications of our people, the inestimable service they provide, and the particular conditions under which many of them work. We've succeeded in many ways in doing some of this, but there is much left to be done.

In addition to their educational background and special services, there's another aspect which makes these groups somewhat different from others in the hospital field. As medical technology develops, as the practice of medicine becomes more specialized, there are demands for new groups of trained specialists to apply this technology. As medicine becomes more technological, at the same time a need develops for more specialists in the so-called caring professions to see to the physical and emotional needs of patients. Thus, both paramedical technical and paramedical professional fields are constantly changing and growing, perhaps more dramatically than any other area in health care.

Because of their short history of collective bargaining and the dynamically changing nature of their professions, Health Sciences members are especially concerned about the scope and breadth of opportunity for dealing with the many and complicated issues that can and do arise in negotiations. So in addition to our concerns about the general implications of Bill 44 from the point of view of

any trade union, at this stage in our bargaining history we are also concerned about the particular damaging effects it can have upon our union and the groups of employees it represents.

The fact is that there are quite a number of issues in the areas of pay and working conditions which demand special attention. Some of them are educational qualifications, responsibility premiums, appropriate salary differentials between occupational groups, leave for educational upgrading, et cetera. If it is the intent of the legislation to have a damping and levelling effect on hospital labor relations, to reduce everything to the lowest common economic denominator, then organizations such as ours, with so many different areas of concern, will be at a major disadvantage and present inequities would tend to be frozen. If you effectively remove the right of the employees, through their union, to deal directly with the hospitals, through the Alberta Hospital Association, on all these important issues, then the tendency will be to effectively ignore these issues.

The realities are that numerically we represent an important but relatively small group of employees in hospitals. Hospital administrations naturally will deal first with the loudest and the most numerous groups of complainants. Our members tend, from day to day, to put major concerns and worries aside out of a sense of professional responsibility. But these concerns do not go away and must be addressed efficiently in the interest of good labor relations. Our association has not resorted to a strike to date and would hope never to have to do so. Nevertheless, we oppose the removal of the right to strike.

In free collective bargaining, the possibility of a strike, however remote, from time to time gives us the opportunity to remind the hospitals that we exist. The possibility of a strike also forces employers to take our proposals for improvements more seriously. It also gives employers some way to gauge how serious we are about our various proposals. I may add that the threat of a lockout does the same for the union. It's not a perfect system by any means, but in the end it's the only system that works effectively to resolve differences.

Take free collective bargaining away and we lose the opportunity to make our concerns known in the same way. Employee frustration will rise to unacceptable levels. When that happens, the ability of our members to provide good patient care will undoubtedly suffer, notwithstanding their professionalism. Replace free collective bargaining with compulsory arbitration, especially with restrictions on the scope of arbitration boards, and you will replace a belief in the justice of the present system of labor relations with a hard-bitten cynicism.

We're also concerned about the legislation from a more general point of view. We consider the legislation ill conceived, even dangerous to healthy labor relations in the hospital industry. Moreover, we think it is totally unnecessary. As we've mentioned, over the long haul free collective bargaining is still the best system for resolving contract disputes fairly, equitably, and to the satisfaction of both parties. It is so precisely because it puts the responsibility for their actions squarely on the shoulders of those two parties. Countless experts in labor relations have recognized this. We need not waste your time by quoting them here. Free collective bargaining has long been recognized as one of the cornerstones of democracy.

Surely one of the principles of the governing party in Alberta is less government interference in the lives of its citizens and their corporations and organizations, not more. One of the basic tenets of the free-enterprise philosophy is "let the market forces prevail". In the long run, this is said to work out for the best for all concerned. That is no less so in the field of labor relations. We fear that the government may be overlooking the long-term effect in its rush to deal with perceived short-term problems.

When we look at labor relations in the long term, it is obvious that economic realities condition the market place. When times are bad, union demands and militancy are lower. When times are good, union demands and militancy are higher. We aren't revealing any trade secrets here; that's just the way it is. Labor wants its fair share of whatever general prosperity there is. With the ebb and flow of the economic climate, it all works out. The strength of both management and labor is tied directly to whatever economic measures they can apply and their ability to take the consequences. When you arbitrarily take away the power of one side, you may expect that those affected would be somewhat cynical about the stated philosophy of the government.

We could argue that the system has already tipped somewhat in the favor of management and that the only strength labor has is in its ability to withdraw its service, a somewhat dubious power in that it requires a huge sacrifice from union members. Nevertheless, it is a system that has worked for a long time. We do not hear the private sector clamoring loudly for the removal of the right to strike, even though some private employers and the public they serve have been inconvenienced by strikes. This is because by and large they realize that the system works better than any other, that unions are part of the system, and that the system involves strikes from time to time. The difference is that private companies are not under public scrutiny, as is government; also, private industry is not subject to election.

Our concern is that the government is introducing this legislation not so much because of any great harm caused to the people or to the economy of Alberta by recent strikes or arbitration awards but because of misinformed reaction by certain members of governments and the public, combined with a very particular set of economic circumstances that have existed in the past year and which may never be duplicated. Because of the skew in the economic climate through 1982, it appeared to some people that certain settlements were excessive. A closer look would reveal that they were not excessive at all, given the time frame to which they actually applied, given actual compensation levels throughout the province, and given the specific problems they addressed. We believe the government should be patiently explaining the situation and looking to the future, rather than capitulating to misunderstanding and inappropriate reaction. Unions have long learned to live with the fact that you win some and you lose some. It appears as if the government has not.

A strike is serious business and involves great sacrifice for the employees involved. Despite common misconception, even the most determined union members do not give up their salaries unless they have powerful motivation. This becomes even more so as the strike wears on. In the long run, it is impossible for a union to "abuse" the right to strike, if such a word is the proper one, because it will undoubtedly lose the support of its members and actually become weaker. Therefore, automatic checks and balances are built into the system.

It's been our experience that the threat of a strike or lockout without the possibility of an imposed settlement

actually encourages both sides to be reasonable, to make concessions towards reaching a collective agreement. When it comes down to the wire, as a rule both sides generally make efforts to settle. Mutual respect leads to mutual agreement far more often than not.

However, in jurisdictions where strikes and lockouts have been removed by legislation, it is our observation that compulsory arbitration does the exact opposite. It leads to an abandonment of mutual respect and of anything approaching real collective bargaining. It actually discourages the parties from making concessions. When the necessity of having to put your position on the line is removed, then for purely political reasons both parties inevitably dump all sorts of items in the lap of the arbitrator, items which should have been and are best resolved between the parties.

No matter how wise the arbitration board, it cannot know the issues or resolve them as the parties can. When that board is restricted in its scope of consideration, the possibility of a mutually agreeable settlement is even more remote. Add the fact that it is quite customary for the arbitration process to take much longer than free collective bargaining to achieve an inferior result — it is not uncommon for the process to take more than 15 months — and you have the recipe for disintegration of collective bargaining.

We'd also like to make the observation that removing the right to strike does not remove strikes, no matter how serious the penalties involved. This is an historical fact. It has happened that when employees believe they've not been getting a fair shake, they sometimes strike illegally, even despite the opposition of their union. Examples are numerous: most recently in Quebec, and in Ontario in 1980. We are not condoning such illegal action but pointing it out as a reality.

Consider, if you will, the full ramifications of such a situation. Peaceful, law-abiding citizens with respect for government, police, and the law, like your neighbor and mine, who would not normally even consider jaywalking, become so frustrated that they consciously decide to defy not only the law but the government which enacted it. Even police and prison guards have been known to take such action. Who is the big loser in this situation? Certainly the employees and the unions suffer, but in our submission it is the government which loses most when respect for authority by ordinary citizens breaks down. If the government of the day is concerned about voters, it should remember that all these people are voters. They have family and friends who are voters. At the very least, there is a legacy of bitterness that never ends. Which is worse qualitatively: the occasional legal strike which causes the public some inconvenience and perhaps the government some anxiety or the illegal strike which forces the government to use its full might against ordinary citizens, as in a police state?

This is our submission as to why Bill 44 is harmful to labor relations in the hospital industry and in the province in general. On top of all this, we feel the legislation is not necessary. We'll point out a number of factors which now allow hospitals, while undoubtedly inconvenienced, to provide citizens with essential services in the case of a strike. First, unions vary in the amount of inconvenience they can cause by a strike and, even within unions, there is variation in the inconvenience caused by the absence of different occupational groups from work. Second, the Crown hospitals, most of them large general hospitals, have always been covered by no-strike legislation. In the case of a strike, these hospitals have remained and will continue to remain open. Third, there are numerous fully trained employees in hospitals in every occupational group who are out of scope — that is, management positions — who can and do provide emergency services. Fourth, the Health Sciences Association of Alberta and the other health care unions have always been prepared to provide emergency services during a strike at the request of any hospital. That is a fact that has received very little publicity. Fifth, it is well known that right now the government has full legislative power to declare a particular strike illegal if it wishes, and in fact it has done so a number of times in the past.

Again, in detailing these points, we aren't giving away any trade secrets. All these facts are well known to the government and to the hospitals. Since they are well known and since they already provide for an adequate measure of essential services, we find ourselves asking why it is necessary to introduce this particular legislation. We will not speculate on the reasons but urge the government to consider carefully the many dangers of the legislation, as opposed to any perceived advantages.

We also note that our employers have stated, through the Alberta Hospital Association, that they are opposed to removing the right to strike for many of the reasons that we are opposed to it. This does not mean that we agree with their proposed solution, which is to designate a certain percentage of employees as essential. We've already outlined five ways in which essential services can be maintained within existing legislation. The AHA suggestion would actually have the effect of making strikes longer and more bitter, in fact rendering the right to strike meaningless, thereby in its own way poisoning the climate of labor relations.

With regard to restrictions on compulsory arbitration boards beyond those that already exist for employees covered under the Public Service Employee Relations Act, we make the following observations. Government ministers and officials have consistently defended the independence of both the courts and quasi-judicial tribunals and boards under provincial jurisdiction, and rightly so. Just a few weeks ago, when the Attorney General Mr. Crawford was asked about the now-famous ruling of the Court of Queen's Bench to reduce the sentence of a rapist — and I quote his remarks from the Thursday, April 14, *Edmonton Journal.* I hope they're correct: In my unique position as Attorney General, I'm not going to attack what I perceive to be the independence of the courts, he said, adding he didn't want to "politicize the judicial system". I'd be much happier trusting the judges than the politicians, he chuckled.

However, there seems to be no such reluctance on the part of government to breathe down the necks of arbitration boards. Are these boards to be any less independent than the courts?

While we oppose the removal of the right to strike, we note that the proposed legislation, which in addition to removing that right, at the same time puts further limitations on the scope of these boards, is a classical case of overkill. Can it have any other effect than to call into question the fairness of these boards? If they are not fair and impartial and are not seen to be so, then what practical use will they serve? It will not be hard to see them as mere instruments of government policy.

We can understand that the government may not wish to introduce wage and price controls for philosophical reasons. But is imposition of wage controls without price controls not exactly what the government is attempting to do through Bill 44? Does anyone have any doubts about

this? We also note that the government is attempting to give itself, as the effective employer, an unfair advantage at arbitration that no other employer enjoys.

An area of major concern to us is the penalties specified in the legislation for an illegal strike. Specifically, we note that if it wishes, a hospital can decide when and if such an illegal strike has occurred and commence to withhold dues from the union involved, whether or not the union had anything at all to do with the alleged action. It is then incumbent upon the union to appeal to the Labour Relations Board for a determination that an illegal strike did not occur, presumably with legal onus to prove accordingly. It could possibly take some time before the issue is all settled. Even if the union wins the case, it can have suffered considerable financial damage for nothing. At this point, presumably large chunks of back dues will be deducted from employees' pay cheques. The potential for capricious or malicious use of this provision by employers is obvious, especially in the situation where an employer is perhaps resisting recent unionization in his work place, or in a situation where employees refuse to work because they feel themselves in imminent physical danger. This is not to mention possible capricious or inadvised actions by employees without prior knowledge of the union.

In many other jurisdictions, the onus is on the employer to prove before the Labour Relations Board that an illegal strike has occurred. To our knowledge, this requirement has not taken a great amount of time or difficulty to accomplish where an illegal strike has in fact occurred. In addition, it does provide the parties a short period to settle the problem before more serious consequences prevail. The current legislation provides no provision for this. In these respects, the proposed legislation is again an example of overkill. Does the government believe this will add anything to good labor relations in the province?

We have one final concern, and that is the way in which the legislation was introduced. After the mention of possible legislation in the throne speech, we, like other unions, were concerned about not having been consulted in an area which affected us directly. Perhaps anticipating this, the minister arranged meetings with a number of trade unions, including one with us on March 30. A delegation from our association went to this meeting and expressed many of the same concerns we've expressed here today. We asked specifically what legislation was intended. From our conversation, it was our impression that removing the right to strike from all hospital workers was not one of the items contemplated. A short 12 days later, we were quite surprised to learn that this was the case.

First, we are concerned over the distinct possibility that the legislation had been drafted before the minister met with us. We understand that the legislation was introduced before the minister had even met with one of the labor organizations that he'd arranged to see. Second, if the Bill had in fact been drafted before we met with him, then we are concerned about the minister's lack of candor. Third, we're concerned about the very short amount of time that we and other organizations have been allowed to prepare submissions to this committee.

Are the minister and the government taking seriously the concerns of labor organizations? Of what use was consultation to either party in this case? How will the value of consultation be regarded in the future? We must say that we are disappointed. What was termed consultation seems to be little more than going through the motions. Perhaps we're wrong. If so, it is our sincere hope that our submission here today, along with those of other organizations, will convince the government to reconsider introducing this ill-advised piece of legislation, in the long-term interests of successful labor relations in Alberta hospitals and in the province in general.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you very much for your presentation. There are some members who want to ask questions.

MR. PAHL: Mr. Chairman, to the president of the association. First of all, I'd like to commend them for their brief. I certainly forgive the executive director for not mentioning all the 63 professions that they represent. I would also like to compliment them on a fine presentation as to how free collective bargaining works in a market place economy.

In that regard, Mr. Chairman, I have two questions. The first one is: how can you apply the quote "let the market forces prevail", which is in the presentation, in health care? Surely you need a number of willing buyers and sellers to make the market place operate.

Supplementary and tied into that question is: if that be the case, is there a suggestion that government hospitals should also be provided with the opportunity to strike? If that were the case, how would you provide for citizens when you have that free market place opportunity, if you will, applied across-the-board to hospitals, as per page 8 on your submission?

MR. CHAIRMAN: Would you like to answer the questions as they are asked, or would you rather have them all asked and then answer the questions? Which way you'd like to do that is up to you.

MR. HAIVEN: It would be better to answer the questions as they are asked. But in the second question, I didn't catch the other group the member would also have the right to strike applied to.

MR. CHAIRMAN: Maybe the hon. Member for Edmonton Mill Woods would like to repeat that portion of it.

MR. PAHL: Mr. Chairman, part of the counter to the argument that the market place could be provided and, I guess, that patients would be protected was the fact that certain hospitals did not all strike at the same time. I think you called them government hospitals in effect. I just wonder at your philosophy. If you are arguing the market place philosophy, surely are you not asking whether they be given the right to strike as well? Then how would citizens be protected in that instance? Perhaps you could help me remove that contradiction.

MR. HAIVEN: In our remarks, I think we are trying to reflect the reality as it exists. What we are saying is that the Crown hospitals have been restricted for some time. If you wanted us to apply the philosophy entirely, I guess we could also say that the Crown hospitals should also not have the right to strike. We're not saying that at this time. What we're addressing ourselves to is the present legislation and, in our opinion, its inadvisability. Given that the Crown hospitals do not have the right to strike and the other four points we mentioned about the ability of the hospitals to provide services, we are saying that

this should give the hospitals enough of an opportunity to provide the services needed during a strike.

In the free-market system that you and I refer to, it goes without saying that a strike is an inconvenient thing. You can't have a strike without some inconvenience, and therefore we acknowledge that there is inconvenience. However, what we are trying to point out is that there is not a total withdrawal of health services to the population. We're saying: what's wrong with the status quo, that new legislation has to be introduced?

MR. CHAIRMAN: Does the hon. member have any supplementary questions?

MR. PAHL: Mr. Chairman, I'm not sure whether or not I've used mine up by elaborating on the question. But it seems to me that one additional request or clarification might be — the first observation would be that not all areas of Alberta are well served by two kinds of hospitals. I suppose we still haven't reconciled what might be termed, what is good for the goose is good for the gander. It is not inconvenience, I would submit . . .

MR. CHAIRMAN: Would the hon. member please get to the question for clarification.

MR. PAHL: I guess my question would be: are we clear that we're not dealing with measures of inconvenience but with life-threatening situations? I just have trouble reconciling the market place to life-threatening situations, Mr. Chairman.

MR. HAIVEN: We sincerely question the number of life-threatening situations that occur in the case of a strike in the health care system. We haven't had one, so we can't speak directly to it. But we doubt whether that exists, given the five points that we raised and even if you take away the Crown hospitals.

MR. NOTLEY: Mr. Haiven, I just want to ask you to expand on the last paragraph on page 5, in which you note the concern about this legislation, not because of any harm caused but because of a misunderstanding of the "economic circumstances that have existed in the past year and which may never be duplicated". I wonder if you would expand a bit as to how your organization sees that situation and the arbitration awards which were handed down, and on what basis you say "may never be duplicated".

MR. HAIVEN: We are referring particularly to the fact that in the beginning of 1982, when our union and others were in free collective bargaining, the economic situation was somewhat better than it turned out to be towards the end of the year. We achieved what we considered to be a good settlement, at least monetarily. Other unions which didn't have the right to free collective bargaining then entered into the arbitration process, which dragged on and on throughout the summer, fall, and winter of 1982. However, the time period that the arbitration boards were addressing, in part, was that period when the economic conditions were good and when our union and others in free collective bargaining had achieved what we feel to be good economic settlements. When those arbitration awards came down and it only in part reflected that, there was a public outcry. I can understand why there was, given the time the arbitration awards were delivered. But given the time that they were addressed to, they didn't even come close to what was negotiated freely by us and other unions.

MR. NOTLEY: Perhaps I could follow that with a supplementary question, then. What you are saying is that by the time the award came down it seemed excessive, even though for the period of time that it was to be determined, it would have been at best equal, perhaps even behind, the freely negotiated settlements.

My supplementary question is: to what extent, then, do we enter a very dangerous ground by adding government fiscal policy into the arbitration guidelines? To what extent is that going to exacerbate the kind of situation you referred to?

MR. HAIVEN: One way I can think of immediately is that where an organization has found itself behind others in its field — either across the country or in the province — through arbitration awards or inability to negotiate them, the inequalities will tend to be frozen in if arbitration boards are forced to consider government fiscal policy above anything else.

The other thing we're concerned about is that when we mention the damping and levelling effect, it's like sandpapering down all the major issues of unions. Unions such as ours have many different types of groups of employees; they have many different concerns. Right now we have the ability to go before the hospital and say, this is a major concern. If arbitration boards are so constricted that the effect is to sandpaper down all the proposals and really only consider the economic ones, and even at that to level them out to government fiscal policies, then you will have many groups of very dissatisfied employees on your hands. I hope that answers the question.

MR. NOTLEY: I'll just ask the final supplementary question. In the second paragraph on page 10, I wonder if you will just expand what you mean by the impact of withholding dues. Perhaps you could expand on that and how that may in fact be a possibility. I think some of us might find that a bit far-fetched. Is it really, or is it a hypothetical case you're making?

MR. HAIVEN: Are you talking about the whole concern about dues?

MR. NOTLEY: [Inaudible] illegal strikes.

MR. HAIVEN: Yes, it's hypothetical at this point, because I've never seen legislation like this. But it has all the ammunition that an employer could use, if he wanted, in exactly the way that I have suggested it could be used. I hope I haven't given anybody any ideas, but I can't see how it couldn't be used like this. I repeat that in other jurisdictions, the onus is on the employer to prove there has been an illegal strike. This is not difficult where the evidence is there, but it also gives the parties some time to figure out why there is such a thing going on and perhaps, if it can be achieved, to end that before it leads to more dire consequences.

MRS. CRIPPS: I would like to compliment you on your concise and well thought out brief and on the presentation. On page 4 of your brief, you mention that the market forces should prevail. In private-sector bargaining, the market forces are fairly evident. How do market forces prevail in public-sector bargaining?

MS MEIKLE-NEELLEY: I beg your pardon?

MRS. CRIPPS: How do you perceive them as affecting public-sector bargaining?

MS MEIKLE-NEELLEY: In the public . . .

MRS. CRIPPS: You said that the market forces prevail in bargaining and have worked well over the years. I can understand how market forces prevail in private-sector bargaining, because they have to bargain in order to meet the competitors. But in the public sector, where there are no competitors, how do you see market forces prevailing?

MS MEIKLE-NEELLEY: In the public sector, government functions as the employer, directly or indirectly. The people we represent are the employees. The institutions through which the government is functioning — in our case, the nursing units in the hospitals — are in competition for our services and, in a sense, we are in competition with each other for the better positions which are available. I am not at all sure that this is what you're referring to.

MRS. CRIPPS: But you're a single unit. Sorry, I guess you misinterpreted my question. The hospitals are the only services providing the medical services. In this case, we're talking about hospitals. How would you see the market forces as in the private sector affecting your bargaining?

MS MEIKLE-NEELLEY: I'm not sure I understand the question.

MRS. NICOL: As I see what you're asking, part of the answer would be a lot to do with the type of qualified people we can get, the qualifications the students come in with — that type of thing. Depending on the types of contracts that are available, it encourages people whether they want to work in this province or other provinces — that type of thing. If we don't get good contracts, we're not going to get the qualified people to service the people out there and get good health care. I don't know whether that helps.

MS MEIKLE-NEELLEY: If I may, another thing that concerns us greatly about this particular piece of legislation is the complexity of our particular association. We deal in a wide variety of services to the public.

MRS. CRIPPS: You're talking about the 63 groups.

MS MEIKLE-NEELLEY: Yes, all our many groups. Many of our groups do not provide a life-saving sort of service to the public. It is the very fact that we deal with such a diverse group — some of our members are much more concerned about the availability of educational leave so they can upgrade their skills than they are about whether they will have a specific favored shift of work, whether they will have to work nights when they would prefer not to. Our difficulty with this legislation is that under it, we see no way that we will have an opportunity to direct the multiplicity of our concerns to our employers. When we are doing collective bargaining, it puts us in a position of needing to do so with very little recourse.

If I may, on the question of the gentleman from the Official Opposition with regard to the effect you were talking to the executive director about, the situation with regard to an alleged stop action would put us pretty much in the position of having to prove we are innocent rather than having the hospitals show proof that we are guilty. You have three people standing around together, and the hospital says aha — in effect, a strike. We are then in the position of perhaps losing income to our association, which is what we use to support our members.

MR. CHAIRMAN: I'm sorry, that is the end of the 40 minutes. I appreciate your brief very much. Thank you very much for coming here today and taking the time to make a presentation.

There will now be a five-minute adjournment while the next presenters come into the Assembly.

[The committee adjourned at 3:30 p.m. and resumed at 3:35 p.m.]

Alberta Chamber of Commerce

MR. CHAIRMAN: I'd like to welcome the Alberta Chamber of Commerce to the Committee on Public Affairs. I'm sure you were here ahead of time, but I'd like to explain that you have 40 minutes in which to make your presentation and can use that 40 minutes in any way you desire. At 35 minutes, you will have a warning bell and will have five minutes left.

I'd like you to introduce yourselves to the committee and begin your presentation.

MR. STERLING: Mr. Chairman and members of the Standing Committee of the Assembly on Public Affairs, my name is Tom Sterling. I have the privilege to be president of the Alberta Chamber of Commerce. With me today is Lynda Flannery, who is chairman of our labor relations committee.

The Alberta Chamber of Commerce is a federation of over 100 chambers of commerce in Alberta. As well, in the past 30 months we have enlisted as direct corporate members some 300 companies doing business in Alberta. We estimate that in terms of volume of business, at least 95 per cent of all business in Alberta is either directly or indirectly represented by our association, now in its 45th year.

Much of the key content of the proposed legislation being discussed in your committee's hearing, Mr. Chairman, is in no sense foreign to the Alberta Chamber of Commerce. I could go back many years, but I will begin with 1981. In June of that year, following the adoption of action resolutions at its annual general meeting, the Alberta chamber recommended to the government of Alberta:

> that the Government of Alberta, in view of the recent legislation governing no strikes by civil servants in essential services, institute compulsory arbitration as a means of settling labour disputes in essential services.

The Hon. Les Young, Minister of Labour then, as today, in his written reply to us said:

> The perception of 'essential' depends on a number of factors and, therefore, changes with circumstances. The Government of Alberta has taken the position that provincial government employees, in a direct employment relation with government, provide services for which there is generally no alternative. In these circumstances, all government employees should be treated similarly and should have access to a fair process of binding arbitration. In respect to

> collective bargaining, pursuant to the Alberta Labour Relations Act, there is a provision for Executive Council to order a work stoppage to terminate, should the judgement be that the potential damage to the public good may be excessive.

Minister Young's reply was among the many Alberta government replies to our action recommendations for 1981-82, which were circulated to all the Alberta chamber's member chambers.

At our May 1982 annual general meeting, delegates evidently wished to persist. An action resolution was passed which read:

> The Alberta Chamber recommends that the Government of Alberta re-examine its policy by which employee groups are considered essential and that employees engaged in those essential services, whether in a direct or indirect employment relationship with the Government of Alberta, be designated as such and therefore not allowed to strike.

In reply, Minister Young wrote:

> Both the Firefighters and Policemen Labour Relations Act and the Public Service Employee Relations Act preclude work stoppages in the event of failure to achieve settlement through collective bargaining providing for a definitive binding arbitration award. The Labour Relations Act provides that Executive Council may determine that the impact of a work stoppage can be removed in the event that such a stoppage causes unreasonable hardship. In 1982 the Legislature terminated the nurses' strike with the Health Services Continuation Act. As the government has indicated on several occasions, the most appropriate process to assure fair treatment to employees and employers and to assure the public of urgent services is a matter which is under review. Recent criticisms of arbitration awards indicate a new facet of this complex question which also needs to be addressed.

I believe the key words in this reply by the minister are "a matter which is under review". Let me say that it is good to see the results of that review as they are now reflected in the draft legislation, the Labour Statutes Amendment Act, 1983.

The proposed legislation dealing with compulsory arbitration addresses several of the concerns of our association with regard to arbitration proceedings and awards for employees providing essential services. It is positive to note that these arbitration boards shall now consider economic factors in the private and public union and non-union sectors in their deliberations, in order to protect the public interest. However, we do have a concern regarding the process by which a dispute is referred to compulsory arbitration and by which issues are determined to be part of that dispute. For example, by what criteria will the Labour Relations Board become satisfied that an arbitration board shall be established? By what criteria will the minister agree to establish a board or determine "items in dispute"? In general, we would recommend that such criteria be established.

We also propose that the government may wish to carefully review the jurisdictions as between the Labour Relations Board and the minister. The process of determining whether a dispute is appropriate for the establishment of a board and of determination of items in dispute, perhaps should, in the interest of practicality, be carried out under the auspices of the Labour Relations Board. In addition, the distinction between where the process of interest arbitration ends and rights arbitration begins — section 117.93 — is perhaps unclear. There is potential that the compulsory arbitration process as specified could spill over into the grievance/arbitration process.

At this juncture I should add, parenthetically, that the Alberta chamber finds section 117.94, which allows for the discontinuation of the deductions and remission by the employer of union dues for up to six months, as entirely logical and thus welcomed in the proposed new legislation.

To reiterate, the Alberta chamber applauds the establishment of the compulsory arbitration process and criteria by which the process will be governed.

In the aforegoing, we have dealt mainly with the compulsory arbitration process. However, Bill 44 also includes significant proposals for legislative changes to other sections of the Labour Relations Act. In general, the proposed legislation includes several positive initiatives in the field of labor relations that should foster a healthy and balanced labor relations climate in Alberta.

Specifically, the Alberta chamber has the following comments:

1. Section 87 — strike and lockout votes: the Alberta chamber agrees with the proposal to permit only one strike or lockout vote for each dispute.
2. Section 105(1) — conditions under which a strike is permitted: the Alberta chamber agrees with the extension of the prohibition against illegal strikes to include the threat of an illegal strike.
3. Section 113 — inquiry regarding illegal strikes or lockouts: the transfer of the inquiry process regarding illegal strikes and lockouts to the sections dealing with an inquiry into a complaint of an unfair labor practice is positive, as those sections provide broader discretionary powers to the Labour Relations Board in redressing those illegal acts.
4. Section 141 — complaint of unfair labor practice: our association applauds the extension of the provision for complaints regarding failure to comply with any section of the Labour Relations Act rather than only a few sections of the Act.
5. Section 142 — inquiry into a complaint of an unfair labor practice: the Alberta chamber agrees with the general extension of board powers to deal with failure to comply with any section of the Act under this section. It also supports the extension of the application of cease-and-desist orders not only to the strike or lockout to which they directly apply but to future strikes or lockouts that may occur for similar reasons.

There is one final area of proposed change on which the Alberta chamber would like to comment, as we are somewhat uncertain regarding the intent of the draft legislation. It is our understanding that the proposal to establish trade union organizations has been verbally clarified through government briefings as intending to allow sister locals of the same union in the same industry to form trade union organizations. If this interpretation is correct, perhaps the wording of the Act could be changed to explicitly identify that intent. I am referring to the final paragraph on page 3 of the Bill.

In sum, Mr. Chairman, the Alberta chamber feels the proposed Bill 44 is very definitely on the right track. We congratulate the government of Alberta.

On behalf of the Alberta Chamber of Commerce, I thank you, sir, for this hearing.

MR. CHAIRMAN: Thank you very much. Are there any questions?

MR. MARTIN: Mr. Chairman, first of all, I'd like to ask Mr. Sterling a question about the process. We heard previously from the Health Sciences Association that 12 days before they met with the minister, they were not aware that this type of Bill was coming up. Can you tell me how long the Alberta Chamber of Commerce knew about Bill 44 before it was presented?

MR. STERLING: I would have to appeal to the general managers up in the gallery — but no sooner than that. I believe everybody heard about it at the same time. It certainly was the intent of the government, I understand.

MR. MARTIN: Thank you. I'd like to ask a second supplementary. I am surprised that the chamber wants massive government intervention. I always thought the chamber of commerce was against government intervention. Why, in this case, would you want the government interfering in the collective bargaining process?

MR. STERLING: I think we are looking very much at government's involvement in managing its own house.

MR. MARTIN: A third supplementary. You seem to be talking about compulsory arbitration. Other than Iron Curtain countries, where are there examples of where binding and compulsory arbitration work in this day and age?

MS FLANNERY: I guess that depends a lot on your definition of "work". I believe that Australia has quite an extensive system that relies on compulsory arbitration. Whether or not one would agree that that works totally well — I guess you'll have to read the record the way you see fit.

MR. STERLING: If I can add a supplementary comment, I feel that Alberta is a unique province and we have unique problems. I see no reason why we should look at other jurisdictions to solve our own problems. I feel that we can handle things in an Alberta fashion.

MR. NOTLEY: Mr. Sterling, first of all I'd like to explore this question of arbitration. I think it's fair that the Alberta chamber and my colleague and I differ over the philosophy of arbitration boards, but we won't get into that.

I'd like to explore the position of the chamber on one of the proposed changes, which is that in addition to the general economic climate of the province, which I can understand your supporting, we have this further wrinkle of government fiscal policy. Do you, as a free enterpriser, see that as an acceptable guideline? Would you, for example, see that as an acceptable guideline if you were in Manitoba, or perhaps British Columbia in several weeks' time?

MR. STERLING: That's an interesting question. It's a many-phased question. But to attempt to respond: we see the need for criteria, in the same way as the private sector in dealing with their employees. One has to have consideration for the fiscal health of the organization, be it the Alberta government or private enterprise. I think there's a bit of a problem with exactly what "fiscal" means. But certainly if it is, as I interpret it, a question of ability to pay, then I think it's an important principle. The assumption that the government has an endless source of money — you know, the good old taxpayers can sock it to them any time because who cares. So if it means ability to pay, if that's the intent of the government, then the chamber is certainly very supportive.

MR. NOTLEY: Mr. Sterling, your initial answer to my colleague's question about arbitration and the very massive intervention required in this Bill — it being justified for the government of Alberta to keep its house in order, I think was the term you used. Correct me if I'm wrong. I'm sure that as a supporter of the arbitration process, you are as convinced as the rest of us that where arbitration occurs it must in fact be independent, third-party arbitration. The question I would put to you, sir: do you not see a problem with the government bringing in a set of guidelines which significantly shift the arbitrators' ability to in fact represent a third-party position?

MR. STERLING: I believe the third-party position must take cognizance of a set of criteria. I believe the government is attempting to correct what was a problem in the past, as the arbitrators did not appear to have a set of criteria to which they could refer in terms of making an award. It was my understanding, in talking to some arbitrators, that they felt they were unaware of the government's overall restraint program. So I think those kinds of criteria have to be established. In general terms, there have to be criteria for arbitration boards to function within the framework of our government and Alberta society.

MR. NOTLEY: The last supplementary question I have is with respect to this rather remarkable proposal on page 4:

> It also supports the extension of the application of Cease and Desist orders to not only the strike or lockout to which they directly apply . . .

And one could argue that.

> . . . but to future strikes or lockouts that occur for similar reasons.

Given our society's commitment to due process of law, how could an organization reconcile that with cease-and-desist orders for future strikes or lockouts that may occur?

MR. STERLING: I'll defer to my assistant.

MR. NOTLEY: What do you think of the philosophical premise for this rather remarkable, unique proposal?

MS FLANNERY: I could only answer, I guess, with respect to the industry with which I am most familiar; that is, construction. I think part of the intent there was that a cease-and-desist action takes time. You go through the process, you go back on the job, your people come back to work for a very short period of time, the issue is not solved, and the result is that the employees again react and take similar action. To avoid going through such an involved and lengthy process for something that occurs for the same or a substantially similar reason, I think — and the chamber's position is — that what's being proposed is logical, and we applaud it.

MR. WEISS: Mr. Chairman, there is an apparent concern by some union representatives that data with regard to settlements appear to be unavailable in the non-

unionized sector. So there may be some comparison made with regard to arbitration settlements, would the Chamber of Commerce undertake to provide that information from their membership?

MR. STERLING: I'm sorry, I was so fascinated watching the electronic process that I missed the first part of your question.

MR. WEISS: Mr. Sterling, apparently there's a concern by some union representatives that there seems to be a lack of data in regard to making comparisons with arbitration settlements. My question to you: would the Chamber of Commerce undertake to provide that information from their membership?

MR. STERLING: I assume you're saying that the arbitrators do not necessarily have access to sufficient information to make . . .

MR. WEISS: Logical comparisons.

MR. STERLING: Certainly I think we would be more than prepared to provide that assistance.

MR. WEISS: Perhaps, Mr. Chairman, I might supplement that to just get a better clarification of the membership at large. In looking on your page 1, you say that "at least 95% of all business in Alberta is either directly or indirectly represented" by over 100 chambers of commerce. What would be the total number of employees that would be represented by the chambers in your organization?

MR. STERLING: If it's a vital question, I'd be more than happy to provide the information to the House at a later date.

MR. WEISS: I would like that very much, Mr. Sterling, just to have an idea of the number of employees who would be represented through the Alberta chambers.

MR. STERLING: It's one of those question that, as president of the Alberta chamber nearing the end of my term, I should have an instant answer to. But I regret that I'm not a quick study. So I will get it to you.

MR. McPHERSON: Mr. Chairman, through you to Mr. Sterling. First of all, may I congratulate you, sir, on your excellent presentation. My question is prompted by the last paragraph on page 2, where you state:

> The proposed legislation dealing with compulsory arbitration addresses several of the concerns of our association with regard to arbitration proceedings and awards for employees providing essential services.

I wonder if you might elaborate. When you say several, I take that to mean perhaps you have others. I wonder if you might expand on others, if you have them at your fingertips.

MS FLANNERY: I think basically that statement was meant to refer to the fact that the chamber has had serious concerns about the level of settlements we've seen coming out of the arbitration process. We've had concerns as well regarding the recent strikes in the hospital sector. That reflects concern over public safety and health and also the public interest in general, given that it is the government that basically provides funding to those sectors. I don't think the statement was meant to reflect anything more extensive than those feelings.

MR. LEE: My question is really to Mr. Sterling. First of all, may I express appreciation to you, sir, for a very precise and brief brief. My question is of a general nature: in what way does collective bargaining in the public sector affect your membership?

MR. STERLING: That's a good question, Brian. I think the major effect is where public-sector settlements lead the economy. Our view is that that is the wrong way around. Public-sector wage settlements and benefits should not be leading the economy. At best, they should be the average of what the economy is providing.

MR. LEE: A supplementary, Mr. Chairman. If in fact we have public-sector settlements leading the economy, what impact does that have on compensation for your members' employees?

MR. STERLING: It creates a situation where employee expectations may be greater than the organization's ability to pay. That's essentially it.

MR. CHAIRMAN: Are there any other questions? If not, I would like to thank you very much for taking the time to prepare your brief and bring it to the hearings. We appreciate your coming, and thank you very much.

We will be assembling in five minutes for the next presentation. I believe that will get us back on time.

[The committee adjourned at 4 p.m. and resumed at 4:05 p.m.]

United Nurses of Alberta

MR. VICE-CHAIRMAN: Members of the committee, we welcome the United Nurses of Alberta for this aspect of the hearings. We have before us Mr. Simon Renouf, the executive director; Ms Margaret Ethier, the president of the UNA; and Ms Caughlin, the secretary-treasurer of the UNA. In presenting the brief, you have 40 minutes. A bell will be rung after 35 minutes, signifying five minutes for the remainder of the presentation and questioning. We ask you to utilize it in any effective way you deem necessary. Would you please start.

MR. RENOUF: Thank you, Mr. Chairman. Ms Ethier, the president of the United Nurses of Alberta, is going to make a few preliminary remarks, and then I will be making some remarks.

MS ETHIER: The minister who introduced this legislation is the same minister who just a month ago told me he couldn't understand why it was necessary to have everything written down in legal documents in collective bargaining. At the time, I thought that was a rather amazing statement to come from a labor minister. I now believe he meant that rights of workers don't need to be written down in contracts, but any time you want to remove rights from the people, you had better make sure it's in legal documents such as we have before us today.

The Lougheed government's stated reason for this legislation is to ensure the continued availability of health care services for the public by preventing strikes. Is this government really concerned about preventing strikes,

and are they really concerned about assuring the availability of health care services for the public? Or are they concerned only for a period of a few days or a few weeks of a hospital strike? Certainly there does not appear to be a commitment to this principle on an ongoing, day-to-day basis.

The Alberta government has recently introduced user fees for hospital care, and openly encourages extra billing by doctors. At the same time, the Alberta government has implied that our nurses lack concern for the public, even though we had to go on strike in 1977 and 1980 in order to get it guaranteed, in writing, in our contracts that nurses would have the right to speak to hospital managements about our concerns for patient care.

Nurses' concerns for patient care did not stop when we were on strike. Even though there was no legal requirement, the nurses have always advised the hospitals that striking nurses are prepared to return to work in the event of emergencies. In rural communities, this may mean sending in a nurse for an emergency operation or perhaps car accidents. In city hospitals, it may mean sending in nurses to highly specialized areas. As well in the cities, we have never asked UNA members to go on strike in the Crown hospitals of Glenrose, Foothills, and the Children's. This would provide an additional 1,500 UNA nurses during a strike. The U of A hospital, which is not represented by UNA nurses, would also have approximately 1,200 nurses.

In the past strike, the 1982 strike, besides writing to every hospital to advise them of nurses' availability for emergencies, we also advised, in writing, the Alberta government. We didn't have to do that, but we did. Other than three or four hospital administrators who tried to involve babies and their families in rather sleazy PR tactics, I believe this approach was satisfactory for the hospitals. The Deputy Minister of Labour, Al Dubensky, assured United Nurses of Alberta that he would call us if an emergency situation for health care existed in this province. We're still waiting for that call.

Under the Labour Act, the government already had the ability to evoke legislation in the event of an emergency. Since the government chose neither of these options, one would have to assume that there existed no emergency for health care services in this province during that strike. What, then, was the real reason for dreaming up new legislation for the nurses? Bill 11 suddenly declared our legal strike illegal and promised penalties that would make even Ronald Reagan, or perhaps the Polish government, blush with envy. I believe it was pure and simple revenge, and I can understand that. After all, Lougheed's boys don't take kindly to being outsmarted by a bunch of women. But let's not pretend that it had anything to do with concern for the public.

The United Nurses of Alberta went on strike in 1977, 1980, and 1982. All these strikes could have been prevented, and I believe all these strikes were the result of government interference and stupidity. Government interference has encouraged, rather than prevented, strikes in the past, and there is no reason to believe that government interference will prevent strikes in the future.

Few employers would seriously negotiate to avoid a strike if they knew they had the luxury of the government bailing them out a few days or weeks after the strike began. The Alberta Hospital Association felt no need to seriously negotiate with us, because they knew the bias of this government and were reassured by past actions of this government. However, I understand they now see the error of their ways and believe that making strikes illegal will not prevent strikes and will in fact cause further problems for the hospitals.

Prior to every strike by United Nurses, hospitals were experiencing extreme shortages of nurses. Normally in that situation, the employer would be providing benefits to attract and keep workers in the industry. It would be unusual for those same employees to have to take strike action in those circumstances. What was so different about our situation that the Lougheed government thought market forces needn't apply? The majority of our nurses are women, and perhaps this government thought women should be used merely to accommodate the needs of others and that it is not necessary to recognize the value of our work with anything other than a pat on the head or perhaps being called professionals. Maybe they assumed that women would avoid conflict at any cost. But we have found that getting along often means getting less. We've rejected the notion that nice girls don't, and we are prepared to accept conflict as a necessary part of achieving our goals. The Lougheed government failed to recognize or accept this change in women today.

I guess the easiest solution would have been for nurses to have simply accepted whatever was offered them. But nurses were fed up with subsidizing health care services for the Alberta government by accepting low wages and poor working conditions. We decided that we weren't taking it any more, and we decided to fight back. The Lougheed government has consistently underestimated the determination, strength, and solidarity of the nurses when fighting for our goals of respect, job satisfaction, and money.

Will this type of legislation make women back off from their fight to be recognized as people in this province? Will making strikes illegal prevent strikes? And will this legislation improve health care services for the people of Alberta? Only time will tell. But I do know one thing. We will never give up. Never. This legislation is completely opposed by United Nurses of Alberta.

MR. RENOUF: Mr. Chairman, I'm going to make a couple of comments related to our brief. But before dealing with the substantive issues we've raised, I think it would be appropriate for us to go on record as taking strong exception to the manner in which these hearings were arranged. The extremely short notice provided to us — Bill 44 was introduced to this Assembly just two weeks ago today — and the lack of consideration for the schedules of those people appearing before this committee by the committee's chairman and vice-chairman, are unfortunately a valid indication of the high-handed attitude this government has generally taken in its dealings with the union movement. It's an attitude that falls only slightly short of outright contempt.

Additionally, we wish to express our concern that a number of groups with valid interests in this legislation, and objections to this legislation, have been prevented from making appearances before this committee. Finally, we take note of a very serious allegation that was made concerning the administration of these hearings in the *Edmonton Journal* of Sunday, April 24, 1983. While we do not know the facts of that particular case, it is our view that it would be entirely improper for the chairman or vice-chairman of this committee to engage in soliciting certain interest groups with a particular point of view to make presentations before it. Such activity, if it did occur, would only confirm the belief that many now hold: that the so-called public outcry about wage settlements in the past year has been largely contrived by the provincial

government.

Mr. Chairman, the first section of our brief deals with what we have inferred to be the government's diagnosis of the problem in the hospital industry. In the first place, we note that the government would like to reduce the number of strikes in the hospital industry. That is one point I think we can all agree on. United Nurses of Alberta would like to reduce the number of strikes in the hospital industry as well. I do not know of any nurse in Alberta who would not want to reduce the number of strikes. I do not know of any nurse in Alberta who wants to go on strike or has ever wanted to go on strike. Nurses have gone on strike in the past because there was no other avenue available to them to drive home to the government the need for change in the hospital industry.

Mr. Chairman, those who favor compulsory arbitration will have to argue, and no doubt this week will be coming forward to argue, that arbitration boards will provide that other avenue and make strikes unnecessary. Is that really a serious argument? We do not believe that arbitration would succeed in addressing the hospitals' problem, even without the attempts contained in Bill 44 to alter the arbitration process into what we regard as a disguised form of wage controls.

This point can be illustrated by reference to several historic facts. In early 1980, prior to the nurses' strike of that year, a conciliation board was established by the Minister of Labour to inquire into the UNA/AHA dispute. The chairman of that conciliation board was a well-known chairman of arbitration boards, Gerry Lucas of Edmonton. The hearings of the conciliation board proceeded very much like an arbitration board, even an arbitration board unfettered by government controls or criteria specified in legislation. Yet its recommendations were rejected by United Nurses of Alberta, and the contract which was finally concluded in 1980 went well beyond the terms of the conciliation board chaired by Mr. Lucas. That contract was concluded only after a 10-day strike.

In 1982, again the Minister of Labour appointed a disputes inquiry board, chaired by another well-known chairman of arbitration boards, Erik Lefsrud of Edmonton. Again a recommendation was made by the disputes inquiry board that fell well below the requirements of UNA's members. In terms of the issues which were our priorities, the disputes inquiry board report fell short and, again, strike activity was necessary to achieve a settlement acceptable to our members.

In every case, the nurses would have preferred not to take strike action. In every case, the union would have much preferred to have achieved our goals at the conciliation board stage or the disputes inquiry board stage. Yet this did not happen, because those boards did not adequately address the important questions in those disputes.

If arbitration as a process were to have any chance of claiming credibility as an alternative to strike action, it would have been necessary for the government to take steps to make the arbitration process more responsive to the needs of workers and more likely to provide lasting solutions to the ongoing problem. But instead, in Bill 44 the government is doing exactly the opposite. It is proposing to make arbitration less responsive to employees' demands and therefore less likely to provide lasting solutions.

Hospital workers are not stupid. Arbitration was not an attractive option in the past, prior to the introduction of Bill 44. Bill 44 is going to make it even less attractive. We all want to avoid strikes, and the solution is quite straightforward: you have to address the concerns the union is raising. One of the things the government has tended to forget in its dealings with United Nurses of Alberta and other unions is that you're dealing with a people's movement, not a few scattered individuals.

No structure you can envisage can prevent strikes from happening if the government is intent on refusing to address the workers' concerns. It will be necessary to address those concerns not because it would be nice to do so, not because it's the responsibility of the government to do so. The necessity arises because if the government fails to address those concerns, the problems in the hospitals — including the disruption which comes from large staff shortages, low employee morale, and periodic strikes — will not go away.

These are the kinds of problems you cannot solve through attempts at control. Authoritarian methods simply will not work when you're dealing with that many people. As much as the government may dislike negotiation as a mode of addressing problems, the government is going to have to sit down and negotiate some solutions, not just with the nurses but with hospital workers generally.

The point we wish to stress in these comments is that the government is not doing anything it hasn't tried before in introducing legislation to make strikes illegal. That's the approach the government took with United Nurses of Alberta in 1977, 1980, and 1982. Does the government really expect that anything can be different in the future if the only solution it can come up with is more of the same? Bill 44 is evidence that the government is sticking its head in the sand, Mr. Chairman. It's dealing at most with a political problem. We suppose the extreme right wing of the Conservative party wants the government to do something, anything. So the government is creating the illusion of activity but is really just attempting to avoid the issue.

In our brief, Mr. Chairman, and specifically on pages 8 and 9, we deal with the question of why people go on strike. United Nurses of Alberta represents 10,500 nurses in this province. These are not wild, crazy people. They are stable, regular citizens of the province of Alberta — 10,000 of them. Yet nurses in Alberta have struck three times since 1977. Do you really believe that the decision to go on strike was ever taken flippantly? Anybody who believes that the answer to that question is yes has obviously never been on strike themselves. On page 8 of our brief we note that:

> Going on strike is a serious business. The striking employee loses money. She sometimes takes a lot of abuse. Picketing in bad weather [is] miserable. The union [runs the risk of losing] the strike.

That's something that happened to us in the case of one nursing home in 1981.

There are always plenty of good reasons why people shouldn't go on strike. I think you have to ask yourself: why have these thousands of stable, ordinary citizens taken this kind of action, many of them three times in six years? It's not because of peer pressure, because it is a secret ballot vote. We ask in our brief: "Is it because of some mysterious hypnotism exerted by the union leaders . . ." We think not. Neither Ms Ethier nor myself have those powers. What is the explanation? I think the explanation is obvious, Mr. Chairman: other measures have simply failed to resolve the problems.

When people decide to go on strike, they're taking risks. They're facing hazards such as loss of pay, public disdain, family and social pressures, the risk of losing.

Those are all very real pressures. Do Members of the Legislative Assembly really believe that Bill 44, even with the threat of fines and other threats, will exert great weight in that decision-making process? I think such a belief would show very little insight into human nature. The decision by an individual on how to cast their ballot in a strike vote has to do with job satisfaction, the day-to-day realities of the work place, and the kitchen economics required to balance the family budget. Such a decision has nothing to do with the tortuous and arcane labor relation theories of cabinet ministers.

Mr. Chairman, the government hopes to prevent strikes by making them illegal. We already know that, historically speaking, that approach doesn't work. I'm sure that in the next few days, several groups are going to talk to you about the Australian experience, where making strikes illegal has had a negligible effect on that country's labor relations scene. If Bill 44 does not do what the government wants it to do, what's going to be next? Heavier fines, longer dues suspensions, decertifications, jail terms? Do you really want to get into all of that? We've made a very important point in our brief. The kind of legislation you're talking about would work just fine and be completely effective if people go on strike for frivolous reasons, but the reality is that they don't.

I want to make it clear that we in United Nurses of Alberta are not threatening illegal strikes, Mr. Chairman. President Ethier and I met with the Minister of Labour on March 25 of this year to discuss this legislation. At that time we told him — and we're prepared to say it again here in a public forum — that in our view, strikes in the hospital sector in Alberta are fairly unlikely in 1983-84. We have members in almost every community in this province. We are aware of the sorry state of Alberta's economy. We all know someone who is on layoff. Many nurses have unemployed persons in their families. You do not have to believe that we are unconscious of the economic world around us.

Unless hospitals are foolish enough to attempt to roll back some of our hard-won gains, a strike is not very likely to occur in this year's bargaining, regardless of the legislative scheme. But at the same time, it's fair to say that we in United Nurses of Alberta will be making our own decisions about whether or not to strike in the future. These decisions are important enough, and the issues are serious enough, that we're not prepared to concede to anybody the right to tell us when we should or should not take strike action.

As a matter of principle, we do not concede there is necessarily a complete congruence between law and morality. There is such a thing, Mr. Chairman, as a bad law. We appreciate that this Assembly seeks divine guidance daily in its deliberations. However, we suspect that it may not receive that guidance quite that often.

We are not philosophers in this union, Mr. Chairman, but in earlier days I had the pleasure of reading Henry David Thoreau, that great American writer of a little more than a century ago. You may recall that Mr. Thoreau wrote a profound analysis of citizens' rights and obligations in a democratic state in an essay entitled On the Duty of Civil Disobedience. In his opening line he writes, "I heartily accept the motto, 'That the government is best which governs least . . .' ". I would have thought such a sentiment would have struck a responsive cord in the hearts, if any, of the proponents of the new right, or would have even struck a responsive cord with those who appeared immediately prior to us at this hearing. But apparently the new right is concerned only with getting government off the backs of its corporate cronies. It's quite happy to continue with old-fashioned authoritarianism and interventionism when it comes to dealing with the people.

I believe it is quite clear from our brief that we regard the proposed changes to the arbitration process, particularly the introduction of new criteria, as nothing more than a disguised effort to introduce wage controls into Alberta. We do not see any other point in such an amendment. It may be argued that this is simply an innocuous statement of what arbitrators ought to take into account. Members of the Legislative Assembly ought to know that arbitrators already take into account all the factors listed in Bill 44. For example, I had the opportunity of sitting on three arbitration boards this last winter under the Public Service Employee Relations Act as a union nominee. In every one of those, the government entered in its brief and entered evidence on each of the new criteria that it now wants to introduce into the process in Bill 44. In each of those cases, the chairmen of those arbitration boards — and some of them were well-known arbitrators like Gerry Lucas, who I alluded to before — took those factors into account. So there is no need for confusion on that issue. Arbitrators are already taking those issues into account. There is no need to state the obvious.

Consequently, we have to assume that it is not simply a matter of stating the obvious, Mr. Chairman, but that under the heading of fiscal policies of the government, it is the government's intention to introduce a form of wage controls into each round of future bargaining. While this government may wish to avoid the political liabilities associated with jumping into bed with the six-and-five Trudeau Liberals, it is pretty clear that that is precisely what they are about to do. Once again, we have to ask why. With respect to our own bargaining unit, Mr. Chairman, we see that wages for nurses are not high. Wages for other hospital workers are generally even lower.

I want to refer the Legislative Assembly briefly to page 4 of our brief where, for example, the maximum salary for a staff nurse in our bargaining unit is $15.42 per hour. That's $31,191 a year. Members will see from appendix A and appendix B that, firstly, if you were supporting yourself on that amount — that's the maximum amount a staff nurse can make in the province of Alberta, $31,000 and change a year — the maximum value of a house that you could buy to shelter yourself and your family would be $62,000. Nobody is getting rich practising nursing in the province of Alberta.

Historically speaking, in the years when supposedly nurses' wage increases have been so substantial — and we've looked at the years 1976 to 1982 — there has actually been an increase in nurses' wages by a rate of one percentage point per year faster than the average wages in the province of Alberta. Yet, Mr. Chairman, in 1976 or 1977 I am sure everyone in this room would have agreed that historically nurses have been underpaid, that nurses have been taken advantage of largely because of the fact that they are women, and historically women have not been given their full value in the work place. Yet in those seven years that I referred to, the increases were 1 per cent greater than the average of all Albertans, organized and unorganized, private sector and public sector. That's not an extraordinarily rapid correction to an historical injustice.

Let's take it as conceded, then, that very few members of the Legislative Assembly would regard $15.42 an hour

as an outrageous wage in absolute terms. How then is that term "too much" — that we have to infer from this legislation — to be modified? Is it too much for a nurse? Is it too much for somebody who works with sick people? Is it too much for somebody who works with their hands as well as their brain? Is it too much for a woman? We submit, Mr. Chairman, that the wages of Alberta's nurses are not too high. There is no justification for any effort to penalize nurses or other hospital workers for the minimal gains they have made in the last few years.

It's our position that Bill 44 does not address the real problems. Members will see set forth in the fourth section of our brief, from pages 14 to 26, what we think are just a few of the real problems in the hospital industry. We have listed 15 of them, though the list could go on and on. There are "changes in government funding", including some recently announced changes, which are going to lead to increasing tensions in the hospital industry. There are "attitudes towards management's rights", which we've described in our brief. The "declining authority of hospital boards" — Mr. Chairman, what more graphic example of that could we have than the situation this week when the board of one of the largest hospitals in Edmonton has been told to close down a palliative care unit, a unit for the care of the dying, because that unit was not approved by the Minister of Hospitals and Medical Care? How can anyone seriously say that hospital boards in Alberta have the power to run their own institutions?

The "increasing authority of the provincial Hospitals Department" is the other side of the same coin. "The role of the Alberta Hospital Association" is something we've dealt with in some detail in our brief. We've dealt with "the changing philosophies and structures of hospital management" in our brief. Again, it comes back to another recently announced initiative by the Department of Hospitals and Medical Care.

"The changing role of women in the economy" is a significant factor affecting the hospitals. "The legacy of the Anti-Inflation Board", that ill-thought-out wage controls program which this government co-operated with; yet five years after the end of AIB controls, almost to the day, we in Alberta are still feeling the economic effects of that policy. The "changing nature of the nursing profession" is altering the way hospitals work. The "nursing labour supply problem" may indeed be going through a temporary correction at the moment but, as we've outlined in our brief, is by no means over. In fact the worst is yet to come on that front. The "changing nature of patient care in hospitals" — I'm sure most members are aware of the increasing severity of average patients in hospitals today. The overall "provincial economic climate" is an important factor, "the fragmentation of bargaining units", "changes in nursing technology", and "changes in social relations".

There are many other factors, Mr. Chairman, which are creating the turmoil this province has experienced in the hospital industry. But what has Bill 44 done to address those problems? It has done absolutely nothing. It does not have a single clause or article which addresses those problems.

Mr. Chairman, in conclusion, I wish to stress for the Members of the Legislative Assembly that it is the view of United Nurses of Alberta that we — and I use that term collectively — not just our union but we and the members of this Assembly, and indeed all Albertans, have a lot of work to do in the next few years to solve some real problems in the hospital industry, problems which are not addressed in Bill 44. Is Bill 44 even a part of the solution? No, it is not. In fact it's going to aggravate the problem, as we pointed out in our brief.

As we've told the Minister of Labour and the Members of the Legislative Assembly in our brief, we in this union are prepared to commit ourselves to work closely with the hospitals, the Hospital Association, the government, and any other affected party in the industry in an effort to improve the collective bargaining climate, structures, and processes. But that is a conditional offer, Mr. Chairman. It depends upon the government making a commitment to free collective bargaining and withdrawing Bill 44. We would prefer that route. But as we've said in our brief, like most people, we prefer not to negotiate with a gun to our heads.

There's one thing this government has never tried in its dealings with United Nurses of Alberta: collective bargaining. Every time we've gone into bargaining, we have faced some kind of devious strategy, always aimed at legal action. The government's approach has always been to try to suppress the problem rather than to deal with the problem. We are calling on you today to try something genuinely new. We're calling on you to make a commitment to collective bargaining.

I can assure you that we in United Nurses of Alberta are getting quite used to taking on the government. We would prefer not to take that action in the future, but we have the tools at our disposal if that action becomes necessary. The government has always used its legislative arsenal to oppose the goals of organized nurses in Alberta, and those nurses have always faced the government with solidarity, strength, courage, and intelligence. We're prepared to bring those qualities to the table, Mr. Chairman, and to sit down and try to solve some of these problems. But if the government chooses confrontation, as it has in the past and apparently wishes to do again with Bill 44, then confrontation is precisely what it's going to get.

Thank you.

MR. VICE-CHAIRMAN: We'd ask members of the committee to raise points of clarification or questions. The first member to be acknowledged is from Edmonton Whitemud.

MR. ALEXANDER: Mr. Chairman, speaking for the moderate right wing, I'd like to ask a couple of questions as to the market elements raised in the brief. On page 10 the brief says:

> Wage controls will not have much effect on long term wage trends

I generally agree.

> Long term wage trends will be determined primarily by the market forces of supply and demand.

Assuming that the prevailing wage principle is in effect, I wonder — in appendix B, which you brushed over quickly, you said:

> . . . the increases received by nurses exceeded the increases in the average of wages and salaries by all Albertans by a compounded amount of seven point two percent (7.2%) over seven (7) years . . .

which you reduced to a rate of

> . . . approximately one percent (1%) per year faster than the average wage of all Albertans . . .

in a period in which all Albertans probably had their 'rapidest' — if that's a word — wage increases in recent history. I wonder about the prevailing market forces as far as your incomes are concerned, or do you consider

seven years to be not sufficiently long term to be able to tell?

MR. RENOUF: There are a lot of points to respond to there, Mr. Chairman. First of all, as a constituent of the hon. member, I must say that I would never put him in the moderate category of the Conservative Party. But be that as it may, I think the point we're making is that there has been historical difficulty with nurses' incomes. In the past, hospitals were virtually charitable organizations. And as we've noted in our brief, at one time nursing was regarded as almost a religious vocation in which the matter of financial compensation ought not to even be discussed, and the less said about it, the better. So we're dealing with correcting a serious historical injustice.

Yes, I would be inclined to agree that the period of time we've looked at was largely a time of considerable wage expansion in the province of Alberta, but not all of it. For example, the first couple of years were during the AIB period, which held nurses' wages down actually lower than provincial averages. In the last year, because those figures are taken up to November 1982, that's a period of time in which, according to the government — and I don't really dispute this — there has been a decline in real incomes for many, many Albertans. So the final point may not even have been the highest level of average wages and salaries in Alberta during that whole period. It may have been higher six or eight months earlier. I just looked at the most recent available statistics on average wages and salaries. But if you're talking about correcting an historical injustice, which there was a very broad consensus on, I would submit, then I don't think the rate of 1 per cent per year, even ahead of a fairly brisk rate of increase, can be described as alarming or spectacular.

MR. ALEXANDER: If I may. I don't want to waste a supplementary, but did you vote for me?

MR. RENOUF: What do you think?

MR. VICE-CHAIRMAN: Maybe that's a note on which to conclude. I apologize to the members who were not able to get in a question. We thank the representatives of the United Nurses association for their oral presentation, along with the very comprehensive submission that I'm sure took considerable time and effort to prepare.

[The committee adjourned at 4:45 p.m. and resumed at 4:55 p.m.]

Alberta Association of Registered Nursing Assistants

MR. VICE-CHAIRMAN: Members of the committee, could I call this segment of the hearings to order.

We have before us the Alberta Association of Registered Nursing Assistants, represented by Miss Ethlyn Waege, president, and Ms Katheleen Thompson, executive director.

You have 40 minutes for the presentation, a bell will ring at 35 minutes, and you can utilize the time as you deem most effective.

MS THOMPSON: Mr. Chairman and members of the committee, our brief is short, and maybe not so sweet. We trust that the presentations of our colleagues will deal with the entire issue of compulsory arbitration. The approach we have taken is an attitude that you are going to do whatever you're going to do as far as this decision goes. We can only hope to influence your decision on Bill 44.

Removing the right to strike comes as no surprise to us as hospital workers. While this change leaves us struggling to exist as half slave and half free, this particular change — the whole idea of compulsory arbitration — is not the point we wish to address. We're going to concentrate solely on section 117.94, dealing with suspending union dues.

On page 2 of our brief, we give you a bit of background about our organization. I'll leave you to read that at your leisure, if you have any these days, and we'll talk about the impact of the proposed changes to section 117.94.

In our opinion, the hospital industry in Alberta today is fraught with turmoil. Not only have there been major strikes during the past three rounds of collective bargaining, but interunion raiding is prevalent. This vicious fighting over jurisdictions introduces another stress for health care workers already coping with an emotional work environment. No one group of hospital workers is sacred when it comes to this nasty business known as raiding. Each bargaining unit is being distracted from its main purpose: providing health care services.

We're supposed to be serving the best interests of the public, taking care of our communities — your families. That focus is quickly lost in a conflict-ridden environment. Add to that some management bungles now and then — just a few — and, as if the scenario is not volatile enough, we are faced with the prospect of having union dues suspended at management's discretion. This is a dangerous weapon to place in the hands of one party to the collective bargaining process.

We'll give you a few examples of how we could see the world. We hope it doesn't happen this way, but what if an epidemic of measles or flu is going around some community? Hospital workers are in a business where they can't avoid being in contact with ill people. Say several people happen to be off sick on the same day. Now we're back to our "what if" situation. What if hospital management decides there has been a strike? If union dues are suspended for up to six months, the union has to expend precious time and money to prove its innocence. What happens to our principles of justice? I used to think that we were innocent until proven guilty. But under this particular type of change, we would have to prove our innocence after the fact.

Another "what if". Management doesn't want a particular union to remain in its hospital. So it sets up a couple of people to pull a wildcat strike — as it's known in the business — suspends the dues, and thereby harasses the union's ability to provide services, while the members get into a decertifying mood or another union walks in.

Proving innocence in the above situations is extremely difficult because of the nature of the circumstances. We're not accusing hospital management or other unions of ill motives. But with this type of legislation, the potential is there to wreak more havoc within an already conflict-ridden industry.

The suspension of dues gives the employers the right to punish people. Management does not need to warn the union; there would be no hearings before punitive action was taken. If an illegal strike did occur and dues were rightfully suspended under your proposed legislation, the wildcatting members wouldn't have to pay union dues. So in our observation, section 117.94 amounts to nothing more than a harassment tool for management to use

against a union or a reward for people on wildcat strikes.

We have some other concerns with the section on compulsory arbitration. Perhaps they could be dealt with if we more clearly understood the intent of these changes, but I will put them to you. We have no solutions to them, because we're not too sure of where you're heading with these particular changes.

Under 117.2, what happens if neither party requests the board to recommend that the minister establish a compulsory arbitration board and yet collective bargaining has run its full extent? Also in the proposed legislation, we're running into phrases such as "as soon as possible", which is too vague. There are no specified time limits for the boards to notify the other parties of requests for compulsory arbitration.

Under section 117.3, there are no specific details about what the board has to be satisfied about. What are considered "reasonable efforts to conclude a collective agreement"? And what procedures or conditions may be prescribed "under which collective bargaining is to take place"? Parties to collective bargaining are left shooting in the dark when they're trying to prepare for collective bargaining.

In 117.4, the phrase "if the Minister agrees" leaves us wondering why he wouldn't agree. We're starting to read what is not written in the Act. Also, the section doesn't say how long he has to act on a dispute.

In 117.6, again there is no time limit for the minister to notify the arbitration board of the items in dispute. Does the minister have the final authority to determine which items shall be dealt with, or would they all be handed down to the arbitration board?

In 117.8, in ensuring "that wages and benefits are fair and reasonable", the arbitration board shall consider "fiscal policies of the Government". Our question is, where do you pin down what the fiscal policies of the government are? Would we be dealing with a percentage of spending evident in a provincial budget? If so, our major concern is that wages are not the total cost of a settlement. What then guides the wage settlements of arbitration boards? Also, you're dealing with percentages, which we all know do not amount to the same dollar value for each hospital worker.

Again in 117.8, how far does the arbitration board go for geographical comparisons in determining an award? Another phrase that has us puzzled is the blank cheque approach, I guess, that would leave us nervous in understanding the true nature of the prescribed guidelines of whatever else it deems necessary.

In 117.9, there's again no time limit within which the arbitration board has to make an award.

By asking the arbitration board to "prepare a document in the form of a collective agreement", in 117.91, you may be asking people who are not necessarily used to dealing with collective agreements to write an agreement, including the items already agreed to. In 117.91(2), what is the intent of the minister publishing "an award in any manner he sees fit"?

In 117.93, by reconvening the arbitration board to deal with the matter arising from the award, what happens to the grievance arbitration process?

That highlights our concerns with the proposed changes in section 117 of Bill 44. As I mentioned before, our major concern is with the suspension of dues.

In summary, I have a little story here about the man who was celebrating his silver wedding. A friend comes up to him and says, "It's great the way you've stuck together so harmoniously all these years. What's the secret, old man?" "Well," says the husband, "it's very simple really. Right at the start of our married life, we agreed that I, as the husband, would make all the big decisions and my wife, who runs the home, would make all the small decisions." "And that has worked well all these years, has it?" asked the friend. "Indeed it has," replied the husband, and then added, "As a matter of fact, there haven't been any big decisions yet."

Now I'm not trying to dwell on the significance of women's versus men's decision-making abilities. The point we want to make is one of caution. With the changes in the Labour Act, the decisions you are faced with will determine the types of decisions you will have to make in future. You now have the power to prevent the necessity of any later big decisions. We recommend that you delete proposed amendment 117.94 and leave both parties to the collective bargaining process on equal footing. In pursuing this particular change, you're adding a new element to management domination and — that nasty phrase — union busting. Unions are a necessary thread in the fabric of the hospital industry.

As irritating and frustrating as the recent events in hospital collective bargaining are, they do not warrant implementing these measures. It is a band-aid approach to dealing with the real problem. As hospital employees, we feel that we are striving to serve the best interests of the public, and we urge you to consider the jeopardy to the public of implementing these potentially union-destroying measures.

We're open for questions.

MR. VICE-CHAIRMAN: Members of the committee, you may raise questions through the Chair.

MR. KOWALSKI: Mr. Chairman, two questions: the first for clarification and the second dealing with the position put forward by the Alberta Association of Registered Nursing Assistants.

With respect to section 117.94 of Bill 44, dealing with the board, it is my understanding that the board we're talking about, that you've made mention of in pages 3 and 4 of the brief, is really the Public Service Employee Relations Board rather than a local hospital board.

MS THOMPSON: No, in those circumstances, according to my brief, I was speaking of the compulsory arbitration boards.

MR. KOWALSKI: The major concern you put forward with respect to 117.94 is the suspension of dues and then the need for your association to prove — the phraseology you use — your innocence. What would the view of your association be if section 117.94 were to read that before the suspension of dues could take effect, one of the agents would have to see, in this case, the Public Service Employee Relations Board and seek their identification that in fact a strike was under way?

MS THOMPSON: For our purposes it is usually the Labour Relations Board; we only have one hospital under the Public Service Employee Relations Board. But besides that, you're suggesting that the hospital board should then approach the board and say, this is what we want to do, and have the board's approval before they would proceed.

MR. KOWALSKI: You would have the identification of the fact that there would be a strike under way before the dues would be suspended.

MS THOMPSON: If we had the option of appearing, that could solve our concerns as to being judged guilty and having to prove our innocence afterward.

MR. MARTIN: I take it that in your brief you're suggesting things stay relatively the way they are, at least for the time being, and we try to improve on the system that's already there. In your opinion, do you believe there is a fair system of collective bargaining without the right to strike?

MS THOMPSON: In the history of collective bargaining we have experienced, there is. And we've seen it evident in other unions' and managements' joint efforts as well. Again, I hinted at this idea of a band-aid approach to an underlying real problem. By changing the system so drastically, I don't think you're really dealing with the problem. It's another band-aid approach to recent events in the hospital industry. Collective bargaining can work in the hospital industry.

MR. MARTIN: I know there hasn't been a strike, but I'm talking about the right to strike. Even though you don't go on strike, even though you don't intend to use it or haven't used it, the threat is there; you have an "or else". Can you have collective bargaining without that right?

MS THOMPSON: We hope so, if that's the way the world is going to go. I guess that remains to be seen. That's back to philosophizing about how effective we're going to be able to be under the new system, if that's the way it goes. We would prefer that things remain the same. But if it's going to go that way, we'll have to try to live with it and see what happens over the next few years.

MR. MARTIN: You lead me to my final supplementary. If Bill 44 is passed as it is now — you've pointed out certain things you see wrong with it — in your opinion what will be the state of health care in the province in the next couple or three or four years?

MS THOMPSON: Are you asking me to gaze into my crystal ball? I guess you're liable to see fewer unions. We've all predicted this. There'll be fewer unions. Hospital workers would then want to move toward larger groups for the satisfaction of more power in numbers, shall we say. If we're going to be dealing with a faulty process, they would have to consolidate their efforts in their approach to the problems in the process. Lumping all hospital workers into one or two large unions would lead to other problems in collective bargaining. Those are the kinds of things we don't want to see happen, because that probably means that smaller groups, such as ours, would no longer be in existence, trying to contribute to a responsible collective bargaining process.

DR. CARTER: Ms Thompson, in your remarks on page 3, you commented with respect to "interunion raiding" being prevalant, and you referred to it as "vicious fighting over jurisdictions". Do you regard your own group as being part of that exercise, or could you give us some examples?

MS THOMPSON: We've been the victim more than we've been the aggressor, shall we say. In the past, there hasn't been one particular bargaining agent that hasn't taken over, or had other groups try to take over, one or parts of their bargaining units. So I would say that none of us here is not guilty of those types of offences.

DR. CARTER: Are you prepared to share with us who is the most aggressive?

MS THOMPSON: I guess if you read the paper a few years ago, you would have some indication of those sorts of things. I don't think it's fair that we deal with name-calling and that sort of thing, but it's there. I thought members of the Assembly should be aware of what the hospital industry is really like, besides the collective bargaining process.

DR. CARTER: Just to comment: we're not name-calling; you're stating facts. That's what I was after, not name-calling but a fact.

MS THOMPSON: [Inaudible] I was dealing with one of our particular aggressors, so I would prefer to refrain from pointing fingers right now.

DR. CARTER: I respect that. Thank you.

I do have a supplementary question. On page 1, right at the top, your brief makes this comment: "Removing the right to strike of hospital employees, comes as no surprise." I suppose there are a number of people in Alberta who might make the same comment. I wonder if you might care to elaborate on that. I know that a number of my colleagues and I have had a number of representations from people in our constituencies that they would like to have the right of hospital workers to strike removed. There is considerable unhappiness, outrage, frustration, and inconvenience expressed by some of our constituents.

MS THOMPSON: That's part of the reason it comes as no surprise. We hear our members' responses as well, when other unions go on strike. Also, we've sat around in this industry for at least five years predicting, how long will the hospital industry be allowed an open collective-bargaining process?

DR. CARTER: On behalf of the AARNA, are you prepared to say that you're in favor of it being removed or otherwise?

MS THOMPSON: No, we can't say we're in favor of it. But then, because we've never attempted those particular avenues before, it doesn't have a direct effect on our current philosophy on collective bargaining.

MRS. LeMESSURIER: Ms Thompson, on page 2 in your introduction you state that compulsory arbitration "leaves us hurt and indignant". Then on page 5, 117.7(3), it states: "Although 'final offer selection' is mentioned, what other methods of arbitration might be used?". At this time I would like to ask if you have any other methods of arbitration that you think should be used?

MS THOMPSON: No, we didn't come up with answers to those particular questions. Our concern was a little more general than that. If you put the thought in somebody's mind by naming one particular process, what

other avenues are there? I suppose we're just looking for answers at this point in time.

MRS. FYFE: I'd like to ask a question as a follow-up to the Member for Calgary Egmont's, regarding the continuation of health services. It's something that's troubled me greatly during the last two strikes, where I've had some direct involvement. I guess it's partly the pressure that we've received from constituents and people who cannot get into the system, not those patients who have been treated through facilities that have remained open but those who cannot be classified as emergent patients and because of delay in treatment, their survival rate can be affected. I wonder what the position of the Alberta Association of Registered Nursing Assistants is regarding the responsibility of the health care system to provide continuing health care services within the province.

MS THOMPSON: As the system exists today, when one group of workers goes off, it seems that the other groups of workers manage to keep hospitals open and working. There is some sort of a balance there, and it's not always appreciated by the other union that is out on strike. But there has been that sort of balance, if you can call it that, in that we have been able to — I'm not saying we as registered nursing assistants, but the hospital workers have been able to maintain the emergency needs of the public and that sort of thing. I gather that through a certain quota of management-type nurses, plus our level of nursing workers, there have been enough hands on deck to maintain most hospital services. Then, of course, hospital management tends to double up here and there, specializing in certain areas of care while the nurses are off, for example. But generally speaking there has been a balance in years past.

MRS. FYFE: Just a follow-up, Mr. Chairman. I have the highest regard for those people who were left in the system and did provide the services, because I know directly what a tremendous job they did. Maybe it's more a philosophical question that I'm asking, but I wonder about the responsibility of the whole system to ensure that each patient who requires treatment, not just emergent patients — and I know from personal experience that there were patients who contacted me who were not classified as emergent but required medical treatment because time was a critical factor. From that point of view, I wonder what is the responsibility of the total system, not just those who work extra time, without weekends, to keep the system going. For those who could not be accommodated, what is the responsibility, in the context of Bill 44?

MS THOMPSON: You're right, in the sense that there is a responsibility to the whole system regardless of which union you're in, and so on. I guess perhaps everybody has seen these types of problems through their own eyes, through their own world that they want to protect. That's the one thing we can't argue with in philosophy, as to exactly where the responsibility does lie. It should be shared by the whole system. Something in that process, in that system, has to be able to allow collective bargaining between management and worker without interfering, shall we say, too much in that process. I don't know if that answers your question or not.

MR. VICE-CHAIRMAN: Any other questions? If not, I invite the group to make a few brief summary remarks.

MS THOMPSON: I summarized before.

MR. VICE-CHAIRMAN: You need not, if you wish.

MS THOMPSON: I think we've said all that we were prepared to say, and we'll leave it at that. Thank you very much.

MR. VICE-CHAIRMAN: We just didn't want to usurp your time. On behalf of the committee, we'd like to thank you for appearing this afternoon. We thank you for your submission as well as your oral presentation.

[The committee adjourned at 5:20 p.m. and resumed at 5:25 p.m.]

University of Alberta Hospitals
Staff Nurses Association

MR. CHAIRMAN: Could the members of the committee please take their positions?

MR. NELSON: Mr. Chairman, I would like to move that the committee request Mr. Speaker to reconvene the Assembly forthwith in order to ask leave for the committee to sit until 7 p.m.

MR. CHAIRMAN: You've heard the request. All those in favor of adjourning and turning it over to the Legislative Assembly to increase the time?

MR. WEISS: Mr. Chairman, with regard to the time, is it a fact that we must be here till seven o'clock? If it is not necessary that we be here till seven, I assume that we'd be able to be flexible.

MR. CHAIRMAN: It means that we can sit as long as seven o'clock, if need be. Right now we're only five minutes short.

[Motion carried]

MR. CHAIRMAN: If the committee is agreed, I adjourn the committee until such time as it's reconvened.

[The committee reconvened at 5:30 p.m.]

[Mr. Clark in the Chair]

MR. CHAIRMAN: I call the meeting of the Public Affairs Committee to order. We're sorry for the delay; we increased the time so we could hear all of your presentation.

I'd like to welcome the University of Alberta Hospitals Staff Nurses Association: Ms Leanne Dekker, president, and Mrs. Judith Côté, secretary. Maybe you could introduce the other members you have with you. You may begin your presentation.

MR. FRASER: Thank you, Mr. Chairman and members of the committee. We're thankful that the proceedings didn't start off with the gong at ringside, that we have a bell instead to start us off.

MR. CHAIRMAN: I'm sorry to interrupt, but you're going to have to get a little bit closer to the mike. I think there are some people — we've had a little problem.

MR. FRASER: Having to say that to a lawyer is almost an indictment, sir. [interjections] I hope the two mikes are better now.

Sir, as you've indicated, we have on my left, Leanne Dekker, who is the president of the University of Alberta Hospitals Staff Nurses Association. On my right is a past president and current secretary, Judy Côté. My name is Richard Fraser. I am the legal counsel and negotiator for the union.

Our union is not part of the United Nurses of Alberta. We are the largest independent nursing bargaining unit in the province. We have approximately 2,200 members in the bargaining unit. Our unit serves a geographical area which comprises basically that area north of Red Deer, northeastern British Columbia, northern Saskatchewan, the Northwest Territories, and the Yukon. We're particularly involved with premature babies in the neonatal intensive care unit. We're involved in working with the kidney machine and kidney transplants in the renal dialysis unit, also the burn unit. In fact, in the area of microsurgery, we serve the entire province.

We're happy to be here today to address the members of the standing committee on what we feel are very important issues, not only to nursing but to labor relations generally in this province; I don't think it's putting too fine a point on it to say basically the health of the province, both in the nursing care field and in the area of productivity. We would like to state at the outset that we realize what legislative power you have. Coupled with the legislative power, we realize that you probably also hold the majority of public opinion with regard to the introduction and speedy passage of Bill 44.

Having acknowledged the power the government holds in relation to the hearings before the committee, we trust and are confident that this power will be used fairly and equitably. As you are well aware, the government is both employer and legislator. By necessity, you must wear two hats, or at least change the hats from time to time. We're sure you realize that when you act as legislator, you must act fairly to the rank and file — individual members, men and women, ordinary citizens — of these labor groups.

In part one, we have indicated a basic history, as we have seen it. We don't propose to reread that, because often history or truth is from where you are standing. People have different perspectives on what the truth is, what's fair, and what the history is. So we're not going to belabor the point in trying to indicate to you the proper history of this legislation. But I think it's fair to say that when the Public Service Employee Relations Act was introduced and when it became law in 1977, there were a great number of union and labor organizations and individual citizens in this province who were concerned whether this legislation and the board that would implement the legislation would be fair to the groups involved.

On behalf of our union, I'm happy to state — and I think it's a view widely held by many labor organizations, individual employees, and bargaining units — that the Public Service Employee Relations Board has been seen to be fair over the last several years. This is not something that's happened overnight; the board has earned it. The unions haven't always won; neither has the government. But both sides have seen that the board has been fair.

As we indicate in part two, there have been several decisions — not every decision — of the board that are now going to be overturned by Bill 44. Let us give you one example.

There was a decision by the Public Service Employee Relations Board that indicated certain government personnel in the personnel office were to be covered by the Act. Certainly the spokesmen, on behalf of the government as employer, were not delighted with this decision. They appealed it to the Queen's Bench, and they lost. What has happened is that this decision is going to be overturned by Bill 44. We would ask you: why should we the unions, or why should the board itself have any confidence that when the government loses, all of its decisions will not be simply overturned?

With the greatest of respect to this body: to have a board in a fragile state under the Public Service Employee Relations Act, with the conflict and pressures that were originally brought upon that Act and the board, to now simply overturn by legislative change decisions that it has given fairly and accurately, can certainly give confidence to no one in the union sector and certainly not to people associated with the board.

Another interesting thing that you may not be aware of: to the best of my knowledge, not one decision of the Public Service Employee Relations Board has ever been overturned by any court in this land. That includes decisions up to the Supreme Court of Canada. The courts have found this board to be fair, equitable, reasonable, and right. Now, many of it's decisions will be overturned by Bill 44.

In view of this, we have to wonder what sort of input the government of the day has had from the Public Service Employee Relations Board. Have the various caucus committees and the committee of cabinet dealing with labor relations had input from the board? We assume not, but we stress that that is an assumption. Have you had input from respected arbitrators, both men and women, consciously believing in their role that the Act is long overdue for major change? Are you aware that in 1979, four years ago, a board comprised of Mr. Gerry Lucas — who, if you are familiar with labor law, you will realize is a respected chairman — Mr. Ron Newman for the employer, and Mr. Andy Simms for the employees, in a unanimous decision, stated the following about the Public Service Employee Relations Act:

> In our view the provisions of the act relating to the resolution of collective bargaining disputes by arbitration are far too restrictive. They inhibit rather than assist the dispute resolution process. Hopefully amendments to this legislation will be forthcoming to alleviate the sorts of problems we encountered.

With respect, not one of the four or five suggestions they looked at is covered by Bill 44. Only the concerns of the government of the day are covered in Bill 44, not the concerns of those other interested parties. We submit that the issue as to what is addressed by Bill 44 has a deeper underlying concern; that is, this House's recognized concern with labor peace in this province and hopefully the concern of all with the raising of productivity, which can surely only be done when there is a minimum basic amount of labor peace.

I believe a motion concerning alternatives to confrontation techniques was passed by this House in 1982. It was basically passed by the Assembly and asked that alternatives to the confrontation techniques used in labor/management disputes be investigated. In the House, on March 15 of this year, the hon. Dennis Anderson asked the Minister of Labour what steps the government had taken to respond to that particular motion. The hon. Minister of Labour noted that there would be a further conference in Jasper, a tripartite conference that would deal with this very issue, this very resolution.

We bring this to your attention in anticipation of a suggestion we will give, to which perhaps you will give due consideration. Speaking on behalf of our union, I have a feeling that as you hear the groups and as you see the media — the papers, the TV — you will have to ask yourselves whether or not Bill 44 assists in establishing labor peace in this province. We don't propose to tell you what that answer is. Those are answers that you as legislators, not as employers, will have to decide.

Of course, we've been brought to the House today — and we're delighted to be here to be able to make this presentation. But on behalf of our union, we have to examine carefully the procedure that's been adopted by the government to discuss this piece of legislation. With respect, the mere fact that this is only the second time in this administration's history that this procedure has been used — I think that really we need say nothing further. It's an unusual and, we would suggest, inefficient way of handling these types of technical but important matters. We join with the other groups in saying we've just had insufficient time. We don't feel that we've had time to be able to accurately describe, clause by clause, the many aspects of Bill 44. As you are well aware, while seemingly straightforward on its surface, legislation may have ramifications far beyond what was originally intended.

We wonder why this honorable House did not choose to follow the procedure that was used with regard to the Labour Act. When the major amendments to the Labour Act occurred in 1977, or thereabouts, I am certainly of the undertanding that public hearings were held in '75 and '76. At that time, I believe the hon. Minister of Labour — I believe it may have been Mr. Crawford — along with the chairman and some of the other members of the labor board, as it then was, actually toured the province, went from Edmonton to Calgary and even other points, Lethbridge, and were able to get input from many diverse groups on the very significant changes that were to occur in the Labour Act.

Another alternative was the procedure adopted by the Hon. Robert Bogle, when he was Minister of Social Services and Community Health, in dealing with the Health Occupations Act. As you are all aware, great dispute and concern was voiced in the province at that time. The government and the minister took the very wise course of having the matter set over for about a year and a half while various issues were studied. We refer specifically to this on page 6 of the brief, and we don't have to repeat what you hopefully will already have read.

Ladies and gentlemen, members of this committee, we would ask you to examine what is happening at this very instant with regard to Bill 44. As we see it, the key thing that's happening is that discussion is being invited only on amendments to this particular legislation, and that's Bill 44. Parties are not invited to make further comments or amendments with regard to the Public Service Employee Relations Act. And we'll speak of no other Acts, because with regard to our union, the only thing that affects us directly in this legislation is the Public Service Employee Relations Act.

But we're asked to come here before you, not to make comments about the Public Service Employee Relations Act; we're asked to come here just to make comments on Bill 44. And with the greatest of respect, Bill 44 is the concerns of government as the employer. We have other concerns. Maybe the Public Service Employee Relations Board, maybe the arbitrators, have other concerns. We think they're as legitimate; maybe not quite as important as you may regard them, but very legitimate and as important to be included in legislation dealing with the Public Service Employee Relations Act, which, ladies and gentlemen, is getting to be a very tired Act indeed, since its inception in 1977.

We believe that a former, respected minister in this government recognized and appreciated the distinction between bringing forth amendments which cover all the legislation, as opposed to just bringing forth amendments that concern the government as employer. With the kind permission of the Non-Academic Staff Association — which, I may indicate, I also act for — I refer, in the last two pages of our brief, to the response to a letter from the Non-Academic Staff Association complaining of many inequities and problems in the Act. The hon. Hugh Horner responded as follows. I think we should read the whole letter. I don't think we want to see it in isolation. It's not for us to pick out paragraphs.

September 11, 1979

Dear Mr. Walker:

I wish to acknowledge your September 5, 1979 letter outlining your concerns relative to The Public Service Employee Relations Act.

The legislators realize that in the passage of any new legislation, before any changes or amendments should be contemplated, the legislation should be given the opportunity through usage to see if the intent of the legislation is being achieved. This can only be accomplished after the legislation has been in effect for at least a few years, and the body charged with its administration has dealt with a number of matters that have been brought before them.

I believe that in all fairness to the legislators, the Public Service Employee Relations Board, and the parties affected, before consideration is given to hold public hearings to receive representations concerning any possible changes or amendments to The Public Service Employee Relations Act, that additional time be made available to the Board to deal with more matters before such hearings are held. Your letter will be kept on record together with any others that are received suggesting amendments to be considered when public hearings are scheduled in this regard.

Thank you for bringing your concerns to my attention.

Yours sincerely,
Hugh M. Horner, M.D.
Deputy Premier
Minister of Economic Development

Ladies and gentlemen, with respect, we think that time has now come. The time has come to look at the Act as a whole, not just to look at those concerns in Bill 44. On page 9, under part 6, we've referred to our perceived defects in the Act. We feel they're valid. We know there are numerous other defects perceived by other groups, and we think they should at least be examined at this time.

I'll just refer to one of the issues, and that's the matter of arbitrability. That basically suggests that in section 48 there are a whole lot of things that can't occur in collective agreements in the public sector. Many, if not most of them, can occur in collective agreements in the private sector, but in our sector they can't. We think that maybe it is time to have a re-examination of that entire area. With respect, having been involved with groups that have worked — and I mean worked — within the system under the Public Service Employee Relations Act, that Act unfortunately by its very nature encourages the parties to resort to arbitration.

It takes a great deal of time to get the arbitration boards established and to get your decisions. There are no directory time limits whatsoever in that legislation. I'm afraid that a lot of people at the bargaining table realize: what are we doing; we're going to waste two or three months trying to strike an agreement, and we know we're not going to be able to get it; we know we can always go the Public Service Employee Relations Board and go through the arbitration procedures anyway, and it's going to take five to six months to do that; so what are we wasting our time here for; let's get on to arbitration. All we've seen — and the proof is in the pudding — is that we don't have people working out their own differences across the table. They're going to the third party all the time. It's getting very cumbersome and, with respect, it's not helping anybody.

We believe that the hon. Ray Speaker had a very valid point when he spoke in the House on April 12 and indicated that he felt matters should be set over until the fall sittings. The hon. Minister of Labour felt that wouldn't be appropriate because, he stated, there was a window of labor inactivity when certain contracts and negotiations were not going on; therefore everything had to be done at this very session.

With the greatest of respect to the minister, the only section he would refer to is the hospital sector, as he indicated. We're part of the hospital sector and, I can tell you, we don't mind if this is set over until the fall. The United Nurses of Alberta is the other bargaining agent in the hospital sector, and their contract expires the same time as ours. Even if they are put in a position of having to go to arbitration, should legislation be passed that's before the House, the earliest they're looking at is 1984 as well. So we think that the window is somewhat larger than was suggested; that the window is the summer, and that this legislation should be put over, as has other legislation, in order that you can get proper input, briefs and submissions, dealing with all aspects of the Public Service Employee Relations Act.

We must say in all candor that if a decision was ever made simply to put this matter over until the fall without the intention of dealing with other aspects of the Public Service Employee Relations Act, please don't do it. Just go ahead this session. We don't seriously believe that would ever be done. If you're going to set it over the summer, you're going to look at other aspects of the Act, not just Bill 44. But these issues are far too serious for this province, to have anything other than utmost good faith between the parties involved. We hope you will give this suggestion favorable consideration, set this legislation over until the fall, and allow interested parties to make submissions on all aspects of the Public Service Employee Relations Act.

We've attempted to pace ourselves so we would hopefully have some time left over for questions. We realize this is a two-way street, and you may have some questions you may want to ask of us. We'll do our best to try to answer them.

Thank you.

MR. PAYNE: Mr. Chairman, I'd like to direct a question to Ms Dekker. During the nurses' strike of 1982, the staff nurses at your hospital and nurses at other Crown hospitals appeared to carry an additional burden as their hospitals continued to operate. My question relates to reports that we received from various quarters at that time, that increasing stress was being experienced by the Crown hospital nurses, including those at the University of Alberta hospital, and that there was an increasing risk of deterioration in the hospital care system. I wonder — and I'm sure it would be of assistance to the members of the committee — if you could comment on this perception of professional nursing stress at Crown hospitals during strike conditions.

MS DEKKER: I agree that during the strike there was an additional workload at the University by virtue of the fact that we had increasing numbers of seriously ill patients. However, it's my understanding that a number of the striking hospitals retained a certain number of their patients who were cared for by management nurses. Therefore, there weren't the numbers that could be evidenced before. It's also my understanding that the university operates at a very high occupancy level, and there is very seldom a large percentage of vacancies. So certainly the staff were stressed by having increased numbers of perceived seriously ill patients. However, that was accommodated by increasing staffing patterns at the university.

MR. PAYNE: Thank you for your comment. It was certainly helpful.

If I might ask a supplementary question, Ms Dekker. You and I both recall that during the period of that strike last year, the government did seek a legislated solution to the problem. I believe it was in the third week of the strike. My question again relates to professional nursing stress at Crown hospitals during such periods. Had the government not acted or, indeed, if you would care to speculate about a future incidence if one were to happen, in your view how long would the strike continue before the stress conditions to which you referred became, shall we say, intolerable?

MS DEKKER: You must remember that I don't have detailed notes about this time to refer to. However, I do recall that the staff at the university felt that they could have coped for a longer time during that strike. Whether or not that is true, and whether that's something that was felt at the staff nurse level and not at the management level, I have no idea.

MR. ANDERSON: Mr. Chairman, my question for clarification is to Mr. Fraser. During the presentation this afternoon, you indicated that decisions of the Public Service Employee Relations Board would be overturned by Bill 44. I have to admit that in my perusal of Bill 44, I haven't been able to find the section that deals with retroactive delegation of the provisions of that Bill. Could you assist me in that regard? Where would that section be, that would overturn decisions previously made by that board?

MR. FRASER: I believe we're dealing with section 21. We're dealing specifically with cases involving disbursement control officers who were not found to be auditors, people in the personnel department. For clarification, your point is probably well taken, in that the specific decisions will not be overturned and made retroactive. From our reading, I don't believe any retroactivity is involved in the legislation. But there is no doubt that workers and employees that were formerly within certain bargaining units will now be taken out of the bargaining units. So I suppose a fair, or more accurate, way of indicating the effect of the legislation is that from a given time, if the legislation is passed, certain employees that are in the units and have the benefit of the collective

agreements will, from the point of proclamation of the Act, be taken out of those units by legislation. And they will, of course, not be given the benefit of those collective agreements.

MR. ANDERSON: A supplementary, Mr. Chairman, so I fully understand your point. Are you then saying that decisions aren't in fact going to be overturned, that you're speaking of the criteria on which decisions will be made in the future? You're not talking about overturned?

MR. FRASER: If you were asking a lawyer, I suppose the lawyer would say, no, the decision won't be overturned. But if you were asking anyone on the street, they'd say the decision is overturned. And, with respect, I think that's probably the fairest I can answer that question.

MR. ANDERSON: A further supplementary, Mr. Chairman. I'm still a little confused. To me, "overturned" means something that has been decided in the past is in fact going to be changed. Is that going to happen?

MR. FRASER: The criteria, as you've indicated, will be changed. The decision itself will not be overturned. The effect of the decision will certainly be changed, obviously, because the criteria will be changed. Technically there's no doubt that you're probably quite correct. In fact you are correct in saying that the decision itself has not been overturned. But I think what is important with respect to the people involved, those people who will be affected by the changed criteria, is that they will no longer be in the bargaining unit; they'll be outside.

MR. ANDERSON: We're talking about future decisions, though, not past ones.

MR. FRASER: Correct.

MR. ANDERSON: Thank you.

DR. ELLIOTT: Mr. Chairman, my question is to Ms Dekker. I was interested in your comments about service relative to the length of the strike. Would you call that an adequate continuity of medical care? Had the strike continued, do you feel there would have been adequate continuity of medical care?

MS DEKKER: I think that adequate continuity of care for a patient within a hospital would be very hard to define. It is very hard to determine on a day-to-day basis in a hospital because, of course, you have crises occurring at any one point. My statement was that my belief was that the care being given to patients at the university was not suffering at that point. Does that clarify your point?

DR. ELLIOTT: A supplementary. If other hospitals had seen fit to close down their services with respect to critical care, coronary care, and emergency services, what would that have done to the additional pressures on your services, again with respect to the continuity of adequate care?

MS DEKKER: Well, certainly the more hospital beds that remained open during the previous strike might have had some influence in the way the university managed with the strike. However, in retrospect, I think that a statement that it would have affected the care would be speculation on our part, and I'd rather not make a direct comment.

MR. SZWENDER: Mr. Chairman, I'd like to direct some comments to either the president or the secretary. Comments were made by counsel in regard to labor peace, and I think that's an objective both sides share. I wonder if either could comment if they have considered how we could arrive at a fair market wage, or how we could consider prevailing market conditions.

MRS. CÔTÉ: Do you mean other than through the process of arbitration? I don't quite understand what you mean.

MR. SZWENDER: In the sense that when we're talking about markets in dealing with hospital employees, I think we're talking about patients. How can we arrive at a fair market decision, if we're not going to arbitration?

MRS. CÔTÉ: I'm not sure how to answer, other than that I know there is a nursing student at the university working on her PhD right now, and the topic of her thesis is to look at different ways nurses can bargain, other than having the option of a strike. I think that once it's finished, we might have some more answers for you.

MR. SZWENDER: I guess my question wasn't worded as well as it should have been. Either I'm confused or you're confused. [interjections]

What I was trying to arrive at is that in the normal bargaining process, there are market values that prevail in the sense that both sides negotiate and come up with a fair settlement. In the absence of negotation, I'm asking what you would conceive as being a fair decision-making process, with respect to the fact that you do not have the opportunity to strike.

MRS. CÔTÉ: Well basically, when we prepare for negotiations, we look at what other nurses across Canada have in their collective agreements, and what we would like to have in ours; just sort of look at standards that have been set across Canada.

MR. SZWENDER: A supplementary. Would you say it's a fair comment . . .

MR. CHAIRMAN: Might this be the final supplementary.

MR. SZWENDER: . . . to say that up to this point the process has not failed you? Based on the criteria you have just mentioned, would you say that the process has not failed you or has been fair to you?

MS DEKKER: I think we're looking at history within Alberta. Prior to this point, I would agree that salaries in Alberta were comparable to those across Canada. Granted, we're not at the top of the salary range. However, in our history within Alberta, although our union has not had the right to strike, that might have had some sort of influence on the types of salaries we have attained, as well as the previous points regarding the arbitrable awards.

MR. CHAIRMAN: That concludes our hearings for today. I would like to thank you very much for an excellent presentation.

The committee will reconvene at 2:30 tomorrow afternoon. Thank you very much.

[The committee adjourned at 6:10 p.m.]