PUBLIC HEARINGS ON BILL 44
LABOUR STATUTES AMENDMENT ACT, 1983

Tuesday, April 26, 1983

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

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

I would like to welcome everybody to the second day of hearings to be held by the Public Affairs Committee in regard to Bill 44. For those who were not present on the first day, I would like to run over the procedures under which the hearings will be held.

The maximum time allotted for each presentation is 40 minutes, including the time allotted for committee members to ask questions. The groups presenting briefs may use this time in any manner they choose. For example, they may use 30 minutes for their presentation and 10 minutes for questions, 10 minutes for the presentation and 30 minutes for questions, or any combination thereof. They may choose to use the whole time for their presentations. This will be their own choice.

A bell will ring briefly at the 35-minute mark, signifying that you have five minutes remaining. At the end of that five-minute period, a bell will signify 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 makes its way into the Assembly.

Special sections have been reserved in the members gallery for presenters of submissions, invited guests of the members, and the public. The hearings will be conducted under the rules that govern the procedures of the Legislative Assembly. There will no standing in the galleries or interruptions from the galleries.

All questions to the presenters will be for clarification of the presentation only. Due to the time constraints, any member asking a question will be limited to two supplementary questions.

Because the sound system is at table level, we ask you to remain seated while making a presentation, and also ask the members to remain seated while asking questions of the presenters.

Alberta Federation of Labour

MR. CHAIRMAN: I would now like to welcome the first group on the second day of hearings, the Alberta Federation of Labour: Mr. Dave Werlin, president; Mr. Harry Kostiuk, secretary-treasurer; and Mr. John Booth, first vice-president. Welcome to the hearings of the Public Affairs Committee. You may begin your presentation.

MR. WERLIN: Mr. Chairman, I wish to make a few preliminary remarks. I will then ask Mr. Harry Kostiuk, the secretary-treasurer, to review for the committee a legal analysis of Bill 44. Then I will review our brief and make some closing remarks.

First of all, Mr. Chairman, I wish to tell you that we object very strongly to the method in which these hearings are being carried out. We object first of all to the fact that we have been scheduled to appear at a time when the galleries were already booked. Even though we objected to that, the people who made the arrangements were unwilling to change that for us. We have a number of working people, trade unionists, who would have liked to be here and heard these proceedings. In saying that, however, I want to welcome the fact that, as I understand it, there are a number of schoolchildren here. We hope they will enjoy the proceedings and get to know a little bit more about labor's point of view and our opinion as to what the government is trying to do with Bill 44.

Mr. Chairman, we also object to the fact that we had such a limited time in which to prepare a response to sweeping changes in an important piece of legislation, a piece of legislation which is 39 pages in length and which is not simply a matter of housekeeping but which constitutes fundamental changes to labor relations in this province. We compare it to the 17 weeks, as I understand it, that the oil industry had in 1973 to prepare their response when royalties and other matters of oil pricing were being changed. In fact, as I understand it, those hearings ranged for several weeks, while these are only for four partial days, a total of some 16 hours, and are terribly insufficient.

We also object to the fact that a number of organizations have been denied the right to appear before these hearings. We feel that the hearings should have been extended for an unlimited period of time, or at least an extensive period of time, so that everybody who wished to be heard would have that opportunity, especially since the legislation we're dealing with affects hundred of thousands of people in this province. For example, we understand that human rights and civil liberties organizations have been denied the opportunity to appear. At least one political party, the Communist Party, a legal party which has the right to run candidates federally and provincially, has been denied the right to appear. Law organizations, which would have included lawyers who will have to deal with this legislation and may well be those people who sit on arbitration boards — or at least have sat on arbitration boards — would have been involved in that process. Also, organizations such as the unemployed, who are directly impacted by this, have been denied the right to appear. We think that is a violation of the democratic process and that these hearings ought to be extended in order that all these people could be heard.

We also object to the fact that we are being put in the position of having the gun barrel of Bill 44 to our heads, and of coming here to make a presentation after having absolutely no consultation as to needed or necessary changes in labor legislation. In fact, Mr. Chairman, we agonized over whether or not even to appear before these hearings, because we don't want to seem to be a party to what appears to be rather farcical hearings, simply going through the actions of public hearings. So in being here, we want to make it clear that we do not condone these procedures and that we are here only because we have respect for the democratic process and the Legislature, not because we have any respect for the way in which these hearings are being conducted.

Having said that, I would like to ask Mr. Kostiuk if he would review the legal analysis of Bill 44, which was hastily prepared for us. Then I will have some further remarks.

Thank you.

MR. KOSTIUK: Mr. Chairman, members of the committee, in going over the addendum to our presentation, The Impact of Bill 44, you may notice a few grammatical errors. We do not apologize for those errors because, as Mr. Werlin stated earlier, the time we had to put this presentation together simply did not give us the opportunity to make the kind of presentation we would have

liked to make under ordinary circumstances. It is no coincidence that the stamp on the first page is dated April 22, in fact past the deadline that was imposed by the committee. We had to go through extraordinary procedures, I suppose, to have it accepted at that stage.

This section of the brief is concerned with the serious, detrimental effects on organized labor that will be brought about by the passage of Bill 44. Virtually every change that is proposed is designed to impair the functioning of free and democratic trade unions and to override those decisions of impartial tribunals that have occasionally made decisions favoring organized labor.

Perhaps when we say "favoring organized labor", it may be an overstatement. I just want to remind members of this Legislature that this is a legal document prepared by legal counsel and is being given in its entirety, and therefore there will be sections where we will qualify the content. When we say "favoring organized labor", we have to qualify it as possibly an overstatement and say that in the actual effect, they consider labor's position in a fair and equitable manner.

The following analysis breaks down the proposed amendments in terms of their adverse impact on the system of collective bargaining that has developed in Alberta. One of the chief characteristics of Bill 44 is its demonstration of the lack of confidence the government has in the officials and the members of the impartial boards that have been established to regulate and conduct labor relations in Alberta. The general thrust of the Bill is to undermine the independence of the supposedly impartial arbitrators selected to determine terms and conditions of employment in those sectors where the right to strike has been withdrawn. In addition, the government has indicated its lack of confidence in the judgment of the government-appointed members of the statutory tribunals which regularly administer labor relations policy, by legislatively reversing several important decisions of these tribunals. Such wholesale legislative interference in the labor-relations process requires a far more convincing justification than the government has been able to advance.

In the amendments to sections 21(1)(g) and (i) of the Public Service Employee Relations Act, the government proposes to reverse a series of decisions of the Public Service Employee Relations Board, one of which was unsuccessfully challenged by the government before the courts, which held that the government could not legitimately exclude certain groups of employees from the right to engage in collective bargaining and be represented by a trade union. Unable to persuade its own tribunal or the courts of the merits of its position, the government is now about to have its way by force of statute. These employees will have the collective bargaining rights conferred upon them by the impartial tribunal and confirmed by the courts taken away by Bill 44.

In the proposed amendments to section 117.8 of the Labour Relations Act and section 55 of the Public Service Employee Relations Act, the government declares its lack of faith in the impartial arbitrators who determined the wages and working conditions of many public-sector employees in Alberta in recent months. The strategy seized upon by the government has been to blame the arbitrators, rather than to examine the competence and approach of its own advocates in the process. Rather than engage in the potentially painful process of assessing the adequacy of the cases presented by government representatives, and rather than take direct political responsibility for the imposition of wage controls, the government has decided to fetter the discretion of arbitrators and to impose an informal system of controls. This demonstrates not only a lack of political courage but a weak-minded analysis of the real issues.

The Bill the government has introduced to amend the arbitration provisions in the Public Service Employee Relations Act and the Labour Relations Act provides as follows:

> To ensure that wages and benefits are fair and reasonable to the employees and employer and are in the best interest of the public, the compulsory arbitration board
>
> (a) shall consider, for the period with respect to which the award will apply, the following . . .

And we make reference to "(iii) fiscal policies of the Government" in section 117.8(a)(iii) of the Labour Relations Act and section 55(a)(iii) of the Public Service Employee Relations Act.

The foregoing provision requires that an arbitrator take into account government fiscal policy and thereby seeks to impose a system of informal wage restraint. To the extent that an arbitrator is bound by government fiscal policy, he will have ceased to be an independent and impartial judge of an appropriate level of wages and working conditions. Instead, he will have become a mere instrument to implement the government's policy of wage restraint. The provision requires a supposedly impartial tribunal to make a finding which implements the bargaining position of one of the parties to the dispute. An arbitrator acting under the statutory criteria set out in Bill 44 is not free to be impartial.

Insofar as the government has created an arbitration system that is not impartial, it has violated the provisions of Convention 87 of the International Labour Organization, the freedom of association and protection of the right to organize. In a series of cases dealing with the rights of employees in the civil service and essential services where the right to strike has been withdrawn and a system of interest arbitration substituted, the Committee on Freedom of Association has stressed the importance of impartiality. The following paragraph, which summarizes the findings in approximately 20 decisions, is taken from the digest of decisions of the Freedom of Association Committee of the Governing Body of the ILO:

> The Committee has stressed the importance which it attaches, whenever strikes in essential services or the civil service are forbidden or subject to restriction, to ensuring adequate guarantees to safeguard to the full the interests of the workers thus deprived of an essential means of defending their occupational interests; it has also pointed out that the restriction should be accompanied by adequate, impartial and speedy conciliation and arbitration procedures, in which the parties can take part at every stage and in which the awards are binding in all cases on both parties; these awards, once they have been made, should be fully and promptly implemented.

By reference to this paragraph from the International Labour Organization, we do not necessarily endorse that position. We want to make it abundantly clear to this committee that the position of the Alberta Federation of Labour is that every worker who belongs to a trade union, regardless of the jurisdiction, should have free and full collective bargaining rights, which include the right to strike.

It is clear that the Bill is designed to make arbitrators partial to government fiscal policy. It is therefore in viola-

tion of Convention 87. Quite apart from the fact that the government should be reluctant to violate Canada's international legal obligations, the new criteria are patently unfair and ought to be rejected on that basis alone. It is dishonorable for the government to withdraw the right to strike and then impose a system of binding arbitration that is not even apparently impartial. And that is certainly the effect the imposition of the criteria that govern arbitrators, which are within Bill 44, is going to have.

Many of the proposed amendments to the labor Acts are clearly designed to undermine the bargaining authority of trade unions and thereby impair free collective bargaining. Section 74(1) of the Labour Relations Act will require that every trade union appoint a person resident in Alberta with authority to bargain collectively and conclude and sign a collective agreement. This statutory requirement will seriously impair the operation of those small local unions which rely on out-of-province business agents associated with the national or international unions to conduct collective bargaining.

Section 87 of the Labour Relations Act provides that only one strike or lockout vote may be taken with respect to a dispute. This provision will prevent unions and employers' associations from canvassing the opinions of their membership as to whether a strike or lockout should ensue in any given set of circumstances. The pro-strike and pro-lockout vote will become a mere formality to be obtained at the commencement of collective bargaining. There is no sensible labor relations rationale to this restriction on the democratic measurement of opinion in a bargaining unit. There is no sound reason why the members of a bargaining unit shall not be free to change their minds as to whether to strike, based on changing circumstances.

The extreme nature of the Alberta legislation is demonstrated by comparing it with that which exists in other provinces, where the government does not even insist on a government-supervised vote but trusts this decision-making to the internal machinery established by the independent trade unions. What justification does the government of Alberta have for deciding that Alberta citizens are incapable of responsibly making this same decision for themselves, without the intervention of big government?

Section 102.2 of the Labour Relations Act empowers the Minister of Labour to require that the members of a bargaining unit affected by the recommendations of a disputes inquiry board vote whether or not to accept the recommendations. This power is an unwarranted interference in the internal affairs of a trade union, which has the right and responsibility to canvass its own members as to the acceptability of any particular settlement proposal. This power is yet another example of the interventionist role which this government, and the Minister of Labour in particular, wishes to take in labor relations. With all due respect to the minister, the conduct of labor relations ought to be left to the parties and to the persons who are trained to work in this difficult area.

Sections 105(1) and 106(1) of the Labour Relations Act create a new, vague, and dangerous offence. They prohibit persons acting on behalf of trade unions or employers from threatening a strike or lockout in circumstances where a strike or lockout would not be permitted under the Act. To a person inexperienced in labor relations, this proposal may appear attractive. To an experienced practitioner, however, the proposed amendment is not only naive but dangerous. What is or is not an illegal strike or lockout is a complicated legal question and is, therefore, not something which the parties should be prohibited from talking about. Is it the intention of the government to penalize those employers who threaten a layoff? Is it the intention of the government to penalize employees who refuse to perform work which they believe to be unsafe? Hopefully it is not the government's intention to do either of these things. The wording of the section, however, and the simplistic desire to legislate politeness into the rough-and-tumble of the labor relations process will have this effect. Employers and trade unions will be charged with this offence. The net effect will not be to improve labor relations but to worsen them.

Several provisions contained in Bill 44 are designed to make it more difficult for trade unions to obtain and maintain certificates enabling them to represent trade unions in collective bargaining. Given these newly created impediments to free collective bargaining, it is apparent that the government of Alberta is trying to emulate the labor relations policies of the sunbelt states. Section 49(1) provides that a trade union which withdraws an application for certification must wait 90 days before bringing another application. This section will prevent trade unions from withdrawing applications for certification, when it is realized that there is not majority support for the application, and resubmitting the application when a majority has been obtained. The only effect of this amendment will be to make organization campaigns more difficult and, therefore, more expensive; in effect, to discourage organization. The policy implicit in this amendment is that fewer rather than more Albertans ought to be represented in collective bargaining.

Sections 132 and 133 of the Labour Relations Act completely change the law with respect to successor rights. Under the present Act, a trade union's certificate remains in full force and effect notwithstanding the sale or disposition of the business of the employer. This provision is designed, in common with similar legislation throughout Canada, to prevent an employer from selling or transferring his business to an allied operator in order to get rid of a certified trade union. Under Bill 44, there is no automatic extension of bargaining rights and no guarantee that they will continue to be respected. A trade union is required to bring an application before the Labour Relations Board for a determination as to the survival or demise of existing bargaining rights. The effect of this change will be to introduce uncertainty and to provide an opportunity for successor employers to frustrate the desires of employees to continue being represented in collective bargaining by their previously certified bargaining agents.

Quite apart from the already described threats to trade union operation, there are several provisions in the Bill which take direct aim at trade unions as organizations. Section 1(1)(w.1) of the Labour Relations Act creates a new target for restrictive government legislation. The concept of a trade union organization is introduced. This new creature will be the national or provincial organization which has authority to bargain on behalf of local unions. The purpose of this amendment, and the consequential ones which incorporate the creature into every potentially applicable section of the Bill, is to make the trade union organization capable of being subjected to the penalties prescribed in the Bill for trade unions.

Section 117.94 of the Labour Relations Act and section 92.2 of the Public Service Employee Relations Act are the most pernicious samples of anti-union legislation in the Bill. These provisions empower an employer to unilaterally refuse to remit dues to a trade union — notwithstand-

ing any contractual obligation to do so — if there should be a strike by the employees. In the event that a strike takes place and an employer refuses to remit dues, the appropriate labor board is empowered to review the decision of the employer and to order repayment of dues wrongfully withheld. However, if the board should determine that there was a strike, it is required to impose a minimum suspension of dues for a one-month duration and may impose a penalty of up to a six-month duration. A clear intention of these sections is to financially cripple a trade union if its members should go on strike. These sections are extremely objectionable.

First, they empower one of the parties to the dispute to use excessive force to deal with a potentially innocuous situation. If an isolated instance of industrial action at a remote location were to occur, an employer could suspend the remission of the dues of all union members. This not only would create financial chaos in the union but would allow the employer to blackmail the union.

Second, in many such cases of isolated industrial action, an impartial tribunal will determine that the employee action was provoked by some action on the part of the employer. To deny the union an opportunity to appear before a tribunal which has the power to mitigate the excessive penalty imposed by an employer in a moment of anger, is to depart from elementary principles of fairness in the conduct of industrial relations.

Third, under most collective agreements, an employer has the right to go to arbitration to seek damages for any loss suffered as a result of illegal industrial action. This Bill will allow the employer not only to seek damages but to unilaterally dish out the punishment.

Fourth, the employer is essentially empowered to confiscate the property of the union without any form of due process or fair procedure first being exhausted. Even persons charged with serious criminal offences are given a fair trial before being fined or otherwise punished. To empower the employer to be prosecutor, judge, jury, and hangman in his own cause, violates every principle of fundamental justice known to the rule of law.

Fifth, to couple the employer's right to withhold dues with the lack of authority in the board to adjust the penalty, is to provide the affected employers — hospital boards, municipal councils, government departments — with totalitarian powers not enjoyed by the most respected and important administrative tribunals.

The government's policy with respect to the right to strike is internally inconsistent and contrary to Canada's international legal obligations. The government has granted the right to stike to certain employees of the Alberta Liquor Control Board, presumably on the basis that they are non-essential workers. However, the government has failed to follow through with the logic of this position and grant the right to strike to the thousands of other public servants who are not essential. The initial justification of the government for denying the right to strike to all public servants was that all public servants are essential. In the face of three decisions by the International Labour Organization Committee on Freedom of Association, which found the strike prohibition to violate Convention 87, the government has at least partially relented in its adherence to its internationally embarrassing situation. It is time for the government to accept that its policy is still violative of international law and to grant all non-essential workers the right to strike.

Again, we must stress that the position of the federation is that not only non-essential workers but all workers within the province should have the ability and the right to full collective bargaining, including the right to strike.

MR. WERLIN: Thank you very much, Harry. We wish to stress that even though we have reviewed this legislation and pointed out the information given to us by legal counsel as to the most important aspects of it, we do not do so with any intention that it should be assumed we are prepared to negotiate changes to this Bill. In fact, the entire Bill is abhorrent to us and must be withdrawn.

The Alberta Federation of Labour and its 100,000 taxpaying members are greatly dismayed by the actions and attitudes of the Conservative administration toward the working people of this province, which is so evident in the anti-labor piece of legislation in the form of Bill 44. Unfortunately, all the ramifications of Bill 44 will not be evident until such time as it becomes law and is put into practice. Therefore, it is very difficult for us to accurately forecast the effect of these latest amendments. We are concerned not only with the contents of Bill 44 and the way it was introduced without prior consultation with the trade union movement but, as I said earlier, with the limited time given us to address the issues. With such a voluminous piece of legislation, affecting a vast majority of unionized workers in the province, it is incomprehensible that the government would attempt to have these major amendments pushed through the spring sittings of the Legislature.

It is our opinion such legislation is totally uncalled for. For an administration that talks of less government interference in people's affairs, this is a perfect example of a double standard. We have what the Premier calls a freewheeling oil industry in this province, which needs no regulations, restrictions, or even guidelines put on it, not even on the $5.4 billion you will give them over a five-year period. But when some provincial employees are awarded a reasonable pay increase based on proven facts, it is necessary to change the rules in favor of the employer, which in this instance is the provincial government itself.

Our legal advisers have informed us that if Bill 44 is enacted, it could provide Alberta with the hallmark of the so-called sunshine states in the U.S. The sunshine states, mainly the southern states of the U.S.A., have what is known as right-to-work legislation. That is of course a misnomer, because what it really means is that workers in those states that suffer a high rate of unemployment do not have a right to work at all; what they have is the right to refuse to pay dues to the union which negotiates their wages and working conditions. The result is that wages in those states are lower than elsewhere, because their unions are rendered ineffective. The economics of the situation there is that these states produce more millionaires per capita than other states, but the overwhelming majority of the rest of the citizens, union and non-union alike, are economically depressed. Much to our dismay, the changes to the Labour Act in the area of employer successor rights appear to be the thin edge of the wedge towards right to work.

Another factor which alerts us to this threat is the penalty provision of this Bill, which would confer unrealistic powers on the employer. The very thought of an employer having the right to interfere in the union dues process is an unthinkable interference in the democratic rights of trade union members. This creates the possibility of an employer's erroneous and arbitrary interpretation of union activity as being a form of strike action, leading to the imposition by the employer of financial retaliatio

against bargaining agents. If, for example, workers refuse to work when they are in imminent danger, in accordance with the Occupational Health and Safety Act, the employer may interpret this as a form of strike and withhold union funds. This, coupled with the fact that labor legislation is becoming a lawyer's paradise, is putting an unrealistic financial strain on the backs of workers and curtailing their democratic rights. Any interference in the right of Alberta's trade unions to collect union dues by the check-off process or in any other manner, cannot be accepted in a democratic society and will not be tolerated by the trade union movement.

As taxpaying Albertans who shoulder a major portion of taxes in this province, we resent the legislating of right-wing prejudices against the working people, who are this province's most valuable resource. Bill 44 is a blatant attack on workers that compares to legislation we expect to see forthcoming from military dictatorships. No self-respecting democratic government need take away the right to strike from its workers. You must realize that to deny rights is never productive. It leads to dissatisfaction and frustration, which in turn have a negative effect on productivity and attendance and lead to a high rate of turnover, with a resultant reduction in levels of skills on the job.

In 1977 this government enacted legislation in the form of Bill 41, which deprived provincial government employees of the right to strike. The Alberta Federation of Labour opposed that legislation and, ever since 1977, has demanded over and over again that their democratic rights be restored. Instead, this government now proposes to extend that restriction of democratic rights to an additional 30,000 hospital workers. By so doing, they condemn those honest, hard-working people to a future of substandard wages and working conditions. Having already introduced higher medicare premiums and user fees in hospitals, this government now proposes to foist the cost of medicare onto the backs of relatively lowly paid hospital employees.

Where do we stop with this denial of rights? Who will be next: teachers, bus drivers, school janitors? Perhaps whoever is successful in negotiating a fair deal for their workers in this province can expect to be subjected to restrictive legislation to prevent future successful negotiations.

The compulsory arbitration process outlined in Bill 44 would now make it mandatory for the arbitrator to listen mainly to management's side of the argument and to compare with non-unionized employees and the fiscal policies of the government, which are based more on a political philosophy than on economic reality. Comparability to similar occupational groups in other jurisdictions is therefore not given proper consideration. We view this as an attempt to establish permanent wage controls for those workers subject to compulsory arbitration. It also appears to us that the minister is the only party who has any discretion in the process and, in fact, he may even have input if he does not like the award arrived at by professional arbitrators.

Some government ministers whipped up public support against recent arbitration awards to public employees by fabricating the idea that somehow the awards were unjust. The trade union movement has never condoned compulsory arbitration and, over the years, has lobbied this government many times to bring about changes in this matter. Yet, three or four months of government-inspired hysteria on the matter results in a proposal to effectively take away the little bit of fairness that might be left in the system. It is rather upsetting that this government has chosen to attack independent labor tribunals by limiting the discretion of arbitrators, and to render ineffective the Public Service Employee Relations Board's decisions on exclusions.

Mr. Chairman, time does not permit us to conclude all the remarks in the brief, but you have them before you in writing. Instead, I would like to make a few concluding remarks.

We want to put this government on notice that if Bill 44 is adopted, the labor movement will defy labor legislation which deprives workers of the right to strike. The Alberta Federation of Labour will enthusiastically support and defend any union which defies this legislation and will come to their aid if they are prosecuted, persecuted, or harassed by this government.

Further, the Alberta Federation of Labour calls for the resignation of the Minister of Labour, the Hon. Les Young. We do so not only because he has introduced this undemocratic and Draconian legislation but because he typifies this government's anti-worker bias. Secondly, he has proven to be incompetent in dealing with provincial government employees and hospital employees. Thirdly, he enjoys absolutely no credibility with the labor movement in Alberta. And fourthly, he has no knowledge or expertise in labor relations that has been demonstrated to us and, in our opinion, is a fish out of water in the Labour portfolio.

We know of no moral reason for this government to bring in this kind of legislation. It was never discussed in any election campaign; no discussion with the citizens of this province brought this about. Rather, we see this as an anti-labor bias being demonstrated by the members of this government.

We thank you for your attention.

[Disturbance in the galleries]

MR. CHAIRMAN: Order please. Order in the gallery.

There are a few minutes to go yet. There is enough time for maybe one quick question.

MR. PAHL: Mr. Chairman, for clarification, I wonder if it is fair to conclude that the view of the Alberta Federation of Labour is that the opportunity to strike — that is to say, to withhold services — is more important than the public's right to health care in life-threatening circumstances.

MR. WERLIN: You may conclude that, but that isn't our position. Our position is that we have at all times, and will continue, to provide whatever level of health care the government makes available to us to provide to the citizens. The right to strike does not deter our ability to present that level of service.

MR. CHAIRMAN: There's room for one more question.

If not, that concludes [inaudible]. We are pleased that you could come before the hearing and make your views known to the committee members. On behalf of the committee, I would like to thank you very much.

[The committee adjourned at 3:12 p.m. and resumed at 3:20 p.m.]

Canadian Organization of Small Business

MR. CHAIRMAN: I'd like to welcome you to the hear-

ings by the Public Affairs Committee on Bill 44. You have 40 minutes in which to make your presentation. At the 35-minute mark a bell will ring, signifying that you have five minutes left. At the end of the 40-minute period, a bell will end the hearing.

I'd like to welcome to the committee today, from the Canadian Organization of Small Business, Mr. Dan Horigan, Mr. Jim McCaffery, and Mr. Fred Leonardis. You may begin your presentation.

MR. HORIGAN: Thank you, Mr. Chairman. The Canadian Organization of Small Business is glad to be here and to present its views on the pending legislation.

By way of introduction, we are an umbrella group for Alberta's owner-managed businesses and professionals. Our 2,000 Alberta members represent a cross section of the province's 100,000 active small businesses. These businesses employ 50 per cent of the provincial labor force, contribute 33 per cent of the gross provincial product, and create two of every three new jobs.

Part of my responsibility as president of the Canadian Organization of Small Business is to develop an ongoing, two-way dialogue with elected representatives and senior civil servants. I have been working with the provincial Labour Department since 1979 and have developed an excellent rapport. The fact that I was supplied with copies of the proposed legislation and encouraged to submit a brief attests to the effectiveness of my activity and not, in my opinion, to any favoritism. Insofar as our appearance here is concerned, although we did not specifically ask to appear when we submitted our brief, the day after it was submitted I telephoned the committee and specifically requested an opportunity for our organization to appear. For the reasons cited above, we think it appropriate for us to be here.

Although not directly involved in labor relations between public-sector employers and employees, as employers and taxpayers small business owners are affected by public-sector negotiations and strikes. Although few small business employees are union members, small buiness owners have recognized the importance of good labor relations as an effective means to achieve the business's goals to the benefit of the business, the employees, and the general public. We are all seeing the high cost of confrontation and labor conflict. We believe these are major factors in Canada's loss of productivity, poor-quality output, inability to compete in the market place, and loss of jobs. It is with these thoughts in mind that we prepared the brief which has been distributed to the members of this standing committee.

You will have noted that our brief is devoid of specific recommendations. This was done purposely, as we feel the terms of reference of the proposed legislation are outside the area of our specific expertise. Nevertheless, we do have some recommendations that we feel will aid in achieving the goal of less confrontational employer/employee relations. These recommendations can be made available as the government continues to explore ways of improving the province's labor relations. We look forward to the opportunity of continuing to work with our elected representatives, Labour Department officials, and union representatives.

In concluding these introductory remarks, the Canadian Organization of Small Business would like to commend the hon. members for their efforts to restore the recognition of the rights of the individual citizen to expect and receive performance of essential services from hospitals, firemen, and police. That's the end of our formal remarks.

MR. CHAIRMAN: Thank you very much. I have some questions from members.

MR. NOTLEY: First of all, Mr. Chairman, welcome Mr. Horigan. You may find that a bit strange, coming from me, but welcome none the less.

MR. HORIGAN: It's not strange at all.

MR. NOTLEY: Mr. Horigan, I want to make it clear, first of all, that I think you should be here representing your organization. But as you know, there's been some controversy over organizations which have been able to come and others which haven't. Perhaps my first question would be, could you tell me who urged you to come and on what basis that urging took place?

MR. HORIGAN: I wouldn't say it was exactly urged; I think that's a little strong. It was suggested in a letter we received from the Minister of Labour. He suggested further that we submit a brief, which I did, as you know. And as you also know from reading the covering letter on that brief, at the time I submitted the brief I wasn't sure whether we would want to make an appearance or not. But when a number of our members found we had put in a brief, they urged me to contact the committee and ask if we could make an appearance.

MR. NOTLEY: Okay, thank you. Mr. Horigan, the provisions of Bill 44 certainly go a long way toward modifying the traditional role of arbitrators, I would say. For example, we now have such things as the government fiscal policy being included as one of the things an arbitrator must take into account. Do you feel that to have third-party arbitration which has very restrictive guidelines — guidelines which have been suggested by some to in fact even violate the ILO convention — is consistent with a sort of free-enterprise approach to things?

MR. HORIGAN: As far as being consistent with free enterprise, I'm not sure, because here we do not have a free-enterprise situation; we have two parties dealing with each other. We consider ourselves, our members, to be the private sector. Here we have employees and employers in the public sector. The big concern of our members — I've been hammered by our members on this for roughly two years — is that so many of the arbitration awards are out of touch with the reality they face.

I have two of our members here. If you would like to ask them some questions about what they have experienced in their businesses — the realities they face — and compare those with the situation that public-sector employees face, I think it might be very interesting.

MR. NOTLEY: We're restricted to three questions, Mr. Horigan, so the last supplementary question. One of the points made yesterday by the Health Sciences Association, I believe, was that in a sense the public is misled, because the arbitration process takes such a long period of time. By the time the award comes down, if you have a dramatic change in the economy — and I'm sure you will agree that we had a very dramatic change in the economy last year — what in fact is an award based on one set conditions appears to be out of kilter because of the time frame. The confusion over the time frame represe

very real problem that the public faces.

My question to you, sir, and to your organization is: do you not feel that there is in fact a good deal of legitimacy to that argument, and has your organization been able to review the time frame of those specific arbitration awards which have caused some concern among your members?

MR. HORIGAN: As far as reviewing them specifically, no. I am aware that the time frames extend from 18 to 24 months. Certainly, you're correct: there's been a drastic change in the economy in that period of time. But I would come back to the point that our members don't have the luxury, if you will, of that length of time to sit on hold. They have to react very quickly. We would like to see something — and leave it up to you distinguished people to perhaps come up with a way of shortening that time frame in the arbitration process. I don't have an answer to it, except that I can say it's a major concern to our people.

MRS. CRIPPS: On page 4 of your brief, you say:

> We believe the government of Alberta is properly reacting to the wishes of most Albertans in attempting to assure that arbitrated awards reflect the current economic situation and its effect on all employees, not just those who belong to unions.

I note from your comments that you say you've had representation from your members. Certainly I as a member of the Legislative Assembly have had many representations from small business men in my constituency, voicing concern about the effects of the public-sector wages and recent arbitration awards.

Can the two gentlemen with you maybe indicate the effect of these awards on their businesses and on small business men generally?

MR. LEONARDIS: My name is Fred Leonardis, and I'm with Wescab Industries. Some of the specific cases, I suppose, from my own experience were actually rather ironic. Nineteen eighty-two was a very difficult year for my business as well as many others. Sales were about 35 per cent lower, with the effect that our staff dropped from approximately 150 at the peak to approximately 65 right now. But the ironic part was that on September 1, 1982, I had a general meeting with all my plant and office staff. The basis of that meeting was a 15 per cent wage cut for the staff and an approximate 30 per cent wage cut for management. As I said, it was ironic that the next morning we all woke up to the news advising us that the firemen and policemen, I think it was, had just received a 37 per cent award. I don't know what the firemen or policemen make, but the average wage for my people in the plant is around $8 an hour. Unfortunately, that is $3 higher than my competitors in Quebec. Those are the realities.

MRS. CRIPPS: A supplementary, Mr. Chairman. So you're saying that the market forces play a very definite part in your salary negotiations and certainly in your settlements, and that your employees have been greatly affected by the economic conditions. What overall effect on small business do you see the public-sector settlements having?

MR. LEONARDIS: Unfortunately, they have become the ideal. It's so widely publicized. Regardless of whether they deserve it or not, if the nurses make $20,000 or $30,000 a year, then private industry says: listen, they're making $30,000; how come we're only making $15,000? It's a valid point. Unfortunately, as a businessman who manufactures office furniture and who has to compete with people who are manufacturing in Quebec or in the States, all the valid reasons in the world will not keep me in business. I still have to be able to produce a product and sell it competitively.

Just because plumbers may make $18 an hour, that doesn't mean that everybody else can get into this particular level. Just because one segment of the industry didn't have the guts, through business or whatever, to say that $18 an hour is not valid, we can't take the whole of society and say: hey, we're all going to make $18 an hour. Great. Are we all going to work for the government? If we can, I'm the first one to apply. But the rest of it, ladies and gentlemen, is that I cannot sell a desk to a person who's only making $7, or to a business that is going bankrupt. One of my biggest difficulties in '82 was that there was so much office furniture on the market from companies going bankrupt that I couldn't give mine away. Those are the realities. That's life.

Thank you.

MR. McCAFFERY: I would just like to interject something here. In the race we have, where one union or sector achieves a wage settlement — if that is above the ordinary, then all of a sudden that becomes the norm for everybody and anybody. The sad thing that is always forgotten is that nine times out of 10, the poor devil who has to pay that wage has to pay it to a person who is not increasing their productivity to afford that wage to be paid. When you're going to get the public sector setting wage rates with no commonality to the private sector, then it blows our productivity all to pieces.

As Dan pointed out, that is the reason we have the problems we have today in Canada. We're flooded with import cars because our automobile industries are not competitive. In the export markets, we can't sell to other parts of the world when we have an average wage of $8 to $10 an hour being paid, and expect people in the third world countries making $1, $2, or whatever the case might be, to buy our product.

MR. MARTIN: Mr. Chairman, I don't think I understand the plight of small business at this particular time. [interjections] We're dealing with the Labour Act and the public service at this time.

On page 4 of your brief, I was interested in a couple of quotes. One was from Samuel Gompers:

> One fact stands out in bold relief in the history of man's attempts for betterment. That is that when compulsion is used, only resentment is aroused, and the end is not gained.

Then you refer to that again later on a similar matter.

Do you not see Bill 44 as being compulsory, and not achieving harmonious relations but doing just the opposite of what you want, and creating friction later on?

MR. HORIGAN: We already have a distortion. We already have coercion. Our concept is that in a voluntary exchange, where you and I make a deal, we only make that deal if you think you're going to benefit and I think I'm going to benefit. Now if I try to take advantage of you, use force or fraud, we may make a deal but you're going to be unhappy. My gain is going to be at your expense. Human nature being what it is, you're going to resent that. When you get the government in there, more

often than not both parties to the exchange lose, because government always represents force — the policemen. In the public sector, we already have this. The right to strike has a long history in labor relations.

I think we're going to have to take a hard look at that. Because any time I deprive society of my contribution through my work efforts, society is going to suffer. The greater that loss and the more power I have to impose that loss on society, the greater will be the effect throughout all society. As I understand, Bill 44 will take from the nurses the right to strike. But it's a sad fact of life that what the government gives, the government can take away.

MR. MARTIN: I'm sure we could have quite a philosophical discussion, but I only have two questions. I take it that obviously you feel strongly about this. I asked the chamber of commerce this question and didn't get an answer, so I'll ask you. Other than in Iron Curtain countries, can you give me examples of where compulsory arbitration, this type of coercive legislation, works?

MR. LEONARDIS: Maybe it doesn't work, but what do we have now? It is at least a step in the right direction, where both groups have to think twice before going ahead. Today they go on strike. For what reasons? They want higher wages. What economic denominator do we have? The policemen go on strike. I understand that a police sergeant makes $10,000 more than I and most small business owners do. The present situation is not equitable. What we're here for is not to say that this is the ideal, but we have to move towards a goal. When we have co-operation, both sides win; confrontation, both sides lose.

As you all know, the union movement resulted from one segment of society, business, having too much power. We have now reached a level where the thing is reversed, so we have to get back to both sides winning by co-operation.

MR. MARTIN: A final supplementary. I agree that we need co-operation. I wonder if you've studied what's happening in terms of the labor movement in business and government in western European countries, where we have the best labor management. It's going the opposite way to what you're suggesting here, and I wonder if you've looked into that.

MR. HORIGAN: I've read about it, but I haven't studied it. That's the best answer I can give.

We might look at the Pacific Rim — some of the esprit they have developed in Japan. As Fred said, that's the kind of thing we'd like to start working toward.

MR. McCAFFERY: I'd like to make one further comment. When you get into the right to strike with essential services — and Dan made reference to this in the presentation, because we were discussing it when preparing the brief — if you've got the only game in town, then you do not have the right to withdraw your services. In a competitive situation, if you have one, two, or three suppliers of a certain product and one fellow is on strike, then fine, the public is not deprived of that product. When you come to essential services, which are products of services, the taxpayer who is footing the bill for that service has every right to expect that service to be fulfilled. It's undeniable. When somebody else's right extends and takes away the right from another person, as in the case of essential service strikes, then you're treading on thin ice.

MR. CHAIRMAN: Are there any other members who have questions? Do you have any further remarks you'd like to make in closing?

MR. HORIGAN: I'd like to make one, perhaps addressing the last questioner. A book that I find rather interesting is Scott Myers' *Managing Without Unions.* Incidentally, he subsequently wrote *Managing With Unions.* He makes the statement — and I'm paraphrasing — that unions are the high price we pay for stupid management. I would put the onus on management first. As Fred said, it was the gross imbalance, the concentration of power in management's hands, that brought about the necessity for unions. There are still many people in management . . . I worked for a company, the president, then chairman, of which was responsible for the formation of the United Auto Workers. He had not changed his mind one iota. He was in his 80s, and he still had the idea that employees were dirt and he could treat them as such. But a lot of study has been done on how we can resolve conflict without having a showdown, and improve management techniques. We would like to encourage government employers to start exploring some of those as well. We think there's a way out of the bind we're in. Let's get on with it.

MR. CHAIRMAN: No other questions or comments? . . .

I would like to thank you very much for coming and making your views known to the committee.

[The committee adjourned at 3:45 p.m. and resumed at 3:50 p.m.]

Alberta Fire Fighters Association

MR. VICE-CHAIRMAN: Would the committee please come to order.

We welcome you to this segment of the public hearings. We have before the committee the Alberta Fire Fighters Association. Mr. Chivers, Mr. Kruger, and Mr. Spielman represent the Alberta Fire Fighters Association. Just at the outset, I would explain that you have 40 minutes to make your presentation. A bell will ring with five minutes duration left. You may utilize the 40 minutes in any way you deem effective. Would you please proceed with your presentation.

MR. CHIVERS: Thank you, Mr. Chairman and members of the committee. The Alberta Association of Fire Fighters is a group composed of local unions across the province of Alberta. Those local unions are the agency that bargains with the municipalities of the province of Alberta. As such, the Alberta Association of Fire Fighters speaks for, and on behalf of, firefighters across the province of Alberta.

Perhaps fortuitously, on the week Bill 44 was introduced, the Alberta Association of Fire Fighters was conducting its annual convention. As a result of that fortuitous conjuncture, it was perhaps more able to consider the Bill than other labor organizations have been, and to obtain input from its various member organizations across the province.

In my experience with the Alberta Association of Fire Fighters, this is perhaps the single occasion on which this association has spoken, if I might put it, as with a single

voice. Firefighters across the province of Alberta view these amendments with great apprehension and consternation. They are of the opinion that the amendments relating to firefighters will have a massive, far-reaching, and unpredictable impact on their labor relations system. In particular, they are concerned about the amendments as they relate to the compulsory arbitration system. We don't propose to address our concerns to the conventional trade union opinion of compulsory arbitration. We're sure that you will have those views represented to you by other organizations submitting briefs and making appearances before this committee.

Of course compulsory arbitration is nothing more or less than government interference in the free collective bargaining process, which operates to deprive employees of their right to strike. Firefighters and police officers are perhaps in a unique situation, in the sense that historically they have accepted that given the critical nature of the type of services they provide and the disastrous consequences should they exercise the economic sanction of a strike, it is a necessary corollary to the type of employment they engage in that they not exercise the right to strike. Historically, firefighters in this province have not exercised the right to strike, even prior to the time when it became a matter of law that they were prohibited from doing so.

I think a brief review of the legislation relating to labor relations as it applies to firefighters would be useful. Since the enactment in 1970 of the Firefighters and Policemen Labour Relations Act, there has been a statutory framework for collective labor relations between the municipalities and their firefighter employees. This Act, of course, explicitly prohibits the exercise of the strike sanction. It's interesting to note that there's no corresponding prohibition against the lockout sanction on the part of the employers.

The present legislation was preceded by two pieces of legislation which covered both firefighters and police officers: the Fire Departments Platoon Act, which was enacted in 1953, and a similar piece of legislation relating to police officers. Both these pieces of legislation included at the end of the collective bargaining process a system of compulsory arbitration. Since 1953 and to date — that's a period of approximately 30 years — there has been legislation in Alberta containing provisions for arbitration which are essentially similar to those contained in the current Firefighters and Policemen Labour Relations Act; that is, before the proposed amendments.

Of course what the previous legislation accomplished was merged into the present Firefighters and Policemen Labour Relations Act in 1970. In our view, that provided a comprehensive labor relations code for municipalities and their firefighter employees. It is a system, Mr. Chairman, which in our submission, and I believe until recently in the estimation of the municipalities who have participated in the process — notwithstanding some reservations on both the side of the municipalities and the side of the firefighter employees — has operated more or less equitably. There have been illustrations where, in the view of firefighters, that system has not operated equitably, where there have been awards which in the opinion of firefighters have not been fair or reasonable. But on the whole, the view of firefighters has been that the legislation in existence up to the current time has operated more or less fairly for both sides in the labor equation.

It is our submission, Mr. Chairman — and I believe I can safely say this is the unanimous opinion of firefighters across Alberta, in view of their recent convention — that the Bill 44 amendments to the Firefighters and Policemen Labour Relations Act and the amendments to the interest arbitration process will have disastrous and inhibiting effects on the labor relations and collective bargaining system. It's not surprising that the trade union movement generally is suspicious and sceptical about the government's motivation in bringing forward this legislation. Surely where significant group rights relating to labor relations are at issue in a democratic society, it is imperative to develop participatory legislative reform. I might say, Mr. Chairman, that in the circumstances and procedures by which this legislation has come before this House, we do not feel this has been a participatory legislative process.

We are pleased that we are having the opportunity to address our concerns to this committee. However, we feel that a more appropriate process would have been public discussion and public input, as well as the input of the parties, prior to the Bill being introduced in the House. Granted, that is a more time-consuming process, Mr. Chairman, but we feel that the present situation means that the changes to regulate the balance of economic power in the province, are being brought about in a less than careful and painstaking manner. We feel they are being embarked upon in the heat and passion of the moment.

We would like to refer you to the work of Professor Morris in The Role of Interest Arbitration in Collective Bargaining. In that work, he makes the comment:

> Interest arbitration or some other technique of impasse resolution will be meaningful only if it is molded to fit within the system rather than designed to replace the system. Government machinery designed to break deadlocks by substituting 'reason' for force will surely fail unless such machinery also reinforces and strengthens the collective bargaining process.

It is our opinion that the legislation being proposed here does not reinforce and strengthen the collective bargaining process. It is our position that the legislation, as presently proposed, is a retrograde step which will negatively impact labor relations within the province, in particular as it relates to firefighters.

We submit that this legislation should be carefully examined and considered in order to determine the impact it will have on the ability of municipalities and their firefighters to engage in fruitful and meaningful collective bargaining. It is our submission that the effect of these amendments will be to chill collective bargaining and virtually ensure that impasses will be reached in the process and arbitration will be resorted to.

We submit that the thrust of these amendments is perhaps rooted in the opinions that have been expressed in the editorial columns of newspapers and in political anxiety. We submit that it is not a well thought out attempt to harmonize admittedly conflicting public interests and the interests of labor organizations and public safety with a process of collective bargaining. We feel that in relation to firefighters, it is incorrect to view this as a process which has been imposed on unwilling employees by a public-minded government on behalf of overburdened taxpayers. We submit to you that that has not been the history of the collective bargaining and compulsory arbitration process as it has related to firefighters in Alberta.

We would point out to you that historically firefighters and policemen have had their own labor relations and collective bargaining statute, which has been tailored to

their own particular needs. It has created a unique bargaining relationship with the municipalities. These amendments are a dramatic departure from that tradition. The result is that the legislation, in our opinion, is totally inappropriate to the particular needs and bargaining history of firefighters and the municipalities with whom they bargain.

There is good reason why the labor relations and collective bargaining system for firefighters has been distinctly different from that of private-sector employees. Firefighting is concerned with the protection of persons and property, and it's not surprising to find that firefighter employment disputes are settled by arbitration, without the disastrous consequences of work stoppages. Again, Mr. Chairman, that has been a position willingly adopted by firefighters to date.

Even assuming that some changes to the labor relations system and the collective bargaining system as they relate to firefighters and police officers are necessary or perhaps even desirable, it is inconceivable in our view that the government would choose to destroy a very firm foundation that historically has developed for more than 30 years under the Firefighters and Policemen Labour Relations Act and the preceding legislation. We can't fathom why the government proposes to in effect repeal this existing foundation by removing firefighters and policemen from that legislation and sweeping them into the Labour Relations Act, thereby imposing a multitude of provisions which we view as entirely unnecessary and unsuited for the relationship between firefighters and their municipalities, in particular in response to no problems we are aware of that have existed over the years. In essence, this legislation does simply that. It replaces a dozen sections of the Firefighters and Policemen Labour Relations Act with approximately 100 sections of the Labour Relations Act, most of which are unnecessary and entirely foreign to the existing labor relations system between firefighters and municipalities.

We would like to briefly examine the impact of Bill 44 on firefighters. These amendments mean that the firefighters and police officers labor relations Act — as the new legislation will be called once it is amended — will no longer apply to firefighters, with the exception of four sections in part I and two sections in part III. In other words, the entire Act, as it relates to firefighters, is being repealed with the exception of the definition section, the right to organize and bargain collectively, the prohibition against striking, and two sections in the general section. Ironically, the very sections of the firefighters and police officers labor relations Act which will apply to firefighters, are already contained in another form in the Labour Relations Act. Even more ironically, although the firefighters and police officers labor relations Act will have little application to firefighters and police officers below the rank of inspector, the current labor relations system and collective bargaining process has been maintained basically intact in the Act, although it will now apply only to police officers above the rank of inspector. If this system is so in need of reform, why is it being maintained for these employees?

Mr. Chairman, I might note that one of the awards which caused great consternation and some editorial comment was an award in the city of Edmonton which related to police officers above the rank of inspector. It was one of the two arbitration awards which perhaps led to this process with respect to amendment of the Firefighters and Policemen Labour Relations Act. We cannot understand why the process, if it needs reform so drastically, is being maintained in precisely its present form in relation to those police officers above the rank of inspector, particularly since their award was one which generated some of the criticism that has arisen.

Mr. Chairman, I don't propose to review in detail those sections of the Labour Relations Act which will not be applicable to firefighters. As I mentioned previously, some 75 sections of the amended Labour Relations Act — in other words, approximately one-third of the legislation — will not apply to firefighters. When you look at the 75 sections which will have no application, it's apparent that the reason they have no application is that they have almost no relevance whatsoever to firefighters. That is not surprising, since we have existed under a different regime of collective bargaining.

But you don't have to look very far to find one example of a relevant provision, the application of which has been excluded for firefighters. We submit that under section 137(3)(a)(vi), an employer is not permitted to refuse to employ a person or discriminate against a person because the person, amongst other things, has exercised any right under the Labour Relations Act. Clearly, if the Labour Relations Act is to apply to firefighters, this provision should also apply. In our submission, this is merely an illustration of the lack of thought and consideration that has gone into the hurried preparation of these amendments.

If you turn to the sections of the Labour Relations Act which will apply to firefighters, Mr. Chairman, it is apparent that Bill 44 will substitute 108 sections of the Labour Relations Act in place of some 16 sections in the Firefighters and Policemen Labour Relations Act, which basically provide a satisfactory legislative framework for labor relations between firefighters and their municipalities. Many of these 108 sections simply do not have any relevance or application to firefighters, while some of the sections dealing with strikes and lockouts are excluded from application to firefighters.

Sections 93 to 104, dealing with a disputes inquiry board — which, incidentally, can only be established in relation to a strike or lockout, from which we are prohibited — apply to firefighters. It's difficult to see why they would apply, since we are prohibited absolutely from striking or locking out employees. Sections 148 to 150 deal with emergencies. Again, we submit they have no relevance to firefighters, but they are stated to apply.

We submit that this brief examination illustrates the lack of thought and draftsmanship that has gone into the proposed amendments. When one examines the provisions of Bill 44 that apply to firefighters and are relevant to their labor relations environment, it is patent that many of these proposals are ill-conceived and may irreparably damage the years of experience that have led to responsible labor relations under the Firefighters and Policemen Labour Relations Act.

Section 73 of the Labour Relations Act is to be amended to permit notice "to commence collective bargaining" to be served by a certified bargaining agent or a "trade union organization". Unfortunately, local firefighter unions are neither. They are bargaining agents as defined in the Firefighters and Policemen Labour Relations Act and the Labour Relations Act, but they are not certified nor are they a trade union organization as defined in the Labour Relations Act. Presumably, it is not the intention of this Legislature to prohibit firefighters from serving notice to commence collective bargaining.

Section 117.6 of the Labour Relations Act entitles the minister to "list the items in dispute to be resolved by . . .

compulsory arbitration". This is a far cry from the procedure which exists under the Firefighters and Policemen Labour Relations Act, wherein the parties notify the chairman or the minister, as the case may be, of what issues are in dispute, and those issues are joined before an arbitration board. The effect of this provision, Mr. Chairman, quite simply is that the parties have no control in terms of defining parameters of the dispute, and in the final analysis, it is left to the Minister of Labour to define the parameters of the dispute between the parties.

Pursuant to section 117.7 of the Labour Relations Act, the compulsory arbitration board "may include the method of arbitration known as 'final offer selection'." There is no definition of the phrase. It's unclear as to whether this means that the board, should it choose to implement this form, would simply select the last position of the parties given during negotiations and choose between those positions. Does the board make a decision on an issue-by-issue basis, or must they use the final offer selection on all issues in dispute? These are questions, Mr. Chairman, which we submit are not answered in the legislation.

Sections 117.2 and 117.3 establish what in our opinion is a cumbersome and time-consuming procedure in order to refer a dispute to arbitration. The procedure is that a party or both parties may request the Labour Relations Board "to recommend that the Minister establish a compulsory arbitration board". Notice is given. The board must then satisfy itself that the parties have not "failed to make reasonable efforts to conclude a collective agreement" and that the dispute is appropriate to refer to arbitration, whereupon the board then makes a recommendation to the Minister of Labour. If the minister agrees with that recommendation, the board is established. Presumably this means that there will have to be hearings before the Labour Relations Board to determine whether or not "reasonable efforts" have been made to conclude a collective agreement. It will also mean hearings to determine if the dispute is appropriate to refer to arbitration. One wonders how these determinations are to be made. Given the time involved in this type of process and the subsequent process for the appointment of the board, it is clear that the mere establishment of a compulsory arbitration board is going to be cumbersome, time consuming, and fraught with difficulty. In other words, although there cannot be strikes or lockouts, there is no right to arbitration. Employees give up the right to strike, but they may not have any means of forcing or compelling an agreement through the arbitration process. What happens in the interim? There is no provision for a continuation of the collective agreement in the proposed amendments.

The criteria in the legislation to "ensure that wages and benefits are fair and reasonable" are established under section 117.8. Traditionally, the complusory arbitration board has used as its criteria the yardstick of what settlement would have been achieved by means of a free collective bargaining process had the parties bargained to a negotiated settlement of their dispute.

We submit, Mr. Chairman, that section 117.8 completely destroys that basic priniciple. The board is required to consider matters "for the period with respect to which the award will apply". The board must consider as one of the criteria the "fiscal policies of the Government". How does one determine what the fiscal policies of the government are? Are they policies stated in the Speech from the Throne? Are they policies actually in operation? What about policies that conflict with one another? The entire set of criteria requiring consideration by the board destroys the theory that the board will be able to act fairly and impartially in balancing the interests of the parties.

Mr. Chairman, we wish to digress at this point to provide you with what we consider a fair overview of the free collective bargaining process and its interrelationship with compulsory arbitration. We submit that the rationale behind compulsory arbitration is basically quite simple. Strike action by particular groups of employees in society is so devastating to the public interest that another form of dispute resolution is imposed. Economic sanctions are prohibited. The theory is that resort to arbitration is designed so as to create the tensions and conflicts for the parties which are similar to the tensions and conflicts inherent in resort to economic sanction.

Mr. Chairman, I'd like to quote briefly from a decision in 1884 by Chief Justice Wilson in the Hynes and Fisher case. In that case, Chief Justice Wilson was addressing the nature of conventional industrial conflict in an economic sanction situation in a strike. He had this to say:

> From the nature of the present difference between the masters and men, the object of each party is to compel the other to yield; the men will not work unless upon certain terms; the masters will not agree to these terms, and desire to get workmen; the men may not get work if other workmen will give the masters their services; the masters, if they get other workmen, will be able to go on with their business, and fulfil their contracts independently of these men. The pressure upon the masters is, to stay their business until they yield to the terms of the men. The pressure upon the men is to hire other men in their place unless they will take work upon the terms of the masters. The longer each side can maintain this state of things, the more distressing it will be for the one or the other of them, although perhaps it may be equally distressing to both of them.
>
> If the men will not work and will not allow the masters to get men to work for them, the masters must either give up their business or their contracts. This is the line of warfare so plainly marked out, and so obviously the most effective that can be adopted that it is idle to say it is not followed, nor intended to be followed, by the workmen in such a contest.

Mr. Chairman, we submit that to be meaningful, compulsory arbitration should confront both parties — and we emphasize "both parties" — with tensions and conflicts in deciding whether to negotiate a settlement of their dispute or to carry the matter to arbitration similar to the tensions and conflicts inherent in the undertaking of economic sanctions. For example, in a free collective bargaining situation, the union may demand a certain set of terms and conditions of employment. They state that if they are not granted, they will call a strike. In such a situation, the employer is confronted with two options. The first is to accept the demand and the consequent costs.

The second is to accept the strike and the consequent costs. The union, on the other hand, also has two choices with corresponding consequent costs. Assuming that the company refuses to meet its demand, the union can either accept the company's terms and pay the price, or strike and pay the price of the strike.

The point is that both parties find themselves confronted with a choice between what should be unacceptable alternatives. The result should be that both parties prefer to arrive at a negotiated settlement rather than

insist on a "take it or leave it" proposition.

Compulsory arbitration as a system of impasse resolution ideally should create the same sort of conflicts for the two parties. It should be set up in such a fashion as to confront both parties with a situation whereby they prefer to achieve a settlement by means of negotiation rather than arbitration. It is respectfully submitted that the amendments to the Labour Relations Act have created a one-sided situation which clearly favors the employer's position. The result is that the employer will invariably choose to proceed to arbitration rather than settle the dispute by negotiation. The theory of compulsory arbitration is that when either party has the ability to institute compulsory arbitration, the effect is much the same as when the union is able to strike and the company is able to resist the strike or to lock out. Both parties have to weigh the costs associated with the arbitration, and they have to consider what price can be inflicted by one party on the opposing party.

The potential costs of arbitration historically have been classified as three: the cost of going to arbitration, which creates extra expenses to one or both parties in terms of time delays and money; the second area is that going to arbitration is costly in that it can be undesirable to one or both parties, for a variety of reasons; the third area is that going to arbitration should carry with it the cost of uncertainty, that is, the cost of the probability of the award being less desirable than would have been achieved through a negotiated agreement.

The central question we submit in evaluating the efficacy of the compulsory arbitration system proposed here should be: will the cumulative effect of the costs associated with arbitration be such as to produce a significant conflict/choice equilibrium in each of the parties so as to force them to seek, whenever possible, an alternative, compromise through negotiation? Let's evaluate this legislation on that basis.

Dealing with the first criterion, in only a minority of cases could the cost of proceeding to arbitration even remotely approximate the costs of a work stoppage or a lockout situation. Dealing with the second, as to the undesirability of having a settlement imposed by a third party, these costs are traditionally difficult to assess. For example, in some cases the disruptive effect of failing to agree will be seen as undesirable and costly in terms of disrupting an otherwise stable and satisfactory ongoing relationship, which we submit has been the relationship between firefighters and the municipalities across Alberta for over 40 years.

The third cost is perhaps the most important: the cost of uncertainty. It obviously varies directly and in proportion to the degree of certainty or predictability surrounding the arbitration process. The threat of arbitration as a tool to bring about a negotiated settlement is meaningless unless there exists uncertainty as to what the ultimate result will be. Since it is only uncertainty as to the ultimate outcome which will have a coercive effect on the parties and tend to move the parties towards a settlement, certainty and compromise are rationally inconsistent in a compulsory arbitration system. These amendments, in effect, impose certainty in favor of the employer in the system, and there can be little possibility of negotiated settlements unless the union capitulates and accepts provincial government wage guidelines.

No matter what the result, this kind of unbalanced system surely will destroy the process of compulsory arbitration, since it has no inherent integrity. If the objective of the government is to achieve adherence to provincial government wage guidelines, the question is: why not do it directly and fairly across the board rather than indirectly through the imposition of a process which, in the long run, will have neither the respect of the parties nor the respect of the public?

Professor Longfuller, in a manuscript dealing with the forms and limits of adjudication, contends that the distinguishing characteristic of true adjudication lies in the fact that it confers on the affected party a peculiar form of participation in the decision-making process, that of presenting proof and rational, reasoned arguments for a decision in his favor. He goes on to state that whatever heightens the significance of this participation lifts adjudication towards its optimum expression. Whatever destroys the meaning of that participation destroys the very integrity of the adjudication process itself. In other words, participation through reasoned judgment loses its meaning if the arbitrator of a dispute is inaccessible to reason by virtue of the constraints placed upon him by the criteria that bind him.

It is our view that the system created by Bill 44 destroys the integrity of the adjudicative process, since the legislation has placed impossible constraints on the arbitrator such that the influence of reasoned argument is practically non-existent. Reasoned argument means that decisions must be arrived at or explained by a logical comparison and development process. A party to the process, if his participation is to be meaningful, must assert some principle or principles to which his proof can be related and upon which his argument is premised.

Mr. Chairman, by way of elucidation on that point, that is exactly the process that has been followed in awards by the arbitrators that have been subject to so much criticism. The awards were predicated on comparisons with other awards that were freely negotiated. For example, in respect of the situation as it pertains to the Edmonton firefighters, that much-criticized award was predicated on a voluntary settlement between the city of Calgary and the Calgary Firefighters Association. Their award, in turn, was tied to the results of a police arbitration award. The point is, Mr. Chairman, that that compulsory arbitration award followed a voluntary settlement in that industry. Other relationships — if you trace through the whole process of the results of the awards that have been criticized, you will find that they are based on comparisons with contracts that were freely bargained, negotiated, and settled, and they are not landmarks in themselves.

In a compulsory arbitration system, rules, standards, and principles intended to operate as criteria in an adjudicative decision-making process must have sufficient clarity to be capable of rational application to the particular dispute. Their dimensions must be clear, and they must be capable of consistent measurement. If they are vague and blatantly incapable of consistent application, they can't operate in any meaningful way. Of course historically that has been the difficulty in establishing and imposing criteria and standards in statutes creating compulsory arbitration systems. In our submission, Mr. Chairman, that is why legislatures traditionally have wisely refrained from tying the hands of the arbitrators too tightly.

Mr. Chairman, we submit that the only way in which the criteria established in the amendments to section 117 of the Labour Relations Act can apply is if the wage guidelines of the government are taken to be etched in stone and, in effect, become a form of wage control, which operates not on the basis of an adjudication pro-

cess but on the basis of the dictates of the government — and not directly imposed at that. These criteria should be developed, and should be developed in a meaningful fashion so as not to create the illusion of collective bargaining, because we submit that will be the result of the implementation of these criteria in this legislation.

Mr. Chairman, I am going to briefly review the rest of our brief. We point out that section 117.93 gives the right to reconvene an arbitration board. We submit that this is totally unfair. It's a substantial departure from the system in the present legislation, where if there is an issue as to interpretation or application of the award, the board may be reconvened to deal with that interpretation or application question. This legislation has no such constraints. In effect, after the award has been made final, it empowers an arbitration board to review it and change the award. It means there's no finality to the dispute. There's no time limitation on its application. We submit that the result of this procedure is to supplant the grievance procedure in the collective agreement and to make the concept of rights arbitrations as distinct from interest arbitrations meaningless.

Mr. Chairman, we wholly reject the unfairness of section [117.94], dealing with the right of an employer to unilaterally make a decision to suspend the deduction and remittance of union dues. We find it interesting indeed that there is no penalty whatsoever even if the employer should ultimately be found to be wrong in withholding those dues and assessments. In the event that he makes a decision that cannot be justified on a factual basis, there is no penalty for him for unilaterally imposing that self-help technique. We find that totally unacceptable.

One of the strengths of the present process, Mr. Chairman, is the conciliation process that has been built into our present legislation, which we submit is far more efficacious than section 84, the mediation provisions of the Labour Relations Act, which have no teeth to them. Again, that procedure will be cumbersome, time consuming, and will lead to delays.

Mr. Chairman, on page 11 of the brief we've suggested a number of items which we feel require consideration with respect to our experience with compulsory arbitration processes. We don't feel they should be trial by ambush. We feel there should be some form of central data for both parties, and there should be a prehearing procedure which allows disclosure and ensures that the arbitration process can be meaningful and can join the issues between the parties.

In conclusion, Mr. Chairman, it is our recommendation to the committee that the provisions of Bill 44 as they apply to firefighters should not be passed. If there is a need for amendment, we submit that a considered, comprehensive, and fair process should be adopted and considered, comprehensive, and fair amendments should be made, with adequate opportunity for input by the affected parties.

Thank you for your attention.

MRS. KOPER: Mr. Chairman, to the gentleman. In your brief, you mentioned that firefighters historically have freely accepted compulsory arbitration as an imperfect substitute for free collective bargaining. By that you clearly acknowledge the need for the concept of compulsory arbitration, particularly as it applies to your profession. For the benefit of our committee, could you expand on the reasons you feel it's necessary, albeit imperfect?

MR. CHIVERS: Yes. I'm having some difficulty in determining where the voice is coming from. Thank you.

You've identified the point we were making in your comment. We feel that compulsory arbitration is unavoidable in the firefighting industry because of the disastrous nature of the withdrawal of firefighting services. Consequently, firefighters historically have accepted that their public duty and obligation is to provide these services. We feel that has been a public spirited recognition freely accepted by firefighters, even before the legislation compelling them to accept another impasse solution. That's why firefighters have supported this system. We share the apprehensions of other labor organizations with respect to the way in which compulsory arbitration systems have operated . . .

MR. VICE-CHAIRMAN: Sorry to interrupt. That concludes the 40 minutes. Would you just complete the statement you were on.

MR. CHIVERS: . . . but we feel it's unavoidable in the firefighting industry.

MR. VICE-CHAIRMAN: We thank you, representatives of the Alberta Fire Fighters Association, for making a representation to the committee.

[The committee adjourned at 4:32 p.m.]

MR. VICE-CHAIRMAN: Members of the committee, we understand that not all the presenters are here for the next group. Since we are ahead of schedule, we'll delay.

This next session was to have started at 4:55, and we are still waiting for Alderman Hayter. That might give you a few more minutes, if you want to go to the back for some refreshments.

[The committee resumed at 4:51 p.m.]

Alberta Urban Municipalities Association

MR. VICE-CHAIRMAN: Would the committee come to order, please.

Just a light note: we can assure you that we didn't need binding arbitration to replace you, Mr. Hayter.

Members of the committee, could we undertake this next segment of the public hearings. We are pleased to have before us the Alberta Urban Municipalities Association. Making representation for the association will be Alderman Ron Hayter, first vice-president; Mr. Leo Burgess, solicitor; and Mr. Ron Whitby, employee relations officer.

Before we get to the presentation, I would remind the presenters that we have a 40-minute time allotment, a bell will ring with five minutes to go, and you can utilize the time in any effective way that you deem necessary. With that, we put the floor to you.

MR. HAYTER: Thank you very much, Mr. Chairman and members of the committee. It's a pleasure to be here. We certainly appreciate the opportunity to present our viewpoint in respect of Bill 44, the Labour Statutes Amendment Act, 1983. I must apologize that the president of the Alberta Urban Municipalities Association, Mayor George Cuff, is unavailable. That is the reason I'm filling in today.

With me at the table are Ron Whitby, our labor rela-

tions man with the AUMA, and Leo Burgess, our legal solicitor. We'd also like to acknowledge the presence in the gallery of Mrs. Louise Beland, alderman from the city of St. Albert, who is on the board of directors of the AUMA; Rob McKee, mayor of Alberta Beach and also on the board; and John Oldring, an alderman in the city of Red Deer and also a member of the board of directors of the AUMA.

Generally speaking, the AUMA is in favor of the proposed legislation. With respect to the vast majority of the proposed amendments, we applaud the approach the government is taking in respect of labor relations in the province. With the exception of the provisions relating to trade union organizations, we believe that the proposed amendments, in the long term, will work to the benefit of the citizens of Alberta.

Membership in the AUMA and participation in its activities is broadly based throughout the province of Alberta. In 1983, membership in the AUMA is comprised of all 12 cities in the provinces, all 110 towns, 124 villages, and 28 summer villages. The AUMA membership is representative of all municipalities involved in collective bargaining.

For purposes of our submission, we have reviewed the proposed amendments to the Firefighters and Policemen Labour Relations Act and the Labour Relations Act. In this respect, we will confine our comments to matters of direct interest to municipalities. Matters which may be of particular interest or concern to other employee groups will not be addressed. Also, we will comment separately on the proposed amendments in respect of which the AUMA is wholly supportive, has qualified support, and is non-supportive. We also assume that the standing committee is not interested in hearing submissions related to proposed amendments which are purely of a housekeeping nature.

To discuss in detail our views on the various sections of the proposed Act, I would now like to call on Mr. Burgess.

MR. BURGESS: Thank you, Mr. Hayter. Now that Ron has told you that we're in favor, I suppose it falls on me to point out where you might possibly be going wrong. First, I would like to refer to certain provisions or proposed amendments to the Firefighters and Policemen Labour Relations Act. The first item in our brief is the proposed section 4.1. This proposed section has the effect of making the provisions of the Labour Relations Act, except as otherwise excluded, applicable to both firefighters and police officers under the rank of inspector. This section, in fact, places firefighters and the vast majority of police officers in a very similar labor relations environment as other municipal employees, yet still retains the unique status of firefighters and police officers where that status is warranted.

The proposed amendment further has the result of eliminating many uncertainties in respect of the relationship between municipalities and their employees in the fire and police areas. The proposed amendment results in statutory guidance in the employer/employee relationship in many areas where the previous legislation was silent. For example, both the employer and these employees will now be subject to the provisions of the Labour Relations Act relating to unfair labor practices. For that reason, we strongly support these particular measures.

After the preparation of our brief, one further point related to the Firefighters and Policemen Labour Relations Act was brought to our attention by some member municipalities. I'd like to briefly digress from our brief on that point. Under the present legislation, the only designated managerial employees are the chief and the deputy chiefs. It's the position of a number of our members that the managerial exclusions to this Act and to certain provisions of the Labour Relations Act should be broadened.

In the municipalities, we're in a position where virtually 99.5 per cent of some of our police and fire departments are in the bargaining unit. For example, in some of the major cities, we're in a situation where we have departments of 900 people and four managers. We suggest that this is inappropriate and inconsistent with other areas of labor relations. For that reason, some of our member municipalities have suggested that while the Act is under review, these exclusions should be broadened.

The suggestion we've received is that all firefighters above the rank of captain and all police officers above the rank of staff sergeant should be excluded from the labor relations legislation and, in fact, form part of the managerial component of their particular departments. Incidentally, in the major fire departments, for example, this would result in somewhere between 3.5 to 4 per cent of the work force being construed as management. I suggest that very few other organizations run their operation with even that little measure of management staff.

If I may, I'd now like to turn to the proposed amendments to the Labour Relations Act. The first areas are those proposals in which we're in favor and support the proposals of the government. Firstly, I'd like to refer to sections 2(3) through 2(7). Again, these are the sections that define the extent to which firefighters and police officers will be subject to the provisions of the Labour Relations Act. For the reasons I gave earlier, the AUMA supports these proposed changes. In the past, there have been insufficient statutory provisions relating to the respective rights and obligations between employers and these employee groups. Although in many instances the result of these amendments will be a double-edged sword, if you like, the AUMA is of the opinion that in the long run the proposed amendments will ultimately benefit the employer/employee relationship.

The second item in the support category to which I would like to refer is the proposed section 87(2). This amendment provides that only one strike or lockout vote may take place with respect to a dispute. The AUMA supports the proposed amendment because it eliminates the great potential for abusing the supervised vote procedures presently in the Labour Relations Act. Aside from the potential difficulties in administering the present system by the Department of Labour, employees should not be placed in the situation where they can be harassed by a union until a strike vote is secured, nor should employers be faced with such tactics in a complex set of negotiations. Also the potential abuse of the existing provisions by employers will be eliminated. We suggest, however, that the language of section 87(2) be clarified to make it abundantly clear that only one strike vote and one lockout vote, not one strike vote or lockout vote, may take place with respect to a dispute.

The third item in our brief which is in support of the proposals deals with sections 117.1 through 117.93. These proposed amendments set forth the rules relating to compulsory arbitration for firefighters, police officers below the rank of inspector, and hospital employees. With respect to the firefighter and police officer groups, the AUMA is supportive of these proposed amendments. However, as we will explain later, we will be suggesting

some minor changes to these proposed amendments.

In the opinion of the AUMA, the considerations which an arbitration board must examine, as set out in proposed section 117.8, are appropriate, and specific legislation is long overdue. The present legislation relating to firefighter and police officer arbitrations contains no provisions whatsoever to guide the arbitration board in its deliberation on wages and benefits. Although some arbitrators have adopted the criteria presently specificed in the Public Service Employee Relations Act, there has not been the uniformity of approach which one might consider desirable. Therefore, the AUMA strongly supports the enactment of reasonable criteria to guide arbitration boards.

The AUMA finds nothing objectionable in the criteria set forth in the proposed section 117.8. Since the introduction of the proposed amendments, some groups have suggested that the criteria specified in section 117.8 constitute an unreasonable interference in the independence of arbitration tribunals. With respect, we suggest that this is unmitigated nonsense. The proposed legislation only requires arbitration boards to take into account certain specified matters. The arbitration board would still have the latitude to evaluate the impact and relevance of the various criteria specified. Further, the AUMA would suggest that all the criteria specified in section 117.8 are indeed relevant to an arbitration board's proper evaluation of monetary disputes. We suggest that, in practice, arbitration boards will be able to exercise the same degree of independence they now exercise.

However, there is a necessity to include in legislation the types of criteria specified in section 117.8. Unfortunately, some arbitrators on occasion have been reticent in providing full explanations for their decisions, leaving both the employer and the trade union uncertain as to the relevant considerations. Rather than objecting to the criteria specified in section 117.8, the AUMA takes the position that the criteria could be even more extensive. This we will address later.

If I may add one further point on that: since the preparation of our brief, it has also been pointed out to us that section 117.8 does not apply in two areas where it probably should. I refer specifically to voluntary arbitration boards under sections 114 to 117. Those sections deal with the situation where both the employer and the trade union voluntarily agree to go to binding arbitration to resolve their dispute. The second area is in respect of emergency tribunals under section 148. That's the section which allows the government to invoke the emergency provisions and compel parties to go to binding arbitration where they would otherwise have the right to strike. It's the opinion of the AUMA that if there's going to be consistency in the approach adopted by this government in its legislation, the provisions of section 117.8 should apply equally to both voluntary arbitration boards and emergency tribunals.

Also in respect of the compulsory arbitration provisions specified in the proposed legislation, the AUMA strongly supports the inclusion of 117.7(2) and (3). These subsections will permit an arbitration board to utilize final offer selection in respect of all or a portion of the items in dispute between the employer and the union. Whether or not final offer selection will be extensively utilized, the proposed amendments certainly provide an arbitration board with an additional tool which may be extremely beneficial in certain circumstances.

If I may, Mr. Chairman, I'd now like to turn to the items in the proposed amendments to the Labour Relations Act in respect of which the AUMA has qualified support. Firstly, I'd like to refer to the proposed section 102.2(2). In certain circumstances, this section provides for a supervised vote on the recommendation of a disputes inquiry board. While the AUMA supports these provisions, we also suggest that the Labour Relations Board both conduct and supervise the vote. Although the majority of employers and unions would conduct such votes in a fair manner, the present proposal leaves too much latitude for abuse and unfair pressure.

We assume that the intention of the legislation is to obtain an accurate response from both the employer and the employees to the recommendation of a disputes inquiry board. Under the present proposal, it would not be necessary to conduct such a vote by secret ballot. For example, if the vote were by show of hands, then undue pressures could be exerted to influence employers and employees to vote in a particular manner. If the vote was conducted by the Labour Relations Board, then possibilities for abusing the voting procedure would be greatly reduced. It also follows that both the employer and the union should be entitled to scrutinize any such voting.

I would also point out that the proposed section 102.2(2) is in fact consistent with the present wording of section 87 for the conducting of a strike or lockout vote. The concerns expressed with respect to section 102.2(2) would apply equally to the existing section 87. Therefore, while the Labour Relations Act is under review, we would also suggest that section 87(1) be amended to provide that the Labour Relations Board will both conduct and supervise any strike or lockout vote. I would also point out in that respect that under the Labour Act which was originally introduced in 1973, when votes were handled by the Labour Relations Board they were both supervised and conducted under that legislation.

The second item with which the AUMA has qualified support is with respect to section 117.5(6). This section provides that a judge of the Court of Appeal or the Court of Queen's Bench may be appointed as a member of a compulsory arbitration board. The AUMA would suggest that this section be revised to provide for such an appointment only as a chairman of an arbitration board. For obvious reasons, it would be inappropriate to have a judge appointed as a nominee of one of the parties to the dispute.

The third item in the qualified support category relates to the proposed section 117.8. This section sets forth the criteria to be examined by an arbitration board in relation to wages and benefits. It is a section which I am sure is receiving many comments at these hearings. In addition to the items enumerated therein, we would strongly recommend that subsection (a) be amended to also include local economic conditions. In the opinion of the AUMA, this would be an appropriate and reasonable consideration to be taken into account by an arbitration board. Such a criterion could be particularly important in communities where a single employer employs a large portion of the work force in that community.

Situations will inevitably arise where the economic well-being of a particular community will be better or worse than most other areas of the province. Although we are not suggesting that this should necessarily have an overriding influence upon the decision of an arbitration board, surely it is one factor which an arbitration board should be compelled to examine before handing down its decision. We submit that the criteria presently listed in section 117.8 do not adequately take into account this factor. The local economic conditions will be at least as

important a consideration to a municipal bargaining committee as they will be in the private sector.

I should point out, ladies and gentlemen, that in the opinion of the AUMA, this is a very real and severe problem. There are a number of communities in this province where there is a single, dominant employer. Some examples are: Taber, in southern Alberta, where the sugar refining plant employs a large number of people in that community; also in southern Alberta, the town of Redcliff, where the glass factory employs a large number of people. Both of these communities have a municipal police force and are subject to the legislation you're considering right now. I would also point out the town of Hinton, where the pulp mill employs a significant sector of the work force in that community.

The situation can and does arise where economic conditions are particularly difficult in one area. For example, if the sugar refinery in Taber decides to lay off a large number of employees, you have a situation that significantly affects that community. If arbitration boards do not take that into account, what's going to end up happening is that some of these laid-off people, as taxpayers, are going to be asked to grant what might be inappropriately large increases to employee groups subject to compulsory arbitration. It's not only the single-employer areas. Regions of course can become depressed, or they can boom. That's one consideration that should properly be taken into account by an arbitration board.

There's also the situation where a single municipality may deal with several different bargaining units — two, three, four, up to 12 different bargaining units. Surely the settlements negotiated between the municipality and their bargaining units should be relevant in the compulsory arbitration situation. For example, if a particular municipality settles with all its other bargaining units for 6 per cent, 8 per cent, or whatever the figure is, surely that should be a relevant consideration to be taken into account by an arbitration board. We would suggest that for these reasons, local economic conditions should be a criterion specified in the legislation.

The next item I would like to refer to in respect of which the AUMA has qualified support is section 117.9. This section makes provision for the handing down of the award by the compulsory arbitration board. The AUMA has three areas of concern in respect of the proposed wording of this section. Firstly, subsection (1) provides that the aribtration board shall make an award "as soon as possible". Under the present provisions of the Firefighters and Policemen Labour Relations Act, a compulsory arbitration board is required to hand down its award within 14 days. While the existing time limit may be somewhat unrealistic, we would suggest that some time limit be imposed. Given the past history of compulsory arbitration boards in this province, we would suggest that 30 days would be an appropriate time limit. If the circumstances warrant it, the employer and the trade union could, as they now do, extend the time limit.

Secondly, members of the AUMA have expressed considerable concern with respect to a practice of some arbitration boards issuing piecemeal awards. It is not unusual for an arbitration board to refer certain items back to the employer and the union for further consideration and negotiation. The arbitration board then purports to retain jurisdiction with respect to such items should the employees and the municipality fail to achieve an agreement.

It is the opinion of the AUMA that this practice is utilizied too frequently and is equally frustrating for both the municipality and the union. In almost all situations, the particular item of dispute is before the arbitration board because the parties are unable to agree or the arbitration board has adequate information to render an award on the particular item. The present legislation and the proposed section 117.9(1) provides that the award "shall deal with each item in dispute". Apparently some arbitration boards are of the opinion that referring matters back to the parties constitutes dealing with the items in dispute.

The AUMA submits that section 117.9(1) should provide that the arbitration board shall, in its award, make a decision on each item in the dispute. The present practices only serve to further strain the relationship between the employer and the union. If our suggestion is adopted, any potential difficulties facing an arbitration board can be resolved by the board compelling the parties to produce immediately any further information which may be required by the board. The arbitration board certainly has the power and should be exercising it, rather than prolonging the negotiation and arbitration processes.

Thirdly, the proposed section 117.9 does not carry forward the existing sections 13(4) and (5) of the Firefighters and Policemen Labour Relations Act. Mr. Chairman, the only point I would make on that is that under the current legislation, the arbitration board is somewhat restricted — to the benefit of both parties, I think — with respect to making awards either retroactive or prospective. It's the position of the AUMA that this legislation should be carried forward into the new provisions of the Labour Relations Act.

If I may, Mr. Chairman, I'd like to turn next to the one significant area where the AUMA is not in support of the proposed amendments. This deals with a variety of sections including 73, 74, 75.1, and 75.2. These proposed sections of the new legislation relate to the establishment of trade union organizations. The AUMA has some very serious concerns in respect of these provisions and strenuously objects to their insertion in the Labour Relations Act.

Firstly, these provisions would seriously undermine the jurisdiction of the Labour Relations Board. Under sections 37 and 38 of the existing legislation, in the certification process the Labour Relations Board is required to determine whether a proposed "unit of employees is an appropriate unit for collective bargaining". Thus the board is already charged with the responsibility of determining the scope of a particular bargaining unit. The proposed legislation would result in trade unions being able to circumvent the normal statutory requirements that employees be organized into units appropriate for bargaining.

Of course, the Labour Relations Board examines the community of interest in determining whether a particular group of employees should be entitled to bargain collectively. The proposed legislation would effectively permit trade unions to ignore the community of interest. Thus, to a significant extent, the jurisdiction of the Labour Relations Board would be by-passed by trade unions. We suggest that the community of interest continues to be a valid criterion, amongst others, in determining whether a particular group of employees should be entitled to bargain collectively. If a trade union or group of employees is of the opinion that existing certificates do not constitute the most appropriate units, any change should be accomplished by means of an application to amend existing certificates.

Without doubt, the proposal for trade union organizations is more far reaching and has more serious implica-

tions than any other measure contained in Bill 44. In effect, once trade unions have been certified, they will be free to ignore the jurisdictional constraints exercised by the Labour Relations Board and define their own jurisdictional boundaries in respect of bargaining. The trade unions could then define their own appropriate units without requiring the approval of the Labour Relations Board. We hope the Legislative Assembly will not permit this to occur.

We would like to make it clear that we are not opposed in principle to regional or province-wide bargaining where the particular circumstances warrant this approach. For example, regional bargaining in the construction industry has been utilized for a number of years to minimize some of the difficult bargaining problems associated with that industry. However, we submit that it is far from appropriate to grant trade unions *carte blanche* to negotiate in blocks beyond the scope of certifications granted by the Labour Relations Board.

Municipal employers are frequently in a situation where they engage in collective bargaining with several different employee groups. I point out that this isn't only Edmonton and Calgary. It's several communities: Red Deer, Lethbridge, Medicine Hat, and others. Presuming that the Labour Relations Board has properly performed its functions, these groups will be divided into appropriate units with common interests within each group. On the other hand, bargaining units will only be dealing with a single employer. In those rare situations where it would be appropriate for trade unions to band together as a group, it should be accomplished only by specific legislation relating to that group or by agreement. Proper and effective joint bargaining will work only where there is a commonality of interest. We submit that the proposed legislation goes beyond that.

Various members of the AUMA have expressed specific concerns with respect to the proposal for trade union organizations. These concerns relate to both the situation where several employee groups of a single municipality join together and the situation where employee groups from different municipalities join together. For example, several cities have expressed the concern that trade union organizations could potentially result in all city operations being closed down at one time. Surely the city unions have sufficient bargaining power when they can close down the transit system, stop garbage collection, or close city hall. If all the services can be shut down by a single bargaining group, the results could be devastating for the community and place the cities in an untenable position in respect of collective bargaining. Such a situation would, in effect, provide the union group with unequal economic clout. Also, if employee groups from different municipalities are permitted to bargain jointly, even more severe results could occur. We have difficulty believing that the Legislature would desire to have such bargaining patterns develop in this province.

Mr. Chairman, I think that's all I'll present from my brief. I want to leave some time available for questions, and I think I've covered the major points.

Thank you, sir.

MR. COOK: First, Mr. Chairman, I'd like to thank the members of the AUMA for presenting a very good brief. I'd like to ask them for a little help. I have a question that relates to the brief. Several city councillors here in the city of Edmonton have expressed the concern that given the arbitrated awards a little earlier this year, there were very large layoffs. Do you think ability to pay should be considered in arbitration awards?

MR. BURGESS: Perhaps I can address that. To some limited extent, it already is. I must admit that I have argued on several occasions that it is a valid criterion. To be fair, though, I think you have to look at the particular situation. Most of the arbitration awards dealing with this come out of Ontario where, in effect, the provincial government is holding the purse strings, and the hospital boards — it's principally in the hospital industry — are really confined. The arbitrators have said: we're going to look beyond that; if it's really important that these people be paid a fair wage, we're going to give it to them regardless of the budgetary constraints. There are some awards which do say it is one mitigating factor which should be looked at.

I think it's an appropriate factor. I'm not suggesting that the trade unions or members of the police and firefighters unions be paid an unfair low wage. The community shouldn't benefit off them in that respect, but it is one criterion which probably should be taken into account, and has been on some awards.

MR. COOK: A supplementary question, Mr. Chairman. Would the ability to pay, for example, relate to local economic conditions?

MR. BURGESS: It certainly would. I think that was one of the implications of our presentation on local economic conditions. Today a great number of municipal governments are having genuine problems balancing their budgets. That's a reflection of what's going on in their particular communities. If I were presenting this to an arbitration board, I would say that would be one aspect of the local economic conditions which should be taken into account by the board.

MR. MUSGROVE: Mr. Chairman, I find local economic conditions to be a very important aspect of this type of bargaining. I wonder if you could clarify for us what parameters you would put on "local". Would that be one municipality? Would it be some kind of region? Could you clarify the local position for us?

MR. BURGESS: I think the AUMA supports both. If it were worded just so it said local economic conditions, I'm sure that parties presenting arguments to arbitration boards could adequately make representations as to what that includes.

MR. MARTIN: There are of course a number of areas in the brief, but I'll just go into the one that has to do with only one strike or lockout vote per dispute, just a practical consideration in terms of what you are suggesting. I think it's the nature of the collective bargaining process that there's give-and-take. Let me give you an example. Let's say a union leadership deems an offer wholly inadequate and calls a strike vote. The membership disagrees, votes against the strike, and directs the union bargainers to get back to the table. What if management — and it could work either way — then turns around and offers something less? At that point, the members may want to strike again. Do you think that's fair? It could work the other way, on a lockout, too.

MR. BURGESS: I think the position of the AUMA on that is that something has to be done about the current

situation where the strike vote is used more as a bargaining tool than as an accurate reflection of how the employees feel. It's the position of the AUMA that it will make the trade unions and the employer think very seriously before they hold a strike or lockout vote. It will be at the point in time where the true attitude of the group is going to be reflected in the vote.

MR. VICE-CHAIRMAN: This concludes the 40-minute session. I would just like to remind members that the next group is scheduled for twenty to six. If they are available sooner, we will start the five-minute adjournment from this point.

[The committee adjourned at 5:27 and resumed at 5:34]

Alberta & N.W.T. Building and Construction Trades Council

MR. CHAIRMAN: I'd like to call the committee to order and welcome the Alberta & N.W.T. Building and Construction Trades Council to the Public Affairs Committee. We have with us today making the presentation Mr. Stewart, Mr. Lee, and Mr. Taylor. Welcome to the committee hearings.

I'd like to say at this time that you have a 40-minute time limit. A bell will ring at 35 minutes, signifying that you have five minutes left. You can use these 40 minutes in any way you deem most beneficial to yourselves, in either the questions or in presentation. You can use a combination of either one you want. If there's time available, the members will be asking questions for clarification of your brief. With that, you may begin your presentation.

MR. TAYLOR: Mr. Chairman, our brief is very short, and I think what we'll do is read it to you. I think we can get most of it out quickly that way. We don't think we're going to take up 45 minutes of your time. I believe the thrust of our brief is that — we don't really know if everything we've said is right or wrong, mostly because of something you've heard before from other groups, I'm sure. We can't stress enough that the time limits made available to us to put together our brief did not give us an opportunity to do justice to all of the changes that are there. However, with that in mind, we'll try to get to our brief and point out some of the problems.

The Alberta Provincial Building Trades Council and its affiliates would like at the outset to thank the government of the province of Alberta and the Legislative Assembly for the opportunity to present this submission on Bill 44, the Labour Statutes Amendment Act, 1983. By way of introduction, may I explain that the Alberta Provincial Building Trades Council is the umbrella organization for all those craft unions whose members perform construction work and fabrication in Alberta. There are 43 local unions of the 17 construction trade affiliated with the council. This represents approximately 40,000 workers in our province.

Bill 44 is very comprehensive and sweeping in some of the proposed amendments to the Labour Relations Act, R.S.A. 1980, chapter L-1.1. We hope this submission will be of benefit to the Standing Committee on Public Affairs in its very onerous task. In this submission, the Alberta Provincial Building Trades Council will endeavor to highlight those areas of major concern to it, followed by our recommendations to the Standing Committee on Public Affairs of the First Session of the 20th Alberta Legislature.

One, Bill 44, section 2(3)(c)(w.1), trade union organization:

At hearings called to explain the amendments to the Labour Relations Act of Alberta contained within Bill 44, representatives of the Department of Labour have stated that the addition of the concept of the trade union organization to the Labour Relations Act is intended to parallel the existing concept of an employers' organization, currently reflected in section 75. The trade union organization, as envisioned in section 2(3)(c)(w.1), has been stated to be a trade union organization made up of local trade unions of the same provincial, national, or international organization in collective bargaining.

When one looks at the definitions of trade union organization, however, it is submitted that the definition is much broader than that which has been stated by the representatives of the Department of Labour. The Alberta Provincial Building Trades Council will be directly affected by the reference in the definition to the provincial organization in collective bargaining. This is of grave concern to the Alberta Provincial Building Trades Council and is an amendment which, we submit, needs in-depth review.

It was the understanding of the Alberta Provincial Building Trades Council that amendments to the Labour Relations Act affecting the construction industry would be reviewed with the respective interested parties prior to any implementation. We request that this particular amendment be tabled until the fall session of the Alberta Legislature so proper studies of its impact can take place.

Two, Bill 44, section 2(8)(b), amending section 14(1)(c):

The proposed amendment to section 14(1)(c)(i) in reference to a person who is at least 18 years old is not consistent with the existing section 15(c) of the Labour Relations Act, which provides:

> If it is necessary to prove service of anything for the purposes of this Act,
>
> (c) if service is effected by leaving it with a person apparently at least 16 years old, service of it shall be deemed to have been made on the date it was so left.

In addition, if 14(1)(c)(i) it is to be amended, it is submitted that the same provision should be applicable in the case of corporations, under section 14(1)(b)(i).

The provisions of section 14(1)(c)(i) raise a serious concern. Under the provisions of the Labour Relations Act, on occasion the Labour Relations Board will hold hearings on four hours' notice or less. In the event that a director, manager, or officer of a corporation, or president, secretary, or officer of a trade union, trade union organization, or employers' organization is deemed to have been served within the context of the proposed section 14(1)(c)(i), and yet was not personally aware of such service, such a person could then potentially be in contempt of such service by the Labour Relations Board. It is submitted that the deeming provisions pertaining to service should contain a minimum of time for such notice or, alternatively, provide only for personal service on the officers and persons.

The Alberta Provincial Building Trades Council has a great deal of difficulty understanding why the trade union president, secretary, or officer can be deemed to be personally served specifically within the context of section 14(1)(c)(i), and an officer of a corporation, manager, or director not. The Alberta Provincial Building Trades Council does not object to the deeming of service on a trade union, trade union organization, employers' organi-

zation, or corporation within the context of the principles contained in section 14(1)(c)(i), but does object to a deeming section which can affect the interests of a particular person because of the office which he holds, when such person could, very easily, within the context of four hours' notice, be out of the country, away from the office, on holidays, or whatever.

The Alberta Provincial Building Trades Council does not think the amendment to section 14(1)(c)(i) is consistent with the principles of natural justice. The Alberta Provincial Building Trades Council requests that this matter be reviewed and tabled until the fall sittings of the Legislature.

Three, Bill 44, section 2(11), amending section 21:

The proposed amendment to section 21(1) removes any reference to employer, employers' organization, and trade union from that section. The question must be asked, who is a party to a difference and is there any limitation envisaged by our government as to who may be a party to a difference? For example, in the construction industry, would an owner be a party to a difference? Is a member of a trade union, trade union organization, employers' organization, or any employee of an employer, a party to the difference within the context of new section 21(1)?

Within the ambit of the existing Labour Relations Act of Alberta, no definition of a party exists. However, the Act does speak in terms of parties to a collective agreement or persons bound by a collective agreement. The problem is compounded by the lack of definition of "a difference" in the Labour Relations Act, as well. Is it the intention of our government to allow any person affected by a difference to become a party to a difference?

The Alberta Provincial Building Trades Council submits that the scope of the proposed change to section 21(1) is much broader than may have been intended, and we request that this particular section be tabled for a proper review until the fall sittings of the Legislature.

Four, Bill 44, section 2(23), amending section 102:

The addition of section 102.2(2) to the provisions of the Labour Relations Act is a major, fundamental change in the collective bargaining process in the province of Alberta. As a question of principle, the mandatory vote has serious ramifications. In addition to the ramifications of such a vote, the Alberta Provincial Building Trades Council asks, who are the employees or employers affected by the dispute who are represented by the party to that dispute? Section 88 defines employees of the employers affected by the dispute and employers affected by the dispute for the purpose of a strike or lockout vote. On the basis of the language contained within the proposed section 102.2, it is questionable that the principles contained in section 88 are applicable to a vote conducted under proposed section 102.2.

In addition, it is submitted that a vote held under section 102.2 and its mandatory nature, will have an impact on the total collective bargaining process which would lead to serious procedural hurdles. At the very least, a vote under section 102 should be discretionary.

The Alberta Provincial Building Trades Council recommends that that amendment to section 102.2 be tabled to the fall sittings of the Legislature so that proper consideration of the time elements and ramifications can take place.

Five, Bill 44, section 2(31), repealing and substituting a new section 132:

It would appear that the new section 132(1) and (2) was drafted with a view to correlating and standardizing section 132(1) and (2). Under the old section 132(1) and (2) there were inconsistencies, and certainly the efforts in this regard are commendable. Section 132(1)(a), which is to be repealed, provides as follows:

> . . . the purchaser, lessee or transferee or person acquiring the business, undertaking or any other activity or part of it is bound by all proceedings, where there have been proceedings under this Act, as if he had been a party to the proceedings . . .

It is submitted that in an attempt at standardizing section 132(1) and (2), the board's jurisdiction, which now becomes discretionary, is limited only to existing certificates or collective agreements. The question must be asked whether this would be the intention of the draftsman, in that under the provisions of the Labour Relations Act there are many provisions which of necessity fix rights, responsibilities, and duties between the parties which flow from the certificate and/or collective agreements.

It seems to the Alberta Provincial Building Trades Council that the proposed section 132(1) and (2) has severely limited the flow of rights, duties, and responsibilities previously contained in the provision of the section to be repealed, 132(1) and (a). As well, it is important that section 132, in both its present and proposed format, be reviewed in depth. It is submitted that under proposed section 132, a reverse onus may have been established on a trade union. The sale, lease, transfer, et cetera, of a business or undertaking need not be public, and a trade union lacking such knowledge or, alternatively, delayed in determining the nature of a disposition, could be faced with evidentuary problems, which itself would defeat the intent of section 132.

It is further submitted that section 132 in its proposed format could and will affect affiliates of the building trades council holding bargaining rights in the manufacturing and fabrication industries, if the onus under 132 is in fact reversed and placed on the trade union. The Alberta Provincial Building Trades Council requests that this section and its proposed deletion and replacement be tabled and reviewed until the fall sittings of the Alberta Legislature.

Six, Bill 44, section 2(36), amending section 142 by adding (7.1):

The addition of (7.1) raises grave concerns in that there is no limitation on the words:

> and any future strike or lockout that occurs for the same or substantially [the same] reason.

The Alberta Provincial Building Trades Council must ask: what is meant by the same or substantially the same reasons? Will these reasons be defined in a board order or directive? Will it be mandatory for the board to define these reasons? What will happen in the event that a change in personnel of an employer, employers' organization, trade union organization, or trade union takes place? We are talking in potential terms of years between the initial directive and a strike or lockout occurring for the same or substantially the same reason. It is submitted that such a section places a very high onus.

The Alberta Provincial Building Trades Council understands the intent and reasoning behind proposed subsection (7.1). However, serious concerns and questions must be faced and addressed. Potentially inherent in this provision is a very real and major possibility of a denial of natural justice occurring. The Alberta Provincial Building Trades Council feels this section places an onus on either an employer or trade union, without addressing a major onus which must rest with the Labour Relations Board at the time it issues the directives and which could easily, for

the sake of expediency, be ignored.

It is recommended by the Alberta Provincial Building Trades Council that the full impact of this section be reviewed and that the proposed amendment be tabled until the fall sittings of the Legislature.

In summary, in making this submission to the Standing Committee on Public Affairs, the First Session of the 20th Alberta Legislature, the Alberta Provincial Building Trades Council requests that all areas isolated and highlighted above be tabled until the fall sitting of the Legislature for proper review.

Thank you for your consideration. Again, may we commend the government of the province of Alberta for affording us this opportunity to present our submission. We hope our comments and concerns will aid the Standing Committee on Public Affairs in its deliberations and strengthen the proposed amendments for the benefit of all Albertans.

Mr. Chairman, we're ready for any questions you may have.

MR. CHAIRMAN: Thank you very much. There are some questions.

MRS. EMBURY: Mr. Chairman, my first question is for clarification. It refers to page 2 of your brief, speaking about the trade union organization. You say that the definition is much broader than what you assumed it would be. I wonder if you could expand on that statement, please.

MR. TAYLOR: First of all, I think the intent given to us by Labour Relations Board personnel was that it looked after sister locals. If you read that as it is now drafted, it does not have any limitations nor do we see any limitations.

MRS. EMBURY: A supplementary, Mr. Chairman. I'm sorry, I don't quite understand. Maybe you could explain to me how that really affects your particular council.

MR. TAYLOR: I'll ask our counsel to give you that explanation.

MR. STEWART: At the present time within the province of Alberta, collective bargaining within the construction industry is carried on by local trade unions on a provincial or north/south basis. From the point of view of the trade unions, there is not an umbrella organization within the trade unions which would parallel or be similar in terms of its scope to what currently exists in the province with regard to the employers and their bargaining posture, which is an overall employers' organization commonly referred to as the CLRA or the Construction Labour Relations Association.

The definition of trade union organization that you have now presented in Bill 44 was drafted to allow sister locals of a national, provincial, or international body to bargain. That was the stated intention. However, the definition of trade union organization would be big enough to pick up and potentially encompass, for example, the Alberta Provincial Building Trades Council and make it an overall umbrella organization for trade unions. In effect, you'd be moving and potentially imposing, not on a voluntary basis but rather on an almost mandatory basis, collective bargaining through the Alberta Provincial Building Trades Council. All we're asking is: if that is the intent of our government, say so.

On the other side of the coin, if it is not the intent of our government but is in fact as has been stated by the Department of Labour — which is to keep it within the context of sister locals — say that. Let us know where we're at. If it is the intent of our government to proceed and have an overall umbrella organization, we would certainly like an opportunity to debate that.

That's a philosophical argument, and this is not the place to be debating it necessarily. I think we would like the opportunity to deal with the people — I'm talking in terms of the Department of Labour — who have some feeling for some of the problems on both sides of the table, the employers and the trade unions.

I hope I've answered your question in an indirect or direct way.

MRS. EMBURY: Thank you very much.

MR. PAPROSKI: First of all, I'd like to thank you very much for the brief. As well, I would like to thank the council for a brief that I think zeros in on issues specifically pertaining to Bill 44. Considering your comments on page 3 of the brief regarding four hours' notice for hearings, would you like to expand a little on this area and perhaps indicate what amount of time, in your view, would be more fair or equitable?

MR. STEWART: That is a difficult question. Maybe I could break it down. There is absolutely no doubt that at times there is the necessity of the Labour Relations Board to hold hearings quickly. I'm talking in terms of unfair or alleged strikes, potentially illegal lockouts. The Board of Industrial Relations or the Labour Relations Board must respond and hold hearings quickly. Right now, it's basically on three hours' notice. That kind of time frame is absolutely necessary in terms of having the parties or individual bodies appear. I don't think the building trades council itself is necessarily going to argue against that. What we are concerned about is putting the onus on an individual who, for whatever reason — because of the office he holds as either an employer or a trade union officer — will, in effect, be deemed to have been served by simply leaving notice of that attendance at the office of the individual, requiring him on three hours' notice to attend before the board.

You gentlemen and ladies are all busy. You may not have a calendar which allows you to respond on four hours' notice. Oftentimes you're away from your office. That's where we're concerned. We're zeroing in on individuals. We're saying, if you're going to place this kind of notice and deeming provision in the legislation, is it fair because of a person simply holding the office? I think the question and answer are probably there, if you put it on your own shoulders.

Does that answer your question, sir?

MR. PAPROSKI: It does to a point. What I was asking, though, was whether you had an alternative, an amendment, an area where . . .

MR. STEWART: We've suggested that you leave the deeming provision in for a trade union, trade union organization, employer, or employers' organization. Put the onus to be there on that body which will legally exist under the legislation. If they're not there or they don't have a representative there, the deemed service provisions are going to apply. Catch the entity rather than a particu-

lar individual. That's what we have recommended in the brief.

MR. NELSON: Gentlemen, you stated in your brief that your organization represents some 40,000 workers in the province. I wonder if you could expand on the composition of your organization, such as how it was started, how it's made up, what type of membership, and possibly the number and type of unions involved.

MR. TAYLOR: That's pretty broad, if you want to know how it started. There are 17 different affiliates, such as the united association of journeymen plumbers and pipe fitters, carpenters, jointers, cement masons, and electricians. There are local unions in northern and southern Alberta and, indeed, in some of the far southern and northern sections which are of the same brotherhood. However, they are affiliated.

The Alberta and Northwest Territories Building Trades is chartered under an international charter. We are an umbrella organization which, in fact, it is voluntary to belong to, and all the building trades do belong. We have representation from all these unions. These unions vary in size from 20 members to 3,000 or 4,000. We have an elected body which is the executive board: president, vice-president, et cetera. We generally discuss the problems that happen for all building trades people in the construction industry. So when we say 40,000 members, that is divided among 17 trades or 42 local unions.

Does that answer your question?

MR. NELSON: To the most extent, Mr. Chairman. The area I'm partially interested in is of course the public service sector.

MR. TAYLOR: We don't have people in there right now. There's some restrictive legislation that doesn't allow us to organize them.

MR. CHAIRMAN: Are there any other questions from the members of the committee? If not, are there any remarks you'd like to make in summing up your presentation?

MR. STEWART: Just thank you for allowing us to be here.

MR. CHAIRMAN: It was our pleasure to have you appear before the committee. We'd like to thank you very much for taking time out of your busy schedule.

With that, the meeting is adjourned until 2:30 tomorrow afternoon.

[The committee adjourned at 6:03 p.m.]