LEGISLATIVE ASSEMBLY OF ALBERTA

Tuesday Evening, May 8, 1973

[Mr. Speaker resumed the Chair at 8:00 o'clock.]

GOVERNMENT BILLS AND ORDERS
(Second Reading)

Bill No. 55 The Public Lands Amendment Act, 1973

DR. WARRACK:

Mr. Speaker, I move, seconded by the hon. Miss Hunley, second reading of Bill No. 55, The Public Lands Amendment Act, 1973.

[The motion was carried. Bill No. 55 was read a second time.]

MR. HYNDMAN:

Mr. Speaker, I move that you do now leave the Chair and the Assembly resolve itself into Committee of the Whole for certain bills on the Order Paper.

[The motion was carried.]

[Mr. Speaker left the Chair.]

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COMMITTEE OF THE WHOLE

[Mr. Appleby in the Chair]

Bill No. 28 The Amusements Amendment Act, 1973

MR. DEPUTY CHAIRMAN:

The Committee will now come to order. We have for consideration Bill No. 28, The Amusements Amendment Act, 1973. Section 1. Section 2 --

MR. HYNDMAN:

On a point of order. Pursuant to the new rules you simply ask if there are any questions or observations to be made regarding the bill and if not, then proceed to title and preamble. I think the House agreed we could approach it this way in committee unless members wish to discuss a particular section.

MR. DEPUTY CHAIRMAN:

Very well. Thank you, Mr. Minister. Bill No. 28, any comments or questions?

MR. DIXON:

Mr. Chairman, just one point I want to clarify, the point I asked the minister the other day. Yesterday he pointed out that of the $300,000 in taxes, only $127,000 had been collected to date. I was wondering what was going to happen. Is this going to be a write off on the balance or are you going to make an attempt to collect it?

MR. SCHMID:

Mr. Chairman, we definitely will make an attempt to collect the outstanding amount. The amount collected actually is closer to $142,000, Mr. Chairman.

Maybe I should add, as I have mentioned several times before, up to July 1 the law of Alberta provides that approximately 10 per cent tax shall be collected on lottery tickets. This is in force until July 1 of this year.

MR. DIXON:

Mr. Chairman, the only point I bring up here is that from the minister's remarks and other information that I have, there are some people who didn't even have enough money to pay the prizes. I think it is unfortunate that the other people who have paid are going to have to pay the full amount and it looks to me like you are not going to be able to collect a great deal of this money. I am just wondering if you are being fair to those who have already paid?

MR. SCHMID:

Well of course, Mr. Chairman, there is a difference between clubs that really have the money to pay for the tax and don't pay it, and other clubs that maybe are really broke or bankrupt, if you care to call it that. I don't think anyone has ever tried to collect money from a bankrupt company or a bankrupt person. On the other hand, if there is money available from the clubs, naturally the government is obliged to collect it because it has collected from the other organizations and associations also.

MR. DEPUTY CHAIRMAN:

Any further comments? All right. Now my understanding is we have to go through this section by section once it is commented on.

SOME HON. MEMBERS:

No.

MR. DEPUTY CHAIRMAN:

All right, call for title and preamble. Agreed?

[All sections of the bill, the title and preamble were agreed to.]

MR. SCHMID:

Mr. Chairman, I move that Bill No. 28 be reported.

[The motion was carried.]

Bill No. 29 The Fire Prevention Amendment Act, 1973

[All sections of the bill, the title and preamble were agreed to without debate.]

DR. HOHOL:

Mr. Chairman, I move that the bill be reported.

[The motion was carried.]

Bill No. 34 The Crown Agencies Employee Relations Amendment Act, 1973

MR. KOZIAK:

Mr. Speaker, I have some questions in connection with Bill No. 34. My questions arise as a result of correspondence and discussions I have had with constituents of mine who are involved in the University Hospital here in Edmonton, Alberta.

Mr. Chairman, as I understand the matter, Bill No. 34 would provide that the Civil Service Association of Alberta become the bargaining agent for all of the employees employed by the employers listed in the schedule to the bill, which includes the University Hospital Board.

Now this would include a group of people, a para-medical association, that has presently made an application to the Board of Industrial Relations for the certification of an association other than the Civil Service Association of Alberta as their bargaining agent. The association would be similar if not in fact the same association to that which is the bargaining agent for the Foothills Provincial General Hospital, and is specifically dealt with in Section 2(c)(iii). That clause provides that the employees of the Foothills Provincial

General Hospital, who are "employed in a capacity specified in Certificate No. 23-73 issued by the Board of Industrial Relations" et cetera, are exempted from the provisions of this act. In other words, the Civil Service Association of Alberta does not, in fact, bargain for those particular employees.

Now in Edmonton, in the University Hospital, we have a very similar situation. A group of employees, for all intents and purposes similar to those in the Foothills Provincial General Hospital, have been working for a considerable period of time tc obtain a bargaining agent for themselves other than the Civil Service Association of Alberta. As I understand the matter, an application has been made tc the Board of Industrial Relations for the certification of this particular association as the bargaining agent for this particular group of employees. I wonder if the hon. minister could advise whether or not this bill, when passed, would affect that application presently before the Board of Industrial Relations?

DR. HOHOL:

Yes, Mr. Chairman, there is no question that the application by the health sciences division of the University Hospital to the Board of Industrial Relations would be affected. In fact, the board would be unable to hear any further applications under the matter of certification by divisions of the hospitals which are listed on page 3 of the schedule in the amendments to the bill. The fact that the Civil Service Association of Alberta negotiates for Crown agencies as listed in the schedule is a consequence of the act, rather than the specific intent of the act. Nevertheless, what the hon. Member for Edmonton Strathcona says is accurate.

There is some brief history to this that the House is entitled to have. The history is the reason for amending The Crown Agencies Employee Relations Act and it is simply this, Mr. Chairman. There was in the definition section of the existing Act a certain question, a grey area, as to what constitutes and what does not constitute a Crown agency. We reviewed this question very closely and there wasn't any doubt in our minds what the intent and spirit had been with respect to the definition and the description of a Crown agency.

We therefore proceeded to make the changes consistent with the intent that existed at the time we became government. Harking back to approximately October of 1972, representatives of the four hospitals listed in the schedule on page 3 and the legal counsellors met with the hon. Minister of Health and Social Development and myself to pose the question of their autonomy and their wish to negotiate in accordance with their perceived autonomy under The Alberta Labour Act.

We pointed out to them that there was no question in our minds that these particular hospitals, like other institutions listed in the schedule on page 3, by intent, by spirit, by description and definition were intended to be Crown agencies. I indicated to them, Mr. Chairman, at that time that it would be my intention to recommend to the Executive Council and the caucus that amendments to clarify who is in fact a Crown agent and who is not, would be brought before the Legislature at the earliest time to make sure that there was no lack of clarification on the matter.

I had intended to bring in this kind of legislation in the fall session. However, I received a call on behalf of the Foothills Hospital not to make any move before I heard from them. I did hear from them when the legislation was already done, Mr. Chairman, and that particular hearing was an application to the Board of Industrial Relations for the health sciences division of that particular hospital to be certified as a bargaining agent. Under those circumstances I felt that in all fairness I would not bring in the amending legislation in the fall session but would do so at the spring session, and I again chose to do it as late as I possibly could during this period of time.

To summarize then, to make sure there is no misunderstanding, the consequence of passing the amendments to Bill No. 34 would be, as the hon. Member for Edmonton Strathcona indicates, that the hospitals listed in the schedule could be bargained for only by the Civil Service Association of Alberta.

MR. KOZIAK:

Mr. Chairman, to the minister on that particular matter. What comments do you have in relation to having the Health Sciences Association of Alberta as the bargaining agent for a particular segment of the employees of the University Hospital and having another association, such as the Civil Service Association of Alberta, as the bargaining agent for another segment of the employees of the

University of Alberta Hospital? Would there be anything wrong with that type of situation where you would have two separate bargaining agents certified by the Board of Industrial Relations for employees within the same hospital?

DR. HOHOL:

Well anything I might express, Mr. Chairman, would be a personal opinion. Certainly in areas like the industrial sector of our private enterprise, the capacity and the fact of several bargaining agents representing several units within one plant is not unusual. The fewer there are, the more manageable by management and sometimes by labour itself or the employee sector itself. However, speculation is one thing. The facts of this particular case are clear, and that is once you define and describe a particular corporation or agency to be an agent of the government, then there are certain other things that follow. One of those is the fact that you bargain only through the Civil Service Association at the employee level. Now the fact is that at the Foothills Hospital we will have another bargaining agent in addition to that of the Civil Service Association, and so The Labour Act was amended to coincide with the amendments to Bill No. 34 in which The Labour Act specifies the Civil Service Association is a bargaining agent at the Foothills Hospital for all employees except those represented by the Health Sciences Association.

The total number of people involved is likely about 80 in the health sciences, with a maximum potential somewhere in the area of 120. The total hospital staff of course would be approximately six or seven times as large and would be represented by the civil service.

I see no particular or unusual problems. I have to say, Mr. Chairman, that the approach we used here we feel is a pragmatic common-sense one. We could by legislation have included the Foothills Hospital entirely as a Crown agent and therefore by mere legislation, revoked the certificate of the Health Sciences Association. We felt this would be entirely unfair because they applied and gained certification before the Board of Industrial Relations, an area which appeared to be grey. We felt we would honour and respect that particular certification and any other that might have been approved before passage of Bill No. 34. I recall to the Assembly, Mr. Chairman, that the Board of Industrial Relations is a quasi-judicial board, though a part of the Department of Manpower and Labour in one of its two functions that the hon. Member for Olds-Didsbury so accurately discussed during the discussion of the estimates. One of its hats is quasi-judicial and in this function it pursues its own time and its own hearings and makes its own judgments. Neither the department nor the government interfere with those.

MR. KOZIAK:

Mr. Chairman, I know that the Health Sciences Association of Alberta has made an application before the Board of Industrial Relations for certification as the bargaining agent for this group of employees in the University of Alberta Hospital. My question of the minister would be: is the minister aware of any other applications presently before the Board of Industrial Relations by groups of employees for the certification of any other group as the bargaining agent for that group, other than the Civil Service Association of Alberta, for those employers who have been listed in the schedule to the proposed bill?

DR. HOHOL:

To the best of my knowledge, there could be another, but I am not aware of it, Mr. Chairman.

MR. KOZIAK:

My concern here perhaps -- and I can express this on behalf of my constituents -- is that they have made this particular application, Mr. Chairman, to the board and as the minister has most adequately dealt with the matter, the board is quasi-judicial or really to all intents and purposes exercises judicial functions which means that the parties to any action before the board exercise very little control over the decisions of the board, if any, and over the machinery of the board and the way in which the board exercises the particular machinery that is available to it.

What concerns me is that an application which is presently before the board may be thwarted, not by a decision of the board, but by the passage of this bill. It may well be that the passage of the bill is the correct legislation in the circumstances. I am not arguing with that. I am arguing only with the point that the application has been made, similar to the application by Foothills people for the same type of bargaining association in the Foothills

Hospital and that they wouldn't be given the benefit of a decision of the Board of Industrial Relations. Now if that decision came down within the next few days of course, there would be no concern because the act wouldn't receive royal assent within the next day or two, but if that decision were in any way delayed, say a week or two or three, there would be a possibility that if the bill were passed and given royal assent that their particular position might be thwarted.

Could the minister consider the possibility of delaying royal assent until say July 1 or June 30 or June 1, which might give them a longer period of time? I'm just throwing this suggestion out to the minister. I don't know if it's a possible suggestion, if it's one worthy of consideration, but I think on behalf of the people who have contacted me I should bring it to your attention, Mr. Minister.

DR. HOHOL:

Mr. Chairman, I would make two comments. One is with respect to the influence of parties before the Board of Industrial Relations. In all fairness, and I'm sure the hon. Member for Edmonton Strathcona would appreciate this from his own professional background, parties before a board or any judicial body have a great deal of influence on the final outcome, that influence being the evidence or the case placed before any judicial board including the Board of Industrial Relations. So the virtue, the merit or the overwhelming evidence in a particular case has a monumental kind of effect on the decision of the Board of Industrial Relations.

With respect to the second question I would hesitate, Mr. Chairman, very much in directly or indirectly, advertently or inadvertently, having any governmental influence or effect on any decision by the Board of Industrial Relations, or its timing. These are two parallel actions: one, applications before the board and two, legislation before this House.

I recall to the Member for Edmonton Strathcona through you, sir, that because the hospital people have anticipated an application and because I had informed them I would attempt to clarify by bringing to the House for approval this amending legislation, the description and definition of what is and who is a Crown agent and who is not, I withheld the attempt to pass this particular amending legislation in the fall of 1972. Under those circumstances I would be very, very careful not tc influence in any way any future proceedings with respect to the board's decisions and the applications before it.

MR. DEPUTY CHAIRMAN:

Any further discussion? I draw the committee members' attention to two typing errors on page 1, Section 2. Section 2 is amended as follows: "striking out clause" should read "clauses". On page 4 at the top of the page the title of the hospital should read "Foothills Provincial General Hospital."

MR. HYNDMAN:

Mr. Chairman, I move, seconded by the hon. Minister of Municipal Affairs that those two amendments be made to the bill.

[The motion was carried.]

[All sections of the bill, the title and preamble were agreed to.]

DR. HOHOL:

Mr. Chairman, I move, seconded by the hon. Minister of Municipal Affairs, that the bill be reported as amended.

[The motion was carried.]

Bill No. 37
The Local Authorities Pension Amendment Act, 1973

[All sections of the bill, the title and preamble were agreed to without debate.]

DR. HOHOL:

Mr. Chairman, I move, seconded by the hon. Minister of Municipal Affairs, that the bill be reported.

[The motion was carried.]

Bill No. 35 The Labour Act, 1973

MR. DEPUTY CHAIRMAN:

I think the hon. members each have a page with a number of amendments. Possibly I should ask first if there is any discussion on the sections not included in the amendments?

MR. TAYLOR:

Mr. Chairman, I don't know about the other members, but I haven't had a chance to even read the amendments. They just arrived on my desk. Could the hon. minister outline the effect of the amendments so we would have an idea of what they are?

DR. HOHOL:

Mr. Chairman, with respect to the amendments before you, with respect to Section 2, this is the section that I discussed in replying to questions from the hon. Minister for Edmonton Strathcona with respect to The Crown Agencies Employee Relations Act, and the consequential amendments to The Alberta Labour Act.

In clause (e) of subsection 2 with respect to The Police Act in municipalities, this specifies exactly those areas that apply in other acts and which then become exclusions under The Labour Act. For example, the health sciences division being represented by the Health Sciences Association at the Foothills Hospital is an exclusion under The Labour Act, but appears in The Crown Agencies Employer Relations Act. That is the intent of Section 2(1)(a) on the first page.

In Section B of the amendments, (1), Section 23 in Bill No. 35 is amended by striking out clause (b). That particular clause is replaced by "44 hours in each consecutive period of seven days." What is in the particular clause at the present time and which may lead to confusion in reading, is "44 hours in each period of seven consecutive days." That particular language gives rise to at least two if not three ways to interpret as "seven consecutive days". So we tighten it up by saying what we meant and that is a consecutive period which means one block of seven days, and then there would have to be an intervening time of 24 [hours] before an employee could be engaged in work again.

On the second page of the amendments, Mr. Chairman, I anticipated and made reference to the 24 consecutive hours of rest. That intent is spelled out exactly that way, that those hours have to be consecutive and unbroken.

Section (D) of the amendments there is an addition. Bill No. 35 stops short in saying that the board shall make a decision. We amended it to make sure that there is no misunderstanding -- that the decision of the Board of Industrial Relations "is final and binding," and we so stated, Mr. Chairman.

Section (E) and (F) of the amendments are companion sections. We refer here to board orders that have to do with overtime or hours in excess of 44 hours a week, which is the standard work week. Section (F) is amended by striking out the existing clauses in Section 35 and amending to read as indicated in (a)(i) and (ii) on the manner of filing with the board a copy of the constitution with respect to a union or the constitution of the organization of which the union is really a branch. This would be with particular reference to an international union with headquarters in the United States. If it does not have that, its evidence that it is a union would be its rules or by-laws. A union local does not have a constitution. Its constitution is that of the national or the international union. But its rules or by-laws have the same intent with respect to evidence before the board that is a duly constituted union.

The amendments on page 3, when we get to the body of the bill, is a very important and consequential amendment. In Section (g) where "an employer or" is struck out and simply "one" [included].

In Section (H), I would nearly have to turn to the actual section of the act -- yes, there is just the addition of references to prior clauses, Clause (a) subsection (1) or (2) added to the end of Section 67 with respect to:

> Unless the Board consents, no trade unions shall apply to the Board to be certified as a bargaining agent until at least 60 days after the date it complied with Section 55, subsection (1).

Section 117 is an amendment of real consequence. The matter here, Mr. Chairman, is one where you have a conciliation board and the board is, if I can use the vernacular, hung, in the sense that three members of a board each bring down a different decision. We had this in the case of the teachers' conciliation board at Lethbridge. When that occurs there is no decision of a conciliation board and the minister must then name a new conciliation board and that is what we did in the case of Lethbridge. We didn't feel that this was a happy experience because collective bargaining, if it has some momentum, breaks down if a long period of time is interjected with appointments of boards.

It was our judgment, therefore, Mr. Chairman, that we would give the chairman his due and proper status as head of a conciliation board and if three judgments are made by each of three separate members of the board, the judgment and decision of the chairman would be the decision of the board and be accepted as such and would end the matter of a conciliation board's decision. So it is an amendment of some real consequence.

J simply defines who cannot be a member of an arbitration board.

K strikes out unnecessary wording with respect to proceedings.

Section 150, a new section and again a very important one with respect to the spin-off provision, simply drops the last words, "any proceedings under" and will read "for purposes of this part", rather than "proceedings", because the proceedings will be those of the Board of Industrial Relations which will hear applications from unions with respect to circumstances that may appear to be those commonly referred to as spin-off.

Section 168 refers to fines with respect to a lockout. It specifies a fine not exceeding $10,000.

The last one, again makes amendments to the penalties that we discussed during the second reading of the act.

MR. NOTLEY:

Mr. Chairman, I wonder if we could start with Section 5. I have several questions I'd like to put to the hon. minister. Section 5 sets out the Board of Industrial Relations. It is my understanding, Mr. Minister, that the practice for some time has been to make provision for both management and labour representation on the board, that this, in fact has been the unwritten rule.

I am wondering why the government didn't choose to codify that practice and place it in the act?

DR. HOHOL:

We thought about doing just that. However, there are times in which a decision is necessary and delay would be damaging or inimical to the application or the subject of the hearing before the board, in which case the chairman may make a discretionary judgment decision to proceed. Here the application, or the case with the membership that he has available to him will not be a problem in the future that it has been in the past, assuming that this bill meets the approval of the House. The board was too small in membership. We are expanding the board in the same section, Mr. Chairman, by quite a number of people, making it possible to always have a full complement for a board hearing, and in fact to hear applications by two sections or divisions of the board sitting in different parts of the province at the same time.

If I can digress for a moment, it is important to make certain that we understand that there shall be a quorum of the board when the board sits on matters of the Board of Industrial Relations as a board, but when it sits in divisions, then we are talking about a quorum of that division. That is the way we intend to execute this particular section.

MR. NOTLEY:

Mr. Chairman, I take it then that as far as the government is concerned the practice of making sure that you have equal representation from labour and management will be continued when you consider appointments to the board?

DR. HOHOL:

Yes, unequivocally. That is the way we will proceed. There will always be -- for example if we have a Board of Industrial Relations made up of five people, the representation would be two from labour, two from management and a

chairman appointed by the government. If we expand this to seven or nine, then this kind of balance will constantly be maintained. That is the structure in legislation.

There were times when we sat with two people from labour and two people from management. In looking at the decisions, it just doesn't seem to matter. I just have to say that the work of these people appointed from private life has been outstanding. Anyone coming in and watching a hearing before the board would be hard pressed to say which member represented which. Yet clearly they do represent labour and management, but they soon become immersed in the issue. So this board has done outstanding work, but has been behind a great deal of the time because we didn't have a vice-chairman, for example, from May 1970 till just a few days ago because of the difficulty of finding people equipped to do this calibre of work.

MR. NOTLEY:

Mr. Chairman, I appreciate the minister's answer. I would like to know, however, whether it's the government's intention when selecting the labour representatives on the board to, as a matter of normal practice, consult first with the Alberta Federation of Labour? I realize this is not something which you may want to put into an act, but as a general ongoing practice of government.

Secondly, I would like the minister to comment on the proposal in the Alberta Federation of Labour brief to the cabinet that some specification should be made in regard to either the chairman or vice-chairman, that one or the other should come from the labour movement.

DR. HOHOL:

With respect to the first point, Mr. Chairman, it has been and will continue to be the practice that we will ask for nominees from management and labour to boards such as this specific one, the Board of Industrial Relations, the Apprenticeship Board, the Trades Training Qualifications Board, the Welding Board, all types of qualifications boards. What we ask them to do is nominate at least three people where one position is involved; more if more positions are involved, and if they wish, to indicate their priority in the people they would appoint if they were making the appointments. So we have this very close working relationship with the federation on the one hand and representatives of management on the other, and we will continue to do so.

I'm sorry, Mr. Chairman, I missed the import of the second question.

MR. NOTLEY:

Mr. Chairman, Mr. Minister, the second question related to the recommendation of the Federation of Labour in their brief to the cabinet on Bill No. 35. It was with respect to either the chairman or the vice-chairman of the board being someone from the trade union movement.

DR. HOHOL:

Again, it is apart from legislation, but I know I speak for government that in our attempts to get a chairman -- and there was one when we came, and again, he's an outstanding labour man, one of the best in the country -- that we will certainly look for labour people in labour departments, and without question on the Board of Industrial Relations. The member makes an excellent point. I frankly have to say to you in the House and to the Member for Spirit River-Fairview that we sought such a person for a post in the Board of Industrial Relations, including one of the two positions you mentioned, and we simply couldn't get one. Because some of the people who can do this kind of work are also upwardly mobile in the labour movement, they are unavailable.

MR. WILSON:

Mr. Chairman, no doubt the minister will recall during the question period on April 30 saying that he would deal under second reading of this bill -- and I guess he must have forgotten -- with the situation forbidding employers from collecting a percentage of their employees' gratuities and tips. I haven't been able to find it in the bill, sir, and would now invite your comments.

DR. HOHOL:

Mr. Chairman, it's true I didn't deal with it, but it's not because I forgot. It was because while I was getting to my feet to reply to the five or

six people who spoke, second reading of the bill was moved and accepted, so I promptly sat down. I wouldn't want to confuse the orderly process of getting the legislation through the House. I don't know if I can pick up tonight whatever I thought I had for rebuttal in discussion that evening but I'll try.

The answer, Mr. Chairman, is that we do not define tips and gratuities as wages; therefore it is not in the act and it is not under board orders. It would be our assumption that the employer doesn't deal with the matter of tips and gratuities of his employees.

I do know this, that in some establishments the employees, either on their own initiative or possibly on the suggestion of management, I'm not clear, pool their gratuities because some make more and some make less, in the spirit of share and share alike. They pool these gratuities and then divide them equally among the employees.

I want to make this clear. We do not, under the minimum wage law or under any wage section of the act or the orders of the board, regard tips and gratuities as wages. So we just don't deal with it.

MR. WILSON:

Mr. Chairman, I wasn't quite so much concerned with the pooling among the employees of tips and gratuities as I was with when management starts participating in the pooling operation. I understand from what the minister said that there is no legislation in Alberta that prevents management from participating in the employees' tips or gratuities. Is that right, sir?

DR. HOHOL:

It probably has the same effect, but I said it differently. What I said, Mr. Chairman, is that we have no legislation at all that deals with the matter of tips and gratuities. If some management people are getting their hooks into the tips and gratuities of employees, they are simply not performing in the way management ought to perform. I have no hesitation in saying that, but what I did say was that we do not define tips and gratuities as wages and because we don't, we therefore can't deal with it because it is an exclusion. We can deal with what is in board orders or in the act. That not being in the act we can't deal with it. But I can say this to you, if we got a complaint of any consequence in the act or out of it, in board orders or somewhere else, we would certainly have a chat with the management to bring them up to date on fair treatment of employees.

MR. HENDERSON:

Mr. Chairman, just on a point of order. I am wondering if, in that I am sure there are going to be sections of the bill that members are going to want to discuss at some length, we shouldn't start and go through it systematically clause by clause. I rather expect we are going to end up doing that anyway, and in the interest of moving it forward maybe we should start calling section by section instead of this scattergun approach. I think we are getting into sections that are late in the bill and other comments are coming in which were related to earlier ones, so I would like to suggest we go at the bill section by section.

MR. HYNDMAN:

I would think that what the hon. Opposition House Leader suggested about clause by clause and section by section -- I think if we went through section by section and not clause by clause from the beginning, this might expedite matters.

MR. DEPUTY CHAIRMAN:

Very well. Is it agreed then that the Chair will proceed with section by section and you raise it to the Chair.

HON. MEMBERS:

Agreed.

MRS. CHICHAK:

Mr. Chairman, just before you decide on that direction and on the point of order, if we go that way, I wanted to raise a point on the discussion that was

taking place prior to the point of order being raised. If I may do that, I would certainly wish to have the opportunity.

MR. HENDERSON:

Mr. Chairman, I'm afraid if we don't stop it here, as the hon. member says, we are liable to raise it and go on to another one, and I still think we would probably be better advised to bide by the rule that we adopted, particularly in a bill of this magnitude, and go at it section by section. I don't wish to interfere with the hon. member's right to discuss the matter.

MR. DEPUTY CHAIRMAN:

The hon. member would have an opportunity before title and preamble. Would that be satisfactory?

[Section 1 was agreed to without debate.]

[Section 2 as amended was agreed to without debate.]

[Sections 3 through 22 were agreed to without debate.]

Section 23 (As Amended)

MR. NOTLEY:

Mr. Chairman, I appreciate the amendment but it is my understanding that it is already a practice of the Board of Industrial Relations to have a 44 hour week anyway. I am wondering whether the minister had an opportunity to give some serious thought to the question of moving to a 40 hour week.

It is my understanding that this is one of the things the Manitoba government has under consideration, and in this day of more leisure time it seems to me that it might well be worth our while moving to a 40 hour week. I know that's the normal situation where you have collective agreements now anyway, so I would like the minister's comments on that, Mr. Chairman.

DR. HOHOL:

Mr. Chairman, I am glad the hon. member paused at this point because it gives me an opportunity to respond in two ways that I think are in the area of principle. One is the fact that criticism with respect to this particular area hinges on the intent of legislation in the first place. There are several kinds of legislation. This is in the area of catch-up legislation. You look at what is common practice, what in a free enterprise system management and labour generally do, and you codify it into legislation. I think in this particular case and in other areas of catch-up legislation that is a sound way to go, to codify existing practice brought together through negotiation between an employer and his employees. There is nothing wrong with catch-up legislation.

On the other hand, in contrast, anticipative legislation would be improper. To stall off something that might occur, because there is some evidence that it might, would be bad legislation. On the other hand, I wouldn't be cornered into saying that the only kind of legislation we should have is catch-up legislation. There are other kinds of forward movement that have to be made by governments in the area of legislation.

But in areas that define the relationship between the work force and management, the best kind of legislation is that which recognizes what is in fact happening. Now, I haven't any doubt that as we continue to amend the act -- and it won't be every three or four years, but continuously from year to year or every year if that is necessary -- once the preponderance of collective bargaining agreements are assessed, if they are in the direction of the hon. member's recommendations again catch-up legislation will reflect it.

There is a large portion of the labour force that is not covered by collective agreements. Then one could argue two ways, as to the kind of employment where you need a longer week, or on the other hand, you could argue of course that for their protection the work week should be shortened to conform a little closer with that of those people who are in fact covered by collective agreement. So I would simply defend this on principle, that of catch-up legislation.

MR. NOTLEY:

Mr. Chairman, without getting into a long debate over the principle, I suppose it is here where really I differ with the minister. Frankly I am not worried, Mr. Minister, about those people who are protected by organized trade unions. The organized union movement will look after their interests far better than any clause we can put into a labour act.

The concern that I have is for the people who aren't organized and where it may, in fact, be impossible to organize. My difference of opinion from yours really is that I am concerned about the philosophy of catch-up legislation. If everybody was unionized, then there wouldn't be a problem. We could just simply codify things as a catch-up to what is already an existing situation. But when a very large portion of your labour force is not organized, and when the people who aren't organized are the people who are really in the weakest position to defend themselves, I feel that perhaps the government has a responsibility to move ahead and to codify matters such as hours of work.

MR. DEPUTY CHAIRMAN:

I wonder if the Chair may just announce the final score of the hockey game for the fans? The final score is eight to seven for Chicago.

MR. YOUNG:

Well, Mr. Chairman, I just want to make a very brief comment here in respect to the statement made by the hon. Member for Spirit River-Fairview. I think there is just one element of argument missing in what he has stated. If in fact all the employees were unionized, what he has said would be correct. It would be possible then for them to organize and deal across the board in a given industry. My experience in a number of the smaller service industries has been that in fact employees tend to do a little moonlighting on the side and they do a sufficient amount of it that they effectively undercut the rates for legitimate operators. While they are permitted to do this free-lancing, and it would be very difficult to prohibit it, it really makes it very awkward on the people who are in business legitimately and are trying to observe the rates, regulations and hours we would all like to have observed. I just draw this out as a very practical type of problem which will not be resolved by this labour act, and probably cannot be resolved because it would involve very tight regulations.

MR. CHAMBERS:

Yes, Mr. Chairman. I would endorse what the Member for Edmonton Jasper Place says. When you get down to a 40 hour week obviously many people, if not a majority, do resort to moonlighting. I wonder, really, in view of the fact that so many small businesses work a 44 hour week, and the fact that so many people demand services on Saturday, evenings and so forth if by legislating a 40 hour week rather than a 44 hour week we would not be, in effect, contributing significantly to inflation in the province and the country. I would like the minister's comment on that.

DR. HOHOL:

That's a question my colleague the Minister of Industry and Commerce was anticipating. That's always a possibility. I have to point out this: the statistics are not as extensive support of the proposition that, in fact, moonlighting is as significant factor in the economy as we are often led to believe.

While statistics are not that readily available in Canada they are in the United States. It would be my judgment that the opportunities for moonlighting in the United States are greater by far than in Canada because of much higher industrialization in that country and the denser population. The fact is that moonlighting is not a significant factor in the use of time. That is an argument posed with respect to a short or compressed work week: they will only moonlight anyway. That happens to be not the fact.

So while there is always some moonlighting, I think it relates much more to the economic needs of a young head of the household supporting a family, rather than the fact there are extra hours with which to do something and they turn to work. So on a fairly subjective basis, but looking at what is happening in North America, I would have some doubt about the shortened work week adding in any significant way to the matter of inflation.

[Mr. Diachuk in the Chair]

MR. NOTLEY:

Mr. Chairman, first of all I would just like to say that I heartily endorse the minister's answer. If this means there is a conflict in the caucus I take the minister's side.

But in any event I do think his comments are generally valid about moonlighting not being a major problem. It seems to me, Mr. Chairman, in response to the comment from the hon. Member for Edmonton Calder there may well be a problem with small business. But I don't think the way to prop up small business is through longer work weeks than necessary or substandard wages. I think at this stage of the game we should be able to devise more sophisticated methods of making sure that the small business sector, which I think everyone in this Assembly supports, plays an important and growing function. But I don't believe we do that by either cheap labour or unnecessarily long work weeks.

I suppose this just brings me to the final point. I think when you have to weigh the balance here it's my view that most of the people who would be protected if this provision said 40 hours are not now organized nor likely to be organized in the foreseeable future. It seems to me that this is one of the areas where government can play a role. I certainly agree though that in most cases where you have collective agreements, the trade union movement is more than able to look after itself and look after the members. But for those people who aren't organized, it seems to me this is an area where government may have to perform a function.

MR. YOUNG:

Well, Mr. Chairman, I am a little resentful of the suggestion that we are propping up small business here. I will speak personally for a moment and would like to state quite bluntly that I would find it much easier to stay in business and operate profitably if the whole industry was unionized, because I would like to pay a fair wage and keep my employees happy. But I find that a very great deal of the work is done on a piecework basis which gives rise to all kinds of complications, such as with persons who are tradesmen or journeymen in the industry -- and I speak now more broadly than the one I have personal day-to-day experience with.

These people go out and they work at less than union rates if they were paid on an hourly basis. They do it because they can work far more hours and they do it because they have a flexibility which they might not have if they were on an hourly basis. I say again, that while I agree with the idea toward which we are striving, until we want to tighten down to the point that there is no such thing as piecework, or subcontracting as sometimes it is referred to, we are going to be faced with this kind of a problem. It's a problem which is at least as much attributable to the employees, the individuals and the journeymen in the industry as it is to the businesses in the industry.

DR. HOHOL:

That I agree with.

MR. TAYLOR:

Mr. Chairman, I would like to say a word or two on this subject. Some of the arguments that are heard remind me of arguments that were advanced when we had a 54 hour week, that these things would happen if we reduced it at that time. When we had a 48 hour week, all these terrible things were going to happen too. Now we are hearing it if it is reduced to a 40 hour week. I agree that the 40 hour week can't be shoved suddenly upon all of industry in the province, but I think it is an objective towards which we should be working. We are supposed to be living in an age of leisure with people having more time for leisure and recreation. This is true only for some people and not nearly so true for others.

In regard to the moonlighting suggestion, I'm not so sure because the people who work for the government have less than a 40 hour week today, that there is wholesale moonlighting. By the same token, I think there are some people who like working so well that it doesn't matter how many hours they have, they will go out and work some more. It's their nature.

But most people will not be moonlighting unless the economics of their living forced them to do it. Practically all of the people I know who are moonlighting today are moonlighting because they just can't get enough out of

their regular work to pay the mortgage, pay the loans, pay for their everyday living and establish themselves as quickly as they want to establish themselves. That is also the reason why sometimes you have the husband and the wife both working and both moonlighting. It's the economic conditions that have the greatest impact in regard to this type of thing, not the number of hours that they have to work.

When we are speaking about reduced hours, I think the take-home pay has to be considered in relation to those hours, and not reduced because there is a reduction in the hours, but still consistent with the cost of living. That way they can continue to live normal lives and, within the framework of the communities in which they live, to meet their expenses, to put a little aside, pay the mortgage on their home, et cetera, et cetera.

So I really don't go along with the arguments that there is going to be wholesale moonlighting if and when hours of work are reduced. It didn't happen when we went from 54 down to 48 and it didn't happen anymore from 48 down to 44. I don't think it will happen anymore when we reduce it to 40 than it did from 48 down to 44 because there are other factors that make it necessary for people to have two jobs.

MR. BENOIT:

Mr. Chairman, I just wanted to make a comment or two along these lines. No doubt the act has to be devised to accommodate the largest number of persons possible, and the largest number of persons are involved in the large companies and in the cities primarily.

But this 40 and 44 hour week and a minimum wage is becoming a real problem to a good many small town employers who are trying to employ a group of people to carry on their businesses, when their businesses are marginal in every respect because of a number of aspects involved. They try to employ employees who can work for them a full week so they don't have to have two sets of employees. There is no way they can get two sets of employees if one is going to work 40 hours a week and they have to fill out, for the accommodation of the people in the surrounding area, a full six-day week. They have to pick up somebody on the last day of one day a week, and that will be the somebody who is moonlighting or somebody who is unemployed and inexperienced. It becomes a real problem. If you have a department store that runs 60 or 70 hours a week, then they have two shifts. That's what it actually amounts to.

So a lot of small businesses throughout all of rural Alberta are suffering more and more because of the increased minimum wage, because of the decreased number of hours. And unless there is some way by which there is going to be a flexibility under some circumstances of that nature, we are going to see fewer and fewer small businesses because they just can't stay in business. If it wasn't in lots of cases that they had families who could help to operate the business they just couldn't stay in the business any more.

This is something I think has to be taken into consideration in the light of all we are talking about. There are no unions to speak of in these small towns where these people are involved, so it's strictly an arrangement between the employer and the employee. Lots of times the employer and the employee could work out something that was amicable if it wasn't that the industrial relations inspectors were there inspecting the books and insisting that the law be hewn to the letter in situations of this kind.

So I just bring it up, Mr. Chairman, to draw attention to the people -- and while the act may satisfy the bulk of the people it just is working a real hardship on many small businessmen in the rural areas.

MR. DRAIN:

This discussion reminds me very much of the lumberjack who worked for me at one time. He was sick and he went to see the doctor. The doctor gave him a bottle of pills. He said take these pills, one every morning and one every evening. So he said to me, if one pill is good, why not take the whole bottle? And this appears to be the line of reasoning that is occurring here.

I want to remind the hon. minister that this is a six-month country to a great degree. A lot of people have the opportunity only to work six months and during that time the more hours they put in the better their financial situation is. They can then retire for the other six months on unemployment insurance without any qualms or problems.

So these are the facts of life in Alberta for about 30 per cent of your work force. I have no objection, frankly, to a 40 hour week. It would mean just a little more overtime for which the customer would pay. Sometimes it appears to me that every move this Legislature makes is a direct attack on the cost of living and the customer. Maybe that's the way it should be. Maybe these are the times and that's how we should go -- upward and onward.

MR. HENDERSON:

Well, Mr. Chairman, I don't want to be accused of shedding a little light on the subject or anything, but I think the hon. members who are arguing the two sides really forget the basic point. It's not an absolute question; it's a relative one. The basic question is that everybody who is in the business remains in a basically competitive position, one relative to another.

The hours of work are a matter of judgment that goes into the legislation. So all arguments that can be produced on both sides about the problems with the small town and so on -- I think the main thing is that everybody in the business plays the game according to the same basic rules and nobody has unfair competition over the other party in our competitive enterprise system because of what is contained in The Labour Act.

With that, I move approval of Section 23.

MR. CHAIRMAN:

Section 24.

SOME HON. MEMBERS:

Agreed.

[Section 23 as amended was agreed to.]

MR. HENDERSON:

Mr. Chairman, really the reason for that little speech was that I wanted to get on to Section 24. I just want to comment on one particular --

MR. CHAIRMAN:

Mr. Henderson, we have agreement on Section 24, but we'll permit you to speak on it.

MR. HENDERSON:

Well, I would insist on that right, Mr. Chairman.

I'd just like to comment briefly on 24 (1) (c), the question of reduced hours of work in a week permitting greater hours of work in a day than prescribed in Section 23. I read this in the context that you are going to increase the number of hours in a day with fewer days in a week.

While I realize there is pressure within industry, in some industries in particular, to move in that direction, and in some cases it is in the best interests of the employer, and the employee favours it, I want to bring to the minister's particular attention -- I am sure he is aware of it -- the problem that relates to the older worker in this area.

I'm aware of experiences where votes have been taken in gas plants, for example, and the outcome of the vote is pretty well in proportion to the breakdown in the age groups among the men employed in the plant. One should, I think, move in this direction with a great deal of caution, because in a number of areas the nature of the work simply mitigates against the older worker when you go to the longer day. I think in the highly technical industries, where technology is rapidly changing and there's difficulty for many older workers keeping up the pace as it is, I certainly urge when the board examines these propositions that they take into account the breakdown in the vote.

As I say I suspect it is pretty well along the line of age. In my view, just a simple 50 to 50 vote in favour of it shouldn't justify departing from the regular work week. It should be a pretty strong majority of workers in a particular plant or operation who favour going to the longer day. And even where it's done, I'm of the opinion that management should be required to extend considerations to the older workers that it could mitigate against, at least to the extent of trying to put a responsibility on management to shift employees,

if possible, from one type of an operation to another. This isn't always possible, depending on the type of work.

While I realize there has been a lot of publicity and a lot of popularity in that direction, I think one wants to be particularly concerned that it doesn't really force men who have a number of good working years left to leave a job simply because they can't stand a 10 or 12 hour workday, three days a week. It's just too long a job for them to put in at their age. On some of these jobs it may mean a man who is only 50 years old, who has a lot of good working years left.

So I would particularly ask the minister to be sure the board is cognizant of these factors when they are examining the requests that are being made under the act.

MR. CHAMBERS:

Mr. Chairman, I wonder if the minister would explain to me what is meant in Section 24(g)(ii) by "and prohibit the employment of those employees or any class or type of employees other than during the hours prescribed." I'm not quite sure that I understand the implications of that statement.

DR. HOHOL:

You have to go back to Section 24 and read the statement "The Board after such inquiry as it considers necessary may, with the approval of the Lieutenant Governor in Council, by order" then do certain things as indicated in (a), (b) and (c) as discussed by the hon. Member for Wetaskiwin-Leduc and so on. It may also prescribe the hours of a day at which work shall begin and end either generally, which it doesn't for the most part do, or with respect to any employers or any employees in any type of employment. This would have particular reference to specialized kinds of employment. It could deal with the beginning time of work that relates to a work camp in a big project. The camp may be 18 or 24 miles or some considerable distance away from the actual work site, and the time may be designated. This is usually, in most cases, arranged for by the employer and the employees through management prerogative and through employee representation on the employer-employee consultation committees in the project, but it would have reference to unusual or particular kinds of circumstances where an employee may feel that his working day is extended by virtue of having to spend a great deal of time to get to the job site and then again to return home. These are the kinds of circumstances this clause would refer to.

[Section 24 of the bill was agreed to.]

[Section 25 was agreed to without debate.]

[Section 26 as amended was agreed to without debate.]

[Section 27 was agreed to without debate.]

[Section 28 as amended was agreed to without debate.]

[Sections 29 through 32 were agreed to without debate.]

[Section 33 as amended was agreed to without debate.]

[Sections 34 and 35 were agreed to without debate.]

Section 36

MR. NOTLEY:

Mr. Chairman, before we pass Section 36, I understand under this section that where the employee has worked for a year or more the board can provide up to two weeks of vacation pay -- this is the vacation pay section. My question to the minister is; was any consideration given to permitting the board to go beyond the two week proposition? Let's suppose that someone had worked for 10 years. Is the board restricted to two weeks? From my reading of Section 36 it would be. Or would it have the power or the latitude to grant a vacation period longer than two weeks?

DR. HOHOL:

There is no change here from the prior legislation in the existing Act. In other words, the board would not have the prerogative or the discretion to

increase the vacation beyond two weeks. This is somewhat in the area of the 44 hour week. A great number of collective bargaining agreements in Alberta go well beyond two weeks and it's three and four weeks for long service. So this is a basic vacation period. A lesser one would be viewed as simply inadequate or pay in lieu of vacation. But as I say, this is basic and minimum. Many agreements have more, although again we are getting into the area of working people who are not covered by collective agreements and who then would be covered by the act, which would be two weeks regardless of the length of service.

MR. NOTLEY:

Mr. Chairman, again at the risk of getting into the debate we engaged in on Section 23, it seems to me that the people who are going to be hurt most by this provision will be those people in our society who aren't organized, the working poor by and large, and I frankly would like the government to seriously consider at least giving the board the latitude to go beyond two weeks.

I'm not suggesting we should write in any figure in the act, but we have given the board latitude in other areas and it would seem to me that it might well be one area where the discretion of the board and the good judgment of the board would be such that we could leave it up to them. Because again the problem that this sort of thing creates is that the unorganized people will get the very minimum whereas those workers who are members of strong unions or professional organizations or what have you have powerful bargaining agents who can make sure they not only get the minimum, but in most cases substantially more than the minimum. This is one area where if we left it up to the discretion of the board and the good judgment of the board, the board would be able to make adjustments as the conditions warranted.

[Section 36 of the bill was agreed to.]

[Sections 37 through 54 were agreed to without debate.]

[Section 55 as amended was agreed to without debate.]

[Sections 56 through 58 were agreed to without debate.]

Section 59

MR. NOTLEY:

Mr. Chairman, on Section 59 I want to make several comments and these comments relate to Section 155 as well. Both sections of the act set out certain specific provisions which are necessary and, in my view, infringe on the freedom of a trade union to make its own by-laws.

I believe that unions in this province should be subject to only two general Acts when it comes to their constitutions. I think that every trade union should be subject to Bill No. 1 and Bill No. 2. I don't think there is any doubt about that.

But after you set out clearly that the constitutions of the trade unions in this province must meet the conditions of Bills No. 1 and 2, I really question whether it is not unnecessary interference in internal trade union operations for us to set out conditions under Section 59 and more particularly under Section 155. I will make my comments at one time so we don't have a double discussion under both sections, Mr. Chairman.

This is, in my view, even more important because as we go through the act hon. members will notice that there is a section which makes trade unions legally responsible. When we get into the discussion of the penalty section, there is a section that sets out some pretty stringent penalties for trade union officials. Therefore it seems to me, in my judgment anyway, to be only fair that if we are going to make the trade union movement legally responsible, and the officers of trade unions legally responsible, then we must provide the maximum latitude within the trade union movement to discipline its own membership, to make its own rules and to develop the kind of internal discipline that is necessary in order to be responsible for the actions of their members.

Therefore I really question whether or not we should be setting out provisions as to Sections 59 and 155. I noticed in reading over the provisions that these provisions set out features which are already part and parcel, not only of the constitutions of most unions, but the whole tradition of the trade union movement, Mr. Chairman, which is --

[Interjections]

I think if you look at the operation of the Teamsters' Union in Canada, let's not worry about the United States, but you look at the operation of that union in Canada you will find that it operates in a pretty democratic way --

SOME HON. MEMBERS:

Oh.

MR. NOTLEY:

Yes, it does, there is no question about that in Canada --

[Interjections]

-- but the only problem that I have with the Teamsters' Union in Canada is that most of them are in Ontario and they normally support the Conservative party. But apart from that rather sad drawback I think the Teamsters' Union operates in a pretty good fashion.

So the fact of the matter is that I basically disagree with the proposition that we should be inserting intc a labour act all sorts of rules and regulations that relate to the trade unicn movement. Again I say that there are two bills that should supersede all union constitutions, Bill No. 1 and Bill No. 2. And if we leave it at that, then the basic civil liberties of trade union members in this province will be fully protected. Therefore it is unnecessary as I see it to add all the other rules and regulations which we are specifying in both Section 59 and 155.

MRS. CHICHAK:

I would like to comment on Section 59 where it deals specifically with the procedures that must be followed when a member is to be expelled or dismissed from membership thereafter resulting with termination of employment. I don't know what is so sacrosanct about a union, but to me it certainly isn't. Time and time again I have had telephone calls from employees who have suffered from precisely the very kind of injustice that we are trying to prevent here under Section 59.

There is evidence time and time again that when a supervisor in a department or in a section takes some personal dislike to an individual, he can certainly make reports that are not accurate and that are detrimental to the individual. If there isn't the requirement to set out the very reasons and the basis on which membership is questioned and if he is expelled, even taking into consideration Bills No. 1 and 2, it seems it is very often quite difficult to establish and to indicate or to prove the real problem that exists and injustices that are created. I think that if these kinds of regulations and requirements are necessary in the statutes that are being written for the professions and for any other group and in any other area, they should apply to the unions. I think that this bill would be very short-sighted if it didn't include this very aspect because if there is nothing to worry about, then what is the problem they have in accepting this in the bill? It merely sets out what they intend to carry out, if they are going to carry it out. If anyone should be short-sighted and not carry out such a procedure, then it is here in black and white and I certainly cannot go along with the comments of the member opposite.

MR. YOUNG:

Mr. Chairman, again if I might very briefly -- I wonder if Section 59 goes far enough. The reason I raise the question is because I have in my hand correspondence from a constituent who has been charged by the International Brotherhood of Electrical Workers for appearing before a tribunal of this province in a hearing having tc do with an application for certification of a union.

Now this is precisely the kind of situation in which I think a union member deserves to be protected. It ccmpares and is very analogous to the situation that we heard so much about a few weeks back in this Assembly when we were discussing the protection which should be accorded to employees of companies and others in connection with reporting on acts harmful to our environment. While I have to agree that I don't like to muddle around in the affairs of organizations more than is necessary, at the same time from what I have here, it would appear that some apparent alleged discrimination against members because of their

activities in trying to maintain a participation and a right to select their own unions is occurring in this year of 1973.

MR. NOTLEY:

Just a final summary ccmment. I dealt with both Section 59 and Section 155. Basically, it seems tc me that the vast majority of legitimate problems which arise can be dealt with by insisting that the unicn constitutions comply with Bill No. 1 and Bill No. 2. I would have absolutely no sympathy for some of the features. I must say in fairness to the unicn movement that they are eliminating the vast majority of these features from the constitutions, but certainly in some of the cases of the brotherhoods some years back, there have been features of their constitution which contained elements of discriminiation. As far as I'm concerned that sort of thing shouldn't be permitted in Alberta. Bill No. 1 and Bill No. 2 clearly deal with it.

In any kind of modern society we are going to have certain problems. I don't doubt that there may varicus cases that we can cite. But I think we have to weigh this in perspective, Mr. Chairman. On one hand we have the occasional legitimate case which may not be dealt with by Bill No. 1 and Bill No. 2. But against that we have the problem first of all, of setting out too many regulations by the state, and second, that we are making trade unions legally responsible and we are making the officers of trade unions responsible legally.

It's always been my understanding that an employer is not held responsible for the acts of his employee unless that employee was acting in the interest of the employer. Perhaps some lawyer of agency law can correct me if I'm wrong, but it's always been my understanding that one of the principles of agency law is that an employer is not held responsible unless the employee was acting for him and on his behalf and under his direction. Now if we are going to make the trade union movement legally responsible and yet we take away certain powers of discipline -- I'm not suggesting there isn't latitude in Section 59 and Section 155 for discipline within the union because there is. But we take away certain of the rights of discipline.

It appears to me, Mr. Chairman, that by doing that, with great respect to the two hon. members who spoke before, we put the trade union movement in an extremely difficult position. They are being held legally responsible for something which the officers may themselves not be able to control. So, as is the situation in any case, it's a situation, Mr. Chairman, where you have to weigh the balances and, in my view, the least amount of meddling in organizations by government is the best. It seems to me that one of the principles of free associaticn is that we let the members of an association develop their own constitutien and their own by-laws.

We had a private member's bill here that I didn't have an opportunity to speak on but had I had that cpportunity I would have made the same point with respect to organizations that come under The Societies Act. I just don't think it's our responsiblity as a government to set out all the A, B, Cs of how an organization should run its affairs. As long as that organization and individual members are obeying the law of the country, the Criminal Code, as long as the union comes under Bill No. 1 and Bill No. 2, which are the primary laws of the province, then it seems to me we should leave the rest to the good sense of the members.

I just don't worry all that much about the membership of the trade unions. They are potent individuals when it comes to making their views known. We have had some good examples of trade union leaders who have come in and said one thing at a meeting and the local membership have said, oh no, we're not going along with this. A lot of myths have been built up in our society about unions being run from the top down, and I think the evidence in most cases would clearly demonstrate that there is a very substantial degree of membership control.

So just in summary, I feel that both Section 59 and Section 155 represent unnecessary interference in the internal operations of these organizations.

MR. KOZIAK:

My concern in connection with The Labour Act is mainly with the people who will be affected by it and nct so much by organizations that might be affected by it.

Insofar as the provisions of the act benefit the employees, and concurrently benefit a trade union, all well and good. But when the provisions of the act benefit a trade union, but do not at the same time benefit the

employees, then I feel that that legislation is not correct and should be spoken against.

On that particular parameter, I have to disagree with the comments that have been made by the hon. Member for Spirit River-Fairview. I think that we here should be concerned not with the better interests of the trade union movement or the better interests of the trade union itself, but the better interests of the employees that must belong to those trade unions. And that of course is my concern.

The hon. member most ably put the matter earlier in the discussions this evening, that in most cases the trade unions will more than likely be able to look after themselves and their members much better than our legislation will. So it's quite clear that it is the employees whom we must be concerned with, and not the organizations that have the power.

In that respect, while we are weighing the two Sections 59 and 155 together and in ccntext, I raise a concern. Perhaps it may be a concern that can't be dealt with at this time but may be looked at in future in relation to proposed subsequent amendments to this act.

That is -- as I mentioned during second reading -- in relation to those areas where you have closed shop and union shop. You have situations where an employee would like to jcin the union, who is qualified to perform that particular type of work but is refused membership in that union, not because he fails to pay his dues, but because for some reason or another the trade union would like to limit the number of people in that particular classification. That to my mind is bad and incorrect.

I completely agree that all who benefit from the work of the trade union, the work and the efforts that a trade union puts into bettering all of the conditions of the people within the movement, all the employees, that the employees should pay for that. But I disagree with any suggestion that an employee who would like to get in on this and actually pay his fair share should be excluded from a membership in a union strictly to limit the number in that union so as to perhaps -- well, to be honest, to place a little bit of pressure on the employer.

I think we've had examples of that in the area of the tar sands and perhaps the hon. Member for Edmonton Highlands might elaborate on that further.

But matter of closed shop and union shop is a very delicate matter and I think that if we permit those types of operations we should not exclude any qualified employee from the automatic right to join in the trade union movement if that is a condition of employment. The only reason an employee should be excluded from the trade union movement under those circumstances, where you have union shop and you have closed shop, is the failure or refusal to pay union dues.

MR. TAYLOR:

Mr. Chairman, I have attended many union meetings in the coal mining areas and have sometimes felt the sting of those meetings. But the thing that stands out conspicuously in my mind is that whenever there is any favour given to one side or the other, the workman becomes very, very angry. As long as the rights of both the employer and the employee are equal or as equal as it is possible to make them, I have never yet seen any difficulty at UMWA meetings or other meetings.

I think that is one reason why we have The Bill of Rights and The Individual's Rights Protection Act, to make sure the rights of the individual are looked after; and as long as those rights of the individual are looked after, then I think we should get our legislation as equal and as balanced as possible for employers and employees.

Now a company can incorporate without the legislator saying what will be in its constitution. They can have their own by-laws. They don't even have to tell the society what their by-laws are going to be. Why shouldn't that same thing apply to trade unions? Both should respect the rights under The Individual's Rights Protection Act and The Bill of Rights. But when we do one thing for the employer and then something different for the employees, that is what causes the difficulty. Any organization, I think, should have the right to write its own constitution based and premised on The Individual's Rights Protection Act and The Bill of Rights. As long as they base it on those Acts, why should we as legislators think that we have some omnipotent power to tell

them what's good for them? Surely the members can do that themselves, whether it's joining or excluding.

Now I think there are some items where the rights based on The Individual's Rights Protection Act and The Bill of Rights have to be emphasized, and I will be dealing with one of those a little later on tonight, but I do think we are simply annoying the workers of the province and causing concern amongst them unnecessarily when we think we have to run their business for them and write out their constitutions and their by-laws and tell them what they can have in those.

I think we have every right to say that individual rights under The Individual's Rights Protection Act and The Bill of Rights must be protected, and I think we have the same right to say to employers, those who incorporate and those who form companies, that the same thing should apply there. But I think we should be a little careful in doing something for employees that we're not doing for employers.

MR. HENDERSON:

Mr. Chairman --

MR. KING:

Mr. Chairman --

MR. CHAIRMAN:

Mr. King -- 59, yes. Mr. King.

MR. KING:

Mr. Chairman, the reason the hon. Leader of the Opposition has just risen to ask the question is that he is not sure he can see the relevance of some of these remarks to the particular section under consideration at the present time.

The reason two of us have chosen to rise at this time is because we think the section on trade unions is deficient in one respect, and because it is deficient that means that there isn't a section to which we can address these remarks.

Section 59, insofar as it deals with the rights of a trade union vis-a-vis current members, seems to come the closest to it. There are a few remarks I would like to make in support of the comments made by Mr. Koziak.

Outlined in Section 59 are some of the rules of natural justice which it is assumed should be the right of every person in their dealings with any organization to which they belong. To say that they aren't specifically mentioned in some other legislation is hardly a good reason for deleting them from this particular act. It may well be that the more relevant argument would be that the same rules should be included in some other legislation of this province, and, in fact, similar rules are in The Co-operatives Act, The Societies Act and The Companies Act, although not in exactly the same words. Some reference to the rules of natural justice that are designed to protect the rights of people who have an interest in that body whatever it may be, and as a very general statement of the rules of natural justice, I really can't comprehend why anybody would want to remove them from the act.

It has been my experience in northeastern Alberta, with respect to the operations of Great Canadian Oil Sands and with respect to the operations of some of the adult training programs of the province in northeastern Alberta, particularly Alberta NewStart and the Alberta Vocational Centre in Fort McMurray, that with some of my people in my own constituency, people who are new Canadians or who are landed immigrants not yet Canadian citizens, some unions -- and I want to emphasize the word "some" because not all unions are like this -- some unions are extremely discriminatory against new Canadians and against Native Canadians. In applying that discrimination, they are applying a discrimination which it is most difficult to live with in this society and that is the discrimination which affects a person's right to earn an economic livelihood in this society. There is no question in my mind that people, Natives, Indians and Metis have been trained by Alberta NewStart and by the Vocational Centre in Fort McMurray and other Alberta vocational centres in the province to the point where had they been employed, the work experience would have improved their level of competence. These people have been turned out by the educational institutions either of the province or the federal government and have been unable to get work in the area in which they live because of the

direct explicit activities of some, not all, but some of the unions operating in this province.

The same, in my experience, is clearly true of people who have come to this country from Greece, from Italy --

MR. HENDERSON:

Mr. Chairman, I don't wish to restrict the hon. member's freedom to speak. But we are talking about the authority of trade union members to expel or suspend members. We are not talking, at this point, under this clause, about the application and the right to belong to it in the first place.

I'd like to suggest that comments that don't fit into a specific clause of a bill can be made at title and preamble quite adequately. But we are dealing specifically with the question of expulsion of members from trade unions, suspension of members, under Section 59.

As I say, I in no way want to impede the debate on it. In fact, I am concerned the other way, about assisting in moving the bill expeditiously along through the House. That's the only reason I raise at this time is that we are talking about "no trade union shall expel or suspend." We are not talking about individuals joining unions in the first place. I'm not saying the remarks aren't relevant, but I'm wondering if we could stick to the relevancy of this section in the debate.

MR. KING:

Speaking to the comment, I appreciate what the hon. member has said. I started, I suppose, because the debate had already been initiated and I'm very close to being finished. Rather than sitting down now and starting all over again when we get to the title and preamble, I would prefer just to make this point now while we are dealing with the division respecting trade unions particularly.

I pretty much said what I wanted to say, that the question of the expulsion or the suspension of members by trade unions is not the sole form of power which the unions have over their membership. Perhaps the most important power is one which is not even referred to in the act. Having dealt with it in my constituency and in other areas of the province, I can really appreciate the problem the hon. minister had. You will note I haven't suggested an alternative to him, because frankly I don't have one.

It is, nevertheless, a very real problem that the people who are least able to afford economic sanctions, the people who are most affected by economic sanctions, are, in many cases, the people most likely to have the sanctions applied against them, without any opportunity of redress, by some trade unions. It is of real concern to me and I hope to some of the other members of the Legislature.

MR. HENDERSON:

Mr. Chairman, I would just like to comment briefly on this section. I think some of the members who are speaking against it, probably should look in all the professional statutes and many other statutes where the Legislature has, in effect, delegated certain prerogatives and certain rights to organized groups in dealing with memberships and the matter of discipline. If you read the professional statutes where this is involved -- there are many of them -- they spell out in great detail, in many cases in the act far greater than this, the procedures that must be adhered to in seeing the rights of an individual member are adequately protected in dealing with the board, association, agency or organization or whatever.

In that context, I find it hard to see where one can specifically object to saying in legislation that a member of a union is assured simply in law -- it doesn't say that the union cannot discipline him. It just says that before they can do it they must assure that the individual has received proper notice and is dealt with in that manner. I think this is consistent with the policy followed by this Legislature for years under numerous professional and semi-professional statutes delegating authority to recognized public organizations and bodies. I have to suggest from the standpoint of law, those groups and organizations have only the rights delegated to them by this Legislature.

There are precedents so numerous I wouldn't bother trying to list them where stipulations of this type are spelled out in far greater detail and far greater depth with far greater restrictions. Some of them, if you read through

them, take a number of pages in the Act to say what they have to go through, spelling them out and so on and so forth. So I can't see where this is infringing on the rights of the union itself. The union isn't God. It is answerable to someone. In law in fact, in the final analysis, it has only the rights that have been delegated tc it under the laws of this Assembly. This principle is well established in many other areas of legislation, and I can see no logical arguments as to why a union should be set aside and treated separately in this area and the Legislature should not put these stipulations in the act. I simply cannot find it in logic. Because if one pursues that argument we'd better go back and take a look at all the professional statutes that we have and all the other statutes relating to professional bodies or quasi-professional groups and strike out all the contents in them. This is consistent with well-established precedent and policy which has been in effect at least in this Legislature and I think in all legislatures and governments across Canada for many years. So I want to say that in principle I support the section.

I don't think it restricts the prerogatives and rights of the union at all, but it simply assures that certain basic procedures will be adhered to when it comes to disciplining a member. The union is still at liberty within those limitaticns of following procedure to discipline the member in accordance with its own other by-laws and rules, as long as these don't conflict with any other parts of the act.

MR. CHAMBERS:

I find I agree completely with what the Leader of the Opposition has just said. While we are on Sectien 59, I would like to make it clear that I wouldn't want anyone to think that I have any anti-union bias. On the contrary, having worked on construction projects for many years in the past and in logging and mining camps with many union people, I have a strong sympathy and feel a strong tie with the union people and union objectives. In fact, I wouldn't be surprised if I have perhaps worked on more union projects and with more union people than even the Member for Spirit River-Fairview.

On Section 59 therefore, the comment that I really find that I have to make is that I'm amazed that the Member for Spirit River-Fairview can argue against the individual union member. I'm just amazed that he can disagree with subsections (a), (b), (c) and (d) of Section 59 which propose that no trade union shall expel or suspend any member without serving him first with the specific charges in writing, or (b) giving him a reasonable time to prepare his defense or afford him a full and fair hearing, including the right to be represented by his counsel, or that he may be found guilty of the charge or charges, et cetera without having a reasonable time to do so. It seems to me that right here we are looking at the rights of the individual union member and to me this is paramount. I therefore feel it is absolutely essential that the points that are laid out in Section 59 of this act stand.

MR. LEE:

Just a short comment and the hon. Member for Edmonton Calder has basically said it. The reason for provisions like this in professional acts and in this act is to protect the individual. Now if this is not found in acts like this, the only recourse to this person through Bills No. 1 and 2 is simply to go to the courts. And a lot of people will not do that.

In fact, as was suggested by Mr. Young, we may not have gone far enough. In looking through various professional acts and seeing the amendments that come through from year to year, you find that a significant number of the amendments are on just this type of procedure. This was noted in Ontario and one of the things they did bring in, and one thing we might consider in this Legislature, is a statutory procedures act which applies to the rights of individuals as members of organizations such as this.

MR. NOTLEY:

Just before we close this section of the debate, I am sure that most trade unions would be quite happy tc accept Section 59 if they had the corresponding powers that most professional crganizations in this province have. If it was as easy to organize trade unions as -- for example the hon. member who is a professional educator knows that all teachers in this province must belong to the ATA because of legislatien passed by this Legislature. We have made this provision mandatory and frankly I support it.

But the fact of the matter is that the trade union movement isn't in that fortunate position. They have to go out and earn their certification and

through quite a complicated mechanism which very often doesn't work, to the extent, Mr. Chairman, that the substantial majority of workers in this province as well as in Canada are not yet organized. So if we were putting the trade union movement on the same foot exactly as professional organizations, but we were by the same corresponding decision granting equal rights of discipline, equal ease of organization to the trade union movement that we provide for professional organizations, then it might be a different thing.

I don't argue with the fact that Section 59 is essentially a statement of natural justice. But I really question why it is necessary to put it in with The Labour Act when in actual fact it is covered in union constitutions in any case. It is clearly covered by the intent of Bills No. 1 and 2. As I said when I got up on this particular section, Mr. Chairman, I am really referring to Section 155 as well where the procedures are somewhat more specific. I do agree that Section 59 is essentially a statement of 'motherhood'. Nevertheless, when we do have Bills No. 1 and 2 it seems to me unnecessary that we put this in The Labour Act.

If, on the other hand, we are going to turn over a new leaf and we are going to put in a Section 59 in all bills that come before this House, then as the hon. Member for Edmonton Highlands suggested, that would be very interesting. But I have yet to see too much evidence of this kind of section being inserted in other acts that have come before the House this year. Perhaps if we are going to start that precedent we had better start it after we pass this act.

[Section 59 was agreed to.]

MR. HYNDMAN:

Mr. Chairman, I move we adjourn debate on this bill. The main reason for so moving, Mr. Chairman, is that the hon. Attorney General will be away from the city for some days beginning tomorrow morning and there are four bills on the Order Paper which are his, together with two which he is handling for Mr. Miniely, as acting Provincial Treasurer.

I wish to move to those now and we would move to completion of The Labour Act probably on Thursday.

MR. HENDERSON:

Mr. Chairman, I am wondering if I could make a special request to government. Because of a personal problem one of our members has to leave the House after tonight. Is there any possibility of considering Section 134 before we leave the bill? I realize it is irregular.

MR. CHAIRMAN:

Do you want to take Section 134 of The Labour Act? Is that agreed?

HON. MEMBERS:

Agreed.

Section 134

MR. LUDWIG:

Mr. Chairman, I have discussed Section 134 with some labour officials and I believe as it stands, Section 134 (1) is not a good section. It could create some strife unnecessarily. The part dealing with picketing only at the place of employment is not too beneficial in any respect whatsoever.

It could lead to spreading a strike in the event a labour union strikes at a certain place of employment, for instance, a logging camp or a branch of a lumber company in Calgary. It may strike at a particular branch but in order to be able to picket the headquarters of the main office of operation, from sympathy this would spread the strike from the local site to the main site. It isn't very often when there is a strike that only a certain locality is bound by the strike so it isn't very often that the amendment that I intend to propose would in fact be invoked, or be necessary. In most cases the union strikes in the whole operation and at the headquarters and therefore, they picket the whole operation anyway. The way you have it now, for instance if a downtown office or a branch office of a lumber company was struck against and you couldn't picket the headquarters of the head operation, then the unions would sympathize and spread the strike.

So I would like to move the following amendment, seconded by the hon. Member, Mr. Clark, that:

> Section 134 (1) be amended by striking out after the word "may" the following words: "at the striking or locked out employees' place of employment" and substituting therefor the following words: "at the place of business or the operation of the employer",

so that if they can strike a branch office they may strike the head office.

I believe that this is not the kind of an amendment that the employers would particularly object to, but it would perhaps save a lot of grief as I stated, in the spreading of a strike. So I will submit this to the Chair.

DR. HOHOL:

Mr. Chairman, I appreciate the extensive discussion of Section 59 because I have to say that union people feel strongly about Section 59. They feel it is restrictive. The case has been well made by several people on both sides with respect to natural justice, with respect to the internal discipline of any association, in this case a union, that it not be inimical to the zone of tolerance for discipline by any society in general. The case has been made there. But I do want to point out that this is an area in which the unions have strong attitudes. So I want to underscore it.

Another area in which they ran the Alberta legislation with respect to The Labour Act as being restrictive in comparison to other provinces is Section 134, where we have a clause that identifies the place of picketing as the place of employment rather than the place of business.

Now, Mr. Chairman, I have to be clear that we will oppose the amendment because the nature of a dispute is the overwhelming principle with which we are concerned. A dispute in a very real sense is that which results from negotiations in a collective bargaining relationship between an employer and his employees. I want to point out that while other provinces have the kind of legislation that the amendment purports to bring to Alberta, many jurisdictions wish they were in the situation in which we are. Because it defies the principle of free collective bargaining to the extent that it moves away from the formula in the dispute in managing an employee or his bargaining agent. The consequences of that dispute are moved elsewhere. The principle we support is that the dispute be a dispute and that the concomitant or consequential activities from it are at the place of dispute. Because the fact of the matter is that the headquarters may not even be in a state of collective bargaining, much less in dispute. While other jurisdictions have accorded labour this kind of provision, it nevertheless doesn't make the case, in my view, to move in this direction.

So for the reasons that I outlined and in summary, that the consequences and the concomitant activities that have to do or ensue from a dispute should be at the place of dispute between the employer and the employee, and should not affect related businesses elsewhere nor affect the clients, the purchasers or the people who come to trade or buy goods or services. For these reasons we will oppose the amendment.

MR. NOTLEY:

I would just like to rise to briefly say that I support the amendment. It seems to me that the broader definition suggested by the hon. member in his amendment would be an improvement -- place of business rather than place of employment. Place of employment, as I view it, is too restrictive when we are talking about picketing. I don't really feel that we should infringe upon the right to picket. That's basic to the whole question of collective bargaining procedures, Mr. Chairman.

It seems to me that when you recognize the fact that we are moving from an economy where we have many small companies to an economy where we have a growing influence by multi-national corporations, some very large corporations in fact, and this process is taking place all across Canada and Alberta, one of the ways of dealing with that phenomenon is to extend to your employees the right to picket at a place of business. Because when you are dealing with multi-national corporations, of course, you are looking at highly sophisticated corporations involved in a number of activities, and quite clearly if a union is to get its message across, just restricting it to one very small part where the dispute may take place in my view is unnecessarily restrictive.

So I think the reascns advanced by the hon. Member for Calgary Mountain View are worthwhile, and I would like to see the Assembly support the amendment.

MR. LUDWIG:

Mr. Chairman, further tc the remark I made, I believe that in just giving a union the right to picket a certain locale, for instance a logging camp near Edson, a big corporation could tell them, you can picket till next spring but we're not interested. We can even close that one operation out of a dozen down entirely. That is, in fact, denying the very purpose this section is intended to set up. You are giving the unions a right to picket for a particular reason. It's a right that is recognized. But to tell them, we are going to give you the right to picket, but cut the ground from under you in certain instances -- these are the kind of exceptions that the amendment applies to only, because by and large when a firm is struck against the strike affects the whole operation. They don't strike piecemeal.

For instance, if the Liquor Control Board employees strike against one of their stores downtown, it doesn't mean they can't go and picket the main liquor store. I would be surprised if it does. It doesn't even mean that they can't come up to the Legislature and picket the ultimate employer if they want to raise a protest. But under this legislation they could be wrong. They could be creating an offence. So these are the reasons. But I think the hon. minister is establishing too much significance to the position he took because in 99 out 100 cases this section would nct apply. Because the place of employment -- there could be 20 places of employment and they all struck against the employer. So this section is irrelevant.

I'm thinking about those rare exceptions when the union strikes against only a portion of the operation. And naturally, if they don't get their own way here then they would be advised or they would perhaps be encouraged to spread the strike -- to spread the strike to the whole operation just to make the picketing in some far off branch, an insignificant branch, a branch that is not in the eyes of the public. They will spread this strike to the main operation anyway. So we are not helping anybody by keeping this section in. I would like to urge the hon. minister to reconsider his position and do the right thing on this section.

MR. KOZIAK:

On that particular amendment, I wonder if the hon. member might assist me somewhat? I'm a little bit ccncerned about the meaning of the amendment, in particular when read with it the present Section 150 of the Act.

My reading of Section 150 of the Act would be -- take an example that would be familiar to everybody, Air Canada and CNR -- under the provisions of Section 150 of the Act, Air Canada and CNR could be deemed to be one employer because, of course, the Government of Canada operates both. I'm just using this as an example which -- it may be going overboard -- but just to bring home the point.

Now, would the amendment that you are proposing not mean if the employees of Air Canada were on strike but the employees of the Canadian National Railway were not, would that not mean, hon. member, that they would then be able to also picket the premises of the Canadian National Railway under those circumstances?

MR. LUDWIG:

Mr. Chairman, the hon. member picked about the worst example for an analogy that he could possibly pick. First of all, you can stretch any theory to absurdity -- you may as well pick the Canadian Pacific Railway. That perhaps has a few other operations -- oil companies. But are concerned about Alberta.

We are concerned about a corporation, for instance, like, as I stated first, the Liquor Board. What gocd would it do any picket in a union one of the vending centres -- say downtcwn on 3rd Street in Edmonton here -- the employees struck against it? It has no significance whatsoever against the Liquor Control Board. They can shut that store down for six months and never feel the pinch.

Therefore, what they would do is in sympathy. The unions -- not the unions but the employees -- would strike every other liquor store to prove a point. So you are not solving anything, because out of sympathy they would perhaps use the same reason to be able to then turn around and picket the main office or picket the Legislature. This would prevent that kind action or it would perhaps prevent legal picketing.

It is not something that happens often. Generally when you strike against a contractor, that's his main operation, and you are striking against him right then and there. It's his main operation. So in 99 out of 100 times the section as it stands now would not be applicable. It wouldn't matter to them whether the section stands the way it is now. They would would strike the whole operation anyway.

But what is the main objection to permitting a meaningful form of picketing in the event that only a portion of the business is struck against? There should be some means of bringing to bear on the management that the union is on strike and they are picketing him. For instance, if they strike against a portion of the CPR -- say if they strike at the roundhouse in Calgary. So I suppose if they picket the main offices of the CPR to let the management know what the problem is, they would be illegally picketing. What is the problem? Who objects to them picketing the whole operation? I certainly don't. I don't think that in most cases employers would. That's the position I'm taking.

MR. TAYLOR:

I would like to make one quick comment. I think the soundness of the amendment could be summed up in a very few words. At the present time, under the present Act picketing is permitted at the place of employment, but the decision may well be made somewhere else, and picketing is prohibited at the place where the decision is going to be made. The people at the place of employment may not have a thing to say about whether they stay on strike or stay locked out. We are barring the picketing at the place where it is most meaningful. Consequently I think the amendment is very sound.

DR. HOHOL:

Well, Mr. Chairman, the very point that the hon. Member for Drumheller makes is one reason why we oppose the amendment. The decision for a strike, or for a lockout for that matter, could indeed be made by a parent company in eastern Canada or the United States. It could be made by an international union executive in Philadelphia. True, we couldn't picket that place, or the union members just couldn't picket that place.

Now I point out to the House, Mr. Chairman, that the hon. Member for Spirit River-Fairview and the hon. Member for Calgary are speaking of two very different things. What is the purpose of a picket? According to the Member for Spirit River-Fairview, if I heard him right, he used the term, how is the union going to get its message across? And that's the traditional purpose as I understand a picket. That is to communicate to the larger segment of the community a set of circumstances at the work place that is unacceptable to the employees. In other words, it's an approach to communicate an attitude, a point of view relative to a certain circumstance.

The gentleman from Calgary was talking about sanctions. I believe that while theoretically the unions talk about picketing as a form of communication, in fact it is a straight approach and I don't denegrate it. I simply say that's what it is, a sanction. Because when two parties go into a dispute of a strike nature, they must have and ought to have anticipated the kinds of sacrifices they are prepared to lay down to gain the objectives they feel are in their long-term interests. So one of the ways is sanctions.

For example, in the teacher-school board strike, we don't pay school boards for paying teachers that you don't pay. It's that kind of sanction. They don't give grants up to a maximum of 60 per cent. The teachers get partial pay. Those are economic sanctions they lay down as a consequence of making the decision to use a particular kind of approach to gain particular ends.

So the matter of getting the message across, I say with respect, is very simple. The headquarters where they initiate the lockout or the strike is going to know that is what is going to occur before it occurs. When it comes to economic sanctions, the company suffers to the extent that the place is picketed, that people don't cross the line, that there are no employees, there is no selling or trading or doing whatever this business happens to be.

In terms of the definition of a strike -- and please understand, Mr. Chairman, that the whole point of a picket is the result of a strike and the right to strike has to be examined and discussed in the more global concept of the right to collective bargaining.

The discussions in North America and elsewhere with respect to the right to strike are erroneous. No one denies the right to strike, but within the global collective bargaining process we would do much better, the unions and society

generally, in talking about the right to collective bargaining, of which the strike is a part and the picket is a consequence at the place of employment.

MR. CHAIRMAN:

Ready for the motion?

Moved by Mr. Ludwig, seconded by Mr. Clark that Section 134, clause (1) be amended by striking out, after the word "may", the following words: "at the striking or locked out employee's place of employment" and substituting therefor the following words: "at the place of business or operation of the employer."

[The motion was defeated.]

[Section 134 was agreed to.]

[Adjourned debate: Mr. Hyndman]

Bill No. 14
The Private Investigators and Security Guards Amendment Act, 1973

[All sections of the bill, the title and preamble were agreed to without debate.]

MR. LEITCH:

Mr. Chairman, I move that Bill No. 14 be reported.

[The motion was carried.]

Bill No. 15
The Attorney General Statutes Amendment Act, 1973

MR. LEITCH:

Mr. Chairman, I believe all hon. members have some amendments --

MR. CHAIRMAN:

Mr. Leitch, that is Bill No. 15, The Attorney General Statutes Amendment Act, 1973 and you have amendments.

MR. LEITCH:

Mr. Chairman, I have asked my colleague, the hon. Minister of Manpower and Labour to move the amendments.

DR. HOHOL:

Mr. Chairman, I move, seconded by the hon. Minister of Municipal Affairs the amendments to Bill No. 15, as indicated in the document before you.

[The motion was carried.]

[Section 1 of the bill as amended was agreed to without debate.]

[Section 2 was agreed to without debate.]

[Sections 3 through 5 as amended were agreed to without debate.]

[Sections 6 through 33 were agreed to.]

MR. STROM:

[Inaudible]... sections of the amendments where there were amendments handed to us just to make sure that we have them?

MR. CHAIRMAN:

I was of the opinion that when nobody commented, Mr. Strom -- but if there is a desire, very well, we'll go through each section of the amendments.

[All sections of the amendments were agreed to.]

MR. LEITCH:

Mr. Chairman, I move that the bill be reported as amended.

[The motion was carried.]

Bill No. 26 The Police Act, 1973

MR. CHAIRMAN:

Bill No. 26, The Police Act. The amendments have been circulated.

MR. LEITCH:

Mr. Chairman, one of the amendments, which I again I have asked my colleague, the Minister of Manpower and Labour to move, strikes out the requirement that the appointment of by-law enforcement officers be made with the approval of the Attorney General. When that requirement was first put in the Act, it was felt that we needed it for administrative controls because by-law enforcement officers do issue traffic offence tickets with which we have to deal.

At that time, I asked departmental personnel if we couldn't find a way of handling it without the approval having to come from the Attorney General's department, because that is obviously a nuisance to local government. They have recently reported to me that they have found an alternative system which will be satisfactory and that's the reason for that particular amendment, Mr. Chairman.

DR. HOHOL:

Mr. Chairman, I move the amendments to Bill No. 26, The Police Act, as indicated in the documents before you.

MR. WILSON:

One question, Mr. Chairman, to the Attorney General on this amendment. Does that mean then that for example the municipal district of Rocky View, which has indicated an interest in appointing two more by-law officers, could go ahead now without application?

MR. LEITCH:

That is right. They would be free to appoint by-law enforcement officers without reference to the provincial government.

MR. TAYLOR:

Mr. Chairman, in connection with -- are you referring in the amendment to Section 36?

MR. CHAIRMAN:

Mr. Taylor, if you wish, we will take the amendments one by one.

MR. TAYLOR:

Yes, I wish you would.

MR. CHAIRMAN:

Do we have agreement on a motion by --

MR. HENDERSON:

Mr. Chairman, could I suggest instead, in view of the nature of the bill, that we go through it section by section and deal with the amendment at the appropriate time just to avoid any possible confusion on it?

MR. CHAIRMAN:

Very well.

[Section 1 as amended was agreed to.]

MR. COOKSON:

Mr. Chairman, are you taking the subsections then of Section 1?

MR. CHAIRMAN:

No, not the clauses or subsections. Just the sections.

AN HON. MEMBER:

What are we dealing with now, the amendment or the sections?

MR. CHAIRMAN:

No, we are discussing the bill.

MR. COOKSON:

I just wondered whether the minister would comment on broadening the definition of urban municipality to include a hamlet, because hamlets are not really corporate bodies. I'm wondering what the purpose is behind broadening the concept of an urban municipality to include the word hamlet?

MR. BENOIT:

Sherwood Park is a pretty substantial size hamlet.

MR. LEITCH:

That is precisely the answer. We found a hamlet that is of a substantial size, does have its own police force and is treated in the same respect as a city, town or village.

MR. COOKSON:

I thought possibly this was the reason. Does this then meant that the hamlet of Sherwood Park would qualify -- this is perhaps a question to the Minister of Municipal Affairs -- for the $2 per capita grant in excess of the 1,500?

MR. RUSSELL:

No. The answer to that question is that that's included in the county grant of which the hamlet is a part.

[Sections 2 through 20 were agreed to without debate.]

Section 21

MR. BENOIT:

Mr. Chairman, here is one on which I'd just like to raise a question -- the very last three or four lines.

MR. CHAIRMAN:

What section is this on -- 21?

MR. BENOIT:

This is Section 21, yes. I heard quite a bit of complaining about this very principle being involved in the environment Act a couple of years ago. Now it's being put into this one.

It says that debts that should be paid to the Government of Alberta "may be recovered by the Government by deducting such amounts from any grant payable out of the provincial funds to the urban municipality or by an action in debt." They can take the money out of the grants that would normally be there for the purpose of paying for the police the government had to appoint in order to keep the thing in order. I wonder if the government has changed its mind on this and thought that it was all right to take it out of the grants now?

MR. LEITCH:

We do in these circumstances, Mr. Chairman.

[Section 21 of the bill was agreed to.]

[Section 22 was agreed to without debate.]

Section 23

MR. TAYLOR:

Mr. Chairman, a number of members dealt with this matter of a rural municipality including a county the other night, and I've seen no amendment to cover that point. I think it's important enough that a council of a rural municipality, including a county, should have the same right as a town or village to enter into agreement with the Attorney General. I can't see why the rural municipalities are being barred.

It's still coming under the concept of the one police force, and we're not creating a second police force. But the policing needs of a rural municipality and county are just as real as are the needs in a village, a hamlet or a town. I think we are making a very bad mistake by leaving that out. So I would like to move an amendment to Section 23(1), seconded by the hon. member Mr. Wilson, by adding after the words "urban municipality" where they occur in the first line, the following words: "and the council of a rural municipality."

MR. CHAIRMAN:

The amendment before us here is that Section 23 be amended by adding the following words after the word "municipality" in the first line. In other words, "the council of an urban municipality and the council of a rural municipality having the population...."

Any debate on that?

MR. KING:

Well, aside from the merits of the amendment, I presume that if he is going to add those words to the first line he would have to add them to the last line of Clause 1 of Section 23.

MR. CHAIRMAN:

This, Mr. King, would be subject to the wording by the Legislative Counsel if approved.

MR. WILSON:

Mr. Chairman, speaking to the amendment, I certainly concur with your comments that the Legislative Counsel will want to have a look at it if the principle of the amendment goes through, because it could very well be that we will need it in Section 18 and that perhaps Section 42 will no longer be required at all.

But the main thing here, it seems to me, is that we have some very sophisticated rural municipalities that have their own police forces now. Under this legislation the authority of the existing police forces that have been in operation and have been doing a good job will be reduced, and it seems to me there is not the need to take away from the rural municipalities the services they are presently performing for their residents.

It seems to me that the rural municipalities should not be treated in a second-class manner, therefore I support the amendment.

MR. LEITCH:

Mr. Chairman, I will deal first with the technical aspects of the amendment and then with the larger question it raises, which is the merits. Technically I do not think this was the amendment the hon. members intended, because as I read the section it requires and imposes an obligation on -- you must do it.

The council of an urban municipality and the council of a rural municipality if it has more than 1,500 persons in it must provide a police commission. Then the section goes on to provide that in the case of population centres, that is, urban municipalities of more than 1,500 which have entered into a contract with the RCMP, they may have a police commission if they want.

Now the reason for the wording of that section is simple. If there is an obligation on the council to have a police force, and that obligation exists for

all urban centres of 1,500 or more, then the act goes on to provide that you must also have a police commission to carry out the duties assigned to the police commission in the act. Then that -- and incidentally the old legislation imposed that obligation even where the urban municipality had entered into a contract with the RCMP. The problem under the old legislation is the commission didn't know what to do, didn't have anything to do in those circumstances, except perhaps to act in an advisory capacity.

That is why we have the second provision in that subsection, saying if the town or city has entered into a contract with the RCMP to provide for its policing needs, it may or may not have a commission as it wishes. If it has a commission its role is then purely advisory. Now as matters now stand -- and we mentioned this last night -- all of the other areas of the province which aren't covered in that first section get policing free from the RCMP. This is provided for in the ordinary way.

Now even in an advisory role there is not the need there for a commission that there is in, say, a centre like Red Deer where it has entered into a contract with the RCMP. The council there may well want an advisory body to tell them how many policemen they need and what their duties should be so the next time they go to enter into a contract they can negotiate with the RCMP as to the number they should have and things of that nature, the equipment, the space and what have you. But none of those questions arise in those areas where the policing service is provided as a part of the provincial contract. So it is clear that technically, and I think I know what the hon. members intended by their amendment, it shouldn't go there. As a matter of fact it would be a disaster if it went there.

Now to deal again very briefly with the merits, and I covered them last night in some detail. This is not in any way at all reducing the authority of the counties, municipal districts and so on, or their policemen. I quoted from one of the reports of the Alberta Police Commission last night which indicated that in the 1971 Act it was clear the intention was to remove dual policing in those areas where under the provincial contract the RCMP are to provide the policing, they would provide it.

Again, as I said last night, in those areas which want to provide some additional policing, which would include all of those communities that now have their own police force in addition to the RCMP, we would simply appoint them special constables under the latter sections of the act, defining their duties which would include, if requested by the local government, such things as The Highway Traffic Act, The Liquor Control Act, The Public Service Vehicles Act, and perhaps other acts of the provincial government in special circumstances.

So far from reducing their authority under the existing legislation, it, in my view remains the same and will be the same when we make the special constable appointments. They won't be involved in the area of enforcing the Criminal Code or the provincial statutes on those highways which are main highways, where there is through traffic.

MR. TAYLOR:

Mr. Chairman, the explanation covers the intent to a very large degree. It appears that the amendment is in the wrong section and with the consent of the seconder and the House, I would like to withdraw it.

Let me say first of all that the commitment of the hon. minister that rural municipalities and counties may have their police forces is excellent and I think this is satisfactory as long as the present government is in power and as long as the present Attorney General is there, but I can't see this guaranteed in the act. Under Section 42, if I could refer to that, the reeve or the secretary-treasurer may -- it doesn't give the authority to the county or the rural council. I am wondering, if we get to that section if the hon. Attorney General would consider putting what he has said in the act so that it will be there in black and white and do away with the fears in the municipal districts.

MR. CHAIRMAN:

Mr. Taylor, can we hold that debate to that section?

Mr. Wilson, are you in agreement to withdraw this amendment?

Do I have the unanimous consent from the Assembly to withdraw this amendment?

HON. MEMBERS:

Agreed.

[Section 23 was agreed to.]

[Sections 24 through 30 were agreed to without debate.]

Section 31

MR. PURDY:

Mr. Chairman, one question in regard to this particular section. Further on in the act the Attorney General has the power in Section 38 to appoint special constables. Would this pertinent section of the act include these special constables for training and so on?

MR. LEITCH:

I am sorry, Mr. Chairman, I didn't catch the last few words of the question.

MR. PURDY:

Would Section 31 of the act include municipal constables who are sworn in as special constables to be included in training and so on as set out?

MR. LEITCH:

Mr. Chairman, that is a question I would have to give some thought to.

[Sections 31 through 35 were agreed to.]

[Section 36 as amended was agreed to.]

[Section 37 was agreed to.]

Section 38

MR. PURDY:

Mr. Chairman, this particular section, I don't know when the amendment was moved by the hon. Minister of Manpower and Labour, if he included this amendment or not.

MR. LEITCH:

The answer is no, Mr. Chairman.

MR. PURDY:

At this particular time I would like to move this amendment which is before all members. This has to do with Section 38 of the act, subsection (2), whereby the Attorney General may delegate the authority to appoint special constables through officials of the Attorney General's Department. I have had consultation with the Attorney General on this particular section and being that we only have approximately 30 or 31 constables who would fall into this scope I thought it would be expeditious if we had the Attorney General have the full powers of this instead of delegating it to some official in his department.

The reason for citing this is that we could get into a situation where some constable may be relinquished of his services and the Attorney General may not know about it -- or the respective member of the Legislature. So with only 31 members involved, I don't think this would be coming up very often and the Attorney General could very well look after this particular appointment.

MR. CHAIRMAN:

May I have your amendment, Mr. Purdy?

MR. PURDY:

This amendment is seconded by Mr. Cookson.

MR. CHAIRMAN:

I have a copy of it now. The amendment moved by Mr. Purdy, seconded by Mr. Cookson, that Section 38 is amended by striking out the figure 1, subsection (2) is struck out. Is that the amendment? Any further questions?. Agreed with the amendment?

[The motion was carried.]

[Section 38 as amended was agreed to.]

Section 39

MR. TAYLOR:

Mr. Chairman, I would like to ask the Attorney General, would Section 39 be the place where this should be recognized in the case of rural municipalities and counties?

MR. HENDERSON:

Mr. Chairman, before the Attorney General responds, I am wondering if Section 39 couldn't really be incorporated into Section 42? You are just talking about, in the one case a mayor or a municipal official. A municipal official can be -- you are talking about urban municipalities in one case and rural ones in another. Is there any need for that distinction between 39 and 42?

MR. LEITCH:

The only reason for the distinction, Mr. Chairman, is that in Section 42 we deal not only with the appointment of by-law enforcement officers but also the appointment of special constables who would then be treated in the same way as special constables appointed under Section 38.

MR. HENDERSON:

Mr. Chairman, I just want to be sure here. When you put Section 39 in here and separate it from Section 42 are you saying then that since Section 39 doesn't contain the provision of subsection (5) in Section 42 that the mayor or municipal official doesn't have the same options as under (5) under the rural municipality?

MR. LEITCH:

No, Mr. Chairman. We're dealing with two different situations. We are dealing with a town which has its own police force, say a town over 1,500. Now, in addition to that it wants to appoint by-law enforcement officers in addition to policemen and Section 39 gives it that authority to appoint by-law enforcement officers. That's a town that has its own police force.

Then we come to Section 42 where they are dealing with an area where the RCMP under a provincial contract are policing the area. They will also want to appoint their own by-law enforcement officers. So we have a provision for that. They may want to request the government to appoint special constables, and we have a provision for that in subsection (5). So we are really dealing with two different situations and that's why we have two sections.

Now, in answer to the question from the hon. Member for Drumheller as to where the amendment he had earlier discussed ought to go, it would be my view if it were to go any place, it ought to go in Section 42.

MR. CHAIRMAN:

With that explanation, do we have agreement to Section 39?

[Section 39 as amended was agreed to.]

[Sections 40 and 41 were agreed to without debate.]

[Section 42 as amended was agreed to.]

MR. CHAIRMAN:

Section 43?

MR. TAYLOR:

Mr. Chairman, again on 42. The authority is given to the reeve or the secretary treasurer; it's not given to the council. A number of councils take objection to this. The reeve or the secretary-treasurer may do this, but not the council. Surely, we may be acting on behalf of council, but surely the council is the body that should be recognized rather than the reeve or the secretary-treasurer.

MR. LEITCH:

If I can respond to that, Mr. Chairman. As I recall discussion during the draft stage of this bill, the reason it was put in that way is this -- and certainly we intend the local authority to be the one that makes the request -- but the question was what mechanics should they follow? My memory of the discussion was that quite often the local rural municipality would designate the secretary-treasurer as a person to look after appointment of by-law enforcement officers, then one of them quits. If we didn't have it in in this way he would have to get the council together and get them to make a request to the government to appoint the by-law enforcement officer.

By leaving it in this way, we assume that the local government would merely delegate authority to the secretary-treasurer or the reeve, and if the by-law enforcement officer left their employment, he could simply write a letter and we'd make a new appointment without the necessity of calling a meeting of the local governing body. That was the reason it was worded that way rather than referring to the local governing authority. We certainly felt that it would be the local governing authority that would make the request. They would just use this as the means of making it.

SOME HON. MEMBERS:

Agreed.

[Sections 43 through 47 were agreed to without debate.]

MR. CHAIRMAN:

Title and preamble? Mr. Purdy?

MR. PURDY:

Just a few general comments on the complete bill. I think I covered it pretty well last night in the second reading of it.

SOME HON. MEMBERS:

Agreed.

[Laughter]

MR. PURDY:

Thank you gentlemen -- ladies.

MR. HENDERSON:

Why don't you just table it?

MR. PURDY:

Pardon? Well, I can wait just as long as anybody else.

AN HON. MEMBER:

Yes, but we don't have to listen!

MR. PURDY:

But, as I was saying last night when I made my general comments on the bill -- and I think they were pretty wide in scope -- I was discussing the Parkland Police Force, which we have in the County of Parkland, in which we have seven members. This evening, we had the pleasure of our reeve and the secretary-treasurer and the chief of the county. We met for about an hour and fifteen minutes with the Attorney General, meeting on short notice. We had an excellent meeting with him as far as I'm concerned.

He did outline some of the possibilities that we could run into with a dual process of policing, but I don't entirely agree with that in the Parkland area. This could be the situation in other parts of the province. The Attorney General said he is going to look at our special area out there and see if he can't come up with a better arrangement. This is something that I hope is in the very near future.

AN HON. MEMBER:

Agreed.

MR. PURDY:

Keep saying "agreed" and I'll keep on.

AN HON. MEMBER:

Agreed.

MR. PURDY:

This evening, also to show the concern of the constituents in my area, I have a number of them up in the members gallery and they sat through The Labour Act all night to get to this.

But I think everybody is impatient and they want to go home. As I said, we covered it fairly well last night and I think the hon. Member for Lacombe has a few remarks to make. So I'm confident the Attorney General will come up with a pretty good working formula for the county, for us out in the Parkland area and everything will be resolved out there.

MR. CHAIRMAN:

I have to recognize Mr. Cookson and then Mr. Wilson.

MR. COOKSON:

Mr. Chairman, I haven't got anyone in the gallery, but I'm going to say a few words anyway.

AN HON. MEMBER:

Hurry up.

MR. COOKSON:

One thing I missed, and perhaps the hon. Attorney General would clarify it, was in Section 40 regarding the definition of a special constable. It's not written in the definitions at the beginning of the act, and would you clarify in some way what a special constable really is?

MR. LEITCH:

Mr. Chairman, I think the special constable is defined, if you like, in Section 38 which says that on the appointment his duty shall be defined as "positions, territorial jurisdiction" and things of that nature, and once that is done within that area he is a peace officer.

MR. COOKSON:

Could you define a peace officer then? What I'd like to know is, what authorities he may be given on the various statutes?

MR. LEITCH:

Mr. Chairman, by way of example, assuming we appointed a special constable to enforce The Vehicles and Highway Traffic Acts within the town of "X", he would then in all respects insofar as the enforcement of those Acts is concerned have the duties, the responsibilities and the authorities that an RCMP constable would have while enforcing The Vehicles and Highway Traffic Acts or a city policeman or any other person. Once he is given those Acts to enforce, he's on an equal status with any other policeman with respect to the enforcement of those Acts within the territorial jurisdiction that is spelled out in his special constable appointment.

MR. WILSON:

Mr. Chairman, the comments from the hon. Member for Stony Plain were most interesting, particularly when he pointed out that representatives of the County of Parkland had a special hearing with the Attorney General and had assurances that he would try to work out special arrangements for their problem. Could we have the Attorney General's assurances that the MD of Rocky View will get the same treatment?

MR. LEITCH:

All they need do, Mr. Chairman, is ask for me.

MR. BENOIT:

Speaking again with regard to special constables, and maybe this question should be addressed to the Minister of Municipal Affairs, is the section in The Municipal Government Act that permits the municipality to appoint a special constable for special purposes and for short periods of time as it used to be?

MR. RUSSELL:

I'd have to look that up, I'm sorry.

[The title and preamble were agreed to.]

MR. LEITCH:

Mr. Chairman, I move that the bill be reported as amended.

[The motion was carried.]

Bill No. 38 The Trust Companies Amendment Act, 1973

MR. LEITCH:

Mr. Chairman, there is an amendment to this bill also and I've asked my colleague, the Minister of Manpower and Labour, to move the amendment.

DR. HOHOL:

Mr. Chairman, I move, seconded by the hon. Minister of Municipal Affairs, the amendments to Bill No. 38 for consideration of the House.

[Sections 1 through 14 of the bill were agreed to without debate.]

[Section 15 as amended was agreed to without debate.]

[Sections 16 through 21, the title and preamble were agreed to without debate.]

MR. LEITCH:

I move that the bill, as amended, be reported.

[The motion was carried.]

Bill No. 36
The Alberta Resources Railway Corporation Amendment Act, 1973

[All sections, the title and preamble were agreed to without debate.]

MR. LEITCH:

Mr. Chairman, I move that the bill be reported.

[The motion was carried.]

Bill No. 56 The Financial Administration Amendment Act, 1973

[All sections, the title and preamble were agreed to without debate.]

MR. LEITCH:

Mr. Chairman, I move that the bill be reported.

[The motion was carried.]

MR. HYNDMAN:

Mr. Chairman, I move the committee rise and report progress.

MR. CHAIRMAN:

Is that agreed?

[The motion was carried.]

[Mr. Diachuk left the Chair.]

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[Mr. Speaker resumed the Chair.]

MR. DIACHUK:

Mr. Speaker, the Committee of the Whole Assembly has had under consideration the following bills: Bills No. 15, 26, 38 and begs to report same with some amendments. And also the Committee of the Whole Assembly has had under consideration the follcwing bills: Bills No. 14, 20, 29, 34, 36, 37 and 56 and begs to report same.

MR. SPEAKER:

Having heard the report, do you all agree?

HON. MEMBERS:

Agreed.

DR. HORNER:

Mr. Speaker, I move the amendments be read a second time.

[The motion was carried.]

MR. DIACHUK:

Mr. Speaker, it's been brought to my attention I did not ask for leave to sit again. So I beg leave tc sit again.

MR. SPEAKER:

[Inaudible]... if the Hcuse agrees with the request for leave to sit again.

DR. HORNER:

Mr. Speaker, I move the House do now adjourn until tomorrow afternoon at 2:30 o'clock.

MR. SPEAKER:

Having the motion by the hon. Deputy Premier, do you all agree?

HON. MEMBERS:

Agreed.

MR. SPEAKER:

The House stands adjourned until tomorrow afternoon at 2:30 o'clock.

[The House rose at 11:00 c'clock.]