

THE LEGISLATIVE ASSEMBLY OF MANITOBA

9:30 o'clock, Tuesday, June 30, 1970

Opening Prayer by Mr. Speaker.

MR. SPEAKER: Presenting Petitions; Reading and Receiving Petitions; Presenting Reports by Standing and Special Committees; Notices of Motion; Introduction of Bills.

The Honourable Member for Portage. Stand? (Agreed)

ORAL QUESTION PERIOD

MR. SPEAKER: The Honourable Member for Arthur.

MR. J. DOUGLAS WATT (Arthur): Before the Orders of the Day, Mr. Speaker, I see the Minister of Agriculture has just come into the House. I wonder if the Minister could indicate his position in regards to the Federal Natural Products Marketing Bill which is presently before the House of Commons.

HON. SAMUEL USKIW (Minister of Agriculture) (Lac du Bonnet): I didn't get the question, Mr. Speaker.

MR. WATT: I'm sorry, Mr. Speaker, I'll try and talk a little louder. I wonder this morning if the Minister could indicate his position in regard to the Natural Products Marketing Act that is presently before the House of Commons.

MR. USKIW: The subject matter is being discussed at the moment, at least it's on the agenda of the provincial Ministers of Agriculture and they will be discussing this matter in the next day or two.

MR. WATT: A supplementary question, Mr. Speaker. Can we expect in the near future a statement from the Minister in regard to the position that he will be taking?

MR. USKIW: Manitoba's government policy will of course always become known to the people of Manitoba, Mr. Speaker.

MR. SPEAKER: The Honourable Member for Roblin.

MR. J. WALLY MCKENZIE (Roblin): Mr. Speaker, I have a question for the Minister of Mines and Natural Resources. I wonder could the Minister explain the cutback in the drainage program that was planned for the Pine River area for this year?

HON. SIDNEY GREEN, Q.C. (Minister of Mines and Natural Resources) (Inkster): Mr. Speaker, I'm not aware of any cutback. I'll take the question as notice.

MR. SPEAKER: The Honourable Minister of Transportation.

HON. JOSEPH P. BOROWSKI (Minister of Transportation) (Thompson): Mr. Speaker, I'd like to inform the House that the Board of Transport Commissioners phoned me this morning to inform me that the order to close old 59 has been suspended indefinitely. They're going to give the businessmen and the interested parties an opportunity to present briefs to the commission some time this summer, and until these people have an opportunity to present briefs and arguments for or against the closing, all the crossings will remain open.

MR. SPEAKER: The Honourable Member for Ste. Rose.

MR. GILDAS MOLGAT (Ste. Rose): Mr. Speaker, before the Orders of the Day, I wonder if I could ask a question of the House Leader. Could he tell the House what the proceedings for the day are going to be? Three sittings? And what we will be dealing with?

MR. GREEN: Mr. Speaker, there will not be an evening sitting tonight due to commitments that have been made relative to the visit of the Federal Cabinet, but we will be proceeding with bills and if we complete bills then we'll go into Committee of the Whole House, and if we complete **that then with leave of all honourable members** we can move to another committee if that is possible.

MR. SPEAKER: The Honourable Leader of the Official Opposition.

MR. WALTER WEIR (Minnedosa): Mr. Speaker, I wonder if the House Leader could advise the House, and I'm sure the press, of the actions of the committees for the balance of the week so that people might be aware of it.

MR. GREEN: Mr. Speaker, I'd rather make an announcement that I'm sure of later on in the day rather than make one which I'm not sure of at this point.

MR. WEIR: Well, Mr. Speaker, might I just advise the House Leader that if there isn't adequate publicity, with the number of bills we have before committees, we're going to object to committees being held without adequate notice, and I would think with the number of bills there are before the committees it would be possible to schedule a full day of hearings right now without any more bills being in committee.

MR. GREEN: Mr. Speaker, I think that my honourable friend's considerations are well founded and I have indicated to him that I think that what he is saying is correct, but that I am not able to do that with certainty at this instant. I hope to be able to do it soon.

MR. SPEAKER: The Honourable Member for Kildonan.

MR. PETER FOX (Kildonan): Mr. Speaker, I'd like to direct a question to the Minister of Transport. I think him for his information in respect to old 59. What I would like to know is will he inform, through the news media, officially when the hearings will take place?

MR. BOROWSKI: Mr. Speaker, I just spoke to Mr. Jones of the Transport Commission about half an hour ago and all he could tell me is that there will be adequate time given to the parties interested to submit their briefs and that's all I know at the moment. When I get more information when meetings are going to be held, where they are going to be held, I'll certainly inform the House then, if the House is still in session, and the people involved also.

MR. SPEAKER: The Honourable Member for Arthur.

MR. WATT: Mr. Speaker, I direct a question to the Minister of Transportation. I wonder, while the Minister of Transportation is talking to the news media on the question posed by the former speaker, if he would inform the press that there has been a definite reduction in the maintenance of provincial roads throughout the province.

MR. BOROWSKI: I'm sorry, I didn't catch that.

MR. WATT: I'll rephrase my question, Mr. Speaker. Can the Minister tell the House if or not there has been a reduction in the appropriation for the maintenance of provincial roads throughout the Province of Manitoba?

MR. BOROWSKI: Mr. Speaker, the member who asked the question was a Minister of a previous Cabinet, and we have gone through the House and through the estimates and if he had any brains he'd know the answer to that before asking it.

MR. WATT: Mr. Speaker, on a point of privilege. It doesn't take any brains driving through the Province of Manitoba to know that the provincial roads have been abandoned by the Minister of Transportation.

MR. SPEAKER: The Honourable House Leader.

MR. GREEN: Mr. Speaker, relative to the Leader of the Opposition's question, it will be the intention of the House, subject to no serious objection, that we meet in committee all day on Thursday starting at 9:30 in the morning and that -- (Interjection) -- just let me continue. In view of the fact that Law Amendments Committee includes all of the members and therefore when Law Amendments Committee is sitting all of the committee members of every committee are there, it will be possible for anybody having representations to make on any brief that is for public representation to make them before Law Amendments Committee. Then when we are dealing with a particular bill which has been referred let us say to the Committee on Agriculture, then the Agricultural Committee will set to consider that bill, but representation from the public could be made, with the exception of Industrial Relations which has a meeting at 7:00 o'clock on the same night, any member of the public wishing to make representations on any bill can do so before the Law Amendments Committee on Thursday because all of the committee members of every committee will be in the Assembly at that time.

MR. WEIR: Mr. Speaker, I think really the only people that can make this decision are the committee themselves. The matters that are referred to the committee are the matters that are referred by this House, Mr. Speaker, and the bills are all lifted that are sitting in the committee. Now I think that the thing that we would have to be sure of is that hearings would be held and people would be able to make their point of view known at the committee that the bill is sent to, because it isn't everybody that might go to Law Amendments Committee, and under no circumstances would I be prepared to say that all presentations must be made to Law Amendments Committee.

Now if the committee desires that they would like to - and I would question their judgment - that they would like to hear representation on all briefs that came forward whether it was within the jurisdiction of the committee or not, then that would be for the committee to do, although quite frankly I would question the advisability of it because it isn't every member that is present at all meetings of Law Amendments Committee, and you might find yourself when you get to Agriculture Committee or Industrial Relations Committee or some other committee, with the question of somebody seeking to hear representation all over again.

MR. GREEN: Mr. Speaker, I'd like to discuss this further with my honourable friend, but the fact is that we are going to call Law Amendments Committee at 9:30 with regard to the

(MR. GREEN cont'd) briefs being presented. If my honourable friend has serious objection to that, and that's why I've said this tentatively, I'd like to discuss it with him. But we could call all the committee meetings for 9:30 on Thursday morning, in which case all the committees will be present because everybody is on Law Amendments Committee and they could decide there and then whether they would be willing to hear representations from anybody who wishes to present a brief, but in order to avoid an argument, may I say now that Law Amendments Committee will be called for 9:30 on Thursday morning.

ORDERS OF THE DAY - GOVERNMENT BILLS

MR. SPEAKER: The Honourable House Leader.

MR. GREEN: Yes, would you call Bill No. 76, please.

MR. SPEAKER: Bill No. 76, the Honourable Member for

MR. GREEN: I notice the Honourable Member for River Heights is not here, and rather than standing the bill - he was here a moment ago and indicated -- we'll call it a few moments later. Bill No. 121.

MR. SPEAKER: The proposed motion of the Honourable the First Minister, Bill No. 121. The Honourable Member for Ste. Rose.

MR. MOLGAT: Mr. Speaker, I wasn't expecting this to come right now and my notes are in my office. I wonder if we could go to another item and I would get my notes and be right back on the subject. Would that be

HON. RUSSELL PAULLEY (Minister of Labour) (Transcona): I wonder, Mr. Speaker, whether we could go to Bill 127.

MR. SPEAKER: The proposed motion of the Honourable Attorney-General, Bill No. 127. The Honourable Member for Rhineland.

MR. JACOB M. FROESE (Rhineland): I have checked some of the other bills; I am not prepared to go on this one at this time. I'd be ready this afternoon.

MR. PAULLEY: Well I want to ask my honourable friend to make sure that he is ready. Then may I call Bill 132.

MR. SPEAKER: The proposed motion of the Honourable Minister of Transportation, Bill No. 132. The Honourable Member for Rhineland.

MR. FROESE: Mr. Speaker, I think I'm in the same predicament as the Member for Ste. Rose; I haven't got my notes gathered up yet. I expected that some time would be spent on some of the other bills. However, I would like to raise some points in connection with the Highway Traffic Act.

Mr. Speaker, it's not many years ago, it's just a few years ago when we had a complete revision of this Act and I'm rather surprised to find the large number of amendments before us again in this bill. I'm just wondering whether some of them are really as necessary as to have them brought in. I certainly take exception to certain provisions, and one has to do with the matter of farm trucks. This one I certainly cannot subscribe to and I certainly will make an amendment if no one else will because I cannot accept the 50-mile radius for a farm truck. What if a farmer has a breakdown while harvesting and sends his hired man in to get some parts from Winnipeg. And this happens not once, this happens quite often. He could be stopped on the way and not being allowed to go or being charged, either one, and certainly the farmers further out need this service more than the ones that are closer by because they are the ones that are affected more severely in that if you have a breakdown you want to go in and get your parts and certainly -- (Interjection) -- I'm on the Highway Traffic Act -- (Interjection) -- No, that one was stood over. We're discussing the Highway Traffic Act.

Then, too, I feel that we have many smaller farmers that have only the one unit. They have the small truck and they cannot afford to have two units, they cannot afford to have a car on the side, and that they use that small truck for all transportation required and certainly this will work a hardship on those people. And this applies to some of our younger farmers, this applies to some of our older farmers as well, those that are not of sufficient means and cannot afford to have the money tied up in extra units and therefore they're using the small farm truck in many instances.

So I certainly take exception to this particular clause and I do hope that the government will be prepared to accept amendment to it because this is one thing I don't think we can live with and certainly we should not subject some of our farm people to at this time when the economy is facing a very serious situation. Right now there are many farmers in my area that are still seeding and there is quite a number that haven't seeded yet and they will be facing a

(MR. FROESE Cont'd)real tough time this year.

MR. BOROWSKI: What are they seeding?

MR. FROESE: They're still seeding buckwheat and some are seeding coarse grains for green feed purposes just so that they will have some feed and will not have to purchase everything they need later on. They are taking the risk because the crop insurance program will not insure them, but at any rate they are making the best of it they possibly can.

I'm also opposed to a particular provision, and I should probably name the section here, Section 150, which is part -- or Section 56 of the Act. I have to do this in order to get clarification later on. When I checked the Highway Traffic Act I find there is no such section that we can amend. The subsections here are sections -- oh, I'm not referring to the proper one here but I'll come to that one. This one has to do with repairs on vehicles, and I certainly take exception to it and I will speak further on this subject matter when we get to Committee of the Whole. I don't think that I need go into that one at this particular time.

There is other matters that have been raised by other members of the committee in connection with helmets. I certainly don't subscribe to making helmets compulsory. We have been told on previous occasions by these people that drive these cycles that they are very warm and that as a result they could bring about more accidents than they could prevent. Therefore, I certainly would not want to make them compulsory. It's up to the individual. If he wants to use them, let him use it; on the other hand, let's not force the issue.

In connection with the temporary licence, we seem to be amending a certain section of the Highway Traffic Act and there is no such section in the Act. We're dealing here with Section 235, subsection (10) and we're putting in a new Section 11. If you check the Act, at least the statutes that we have, the new statutes before us, there is no section 10 or no section 9 or 8 even, and here we jump to sections 10 and 11 and I fail to see how we can amend a section that is not in the statutes. I wish the --(Interjection) -- Well, if that's the case then let's hear it, because I was wondering whether certain sections had been passed at this session which had not been incorporated in the statutes and whether this was the case or not. If not, then certainly we will deal with that later.

Mr. Speaker, I had notes but I haven't got them with me and therefore my remarks will be cut short. I do feel very strongly about certain provisions in this Bill and if we had a division I certainly could not support the Bill at this time. However, I would also qualify my vote in saying that there are other provisions in the Bill that I can support and I wouldn't mind supporting, but you have two types of provisions and some are very disagreeable and others we can live with.

MR. SPEAKER put the question and after a voice vote declared the motion carried.

MR. PAULLEY: Mr. Speaker, would you kindly call Bill 76.

MR. SPEAKER: The proposed motion of the Honourable Attorney-General, Bill No. 76. The Honourable Member from River Heights.

MR. SIDNEY SPIVAK, Q.C. (River Heights): Mr. Speaker, this Bill has been held on the Order Paper for some time and it is not my intention to hold it any longer. I have had an opportunity now to check the Bill with the Nova Scotia Act and, if I am correct, in almost every respect this Bill was taken from the Nova Scotia Act although the wording itself in some sections has been drafted differently and is either to the credit or to the discredit of our Legislative Counsel and only the courts are going to be able to determine whether this is so or not. I would say, Mr. Speaker, that this Act is a good Act; it is a necessary Act; it is a reform that is required within our legal system. The intent is correct and I would hope that this will be successful.

I would also suggest, Mr. Speaker, that as we deal with this in Law Amendments clause by clause, there may be some contributions or suggestions to be made from this side with respect to some amendments to clarify the intent. I would hope as well that there will be an opportunity after this Act is in force, a review is made of its operation to determine whether any changes should be forthcoming as a result of the practice. But this is a good Act, one that's necessary and one that I hope will accomplish its result in updating our practice and procedures in this province.

MR. SPEAKER put the question and after a voice vote declared the motion carried.

MR. PAULLEY: I wonder if the Honourable Member from Ste. Rose is now ready on Bill No. 121, Mr. Speaker.

MR. SPEAKER: The proposed motion of the Honourable First Minister, Bill No. 121. The Honourable Member from Ste. Rose.

MR. MOLGAT: Mr. Speaker, I want to thank the House for having allowed the matter to be deferred slightly. I want to commend the government, Mr. Speaker, for proceeding at this time with the establishment of this Bill, particularly with the establishment of the Human Rights Commission. I support this measure completely. I think we have to recognize, however, that the real value of the Commission and the real effect of the bill will depend almost wholly on the quality of the people who are appointed to the Commission. The calibre of the people who will make up the Commission will determine whether or not the intent of the Act and the whole purpose is in fact carried through. I think the experience of other provinces has been exactly that. Where the Commission has been made up of capable, intelligent, open-minded people, it has had a very beneficial effect in the province. In those areas where less capable people were in position, the Act and the whole Commission, I think, has not proved to be as fruitful as it could.

It seems to me, Mr. Speaker, that we might consider having the Commission report to the Legislature rather than reporting to a Minister. I think this is the principle we've adopted in the case of the ombudsman, for example, which is a proper one. I think here again we are dealing with a group that should be as independent as possible of government as such, and that we ought to put in the Act they are to report directly to us here. I note that the group in Manitoba, the Manitoba section of the Canadian Civil Liberties Association endorse this point of view, and I would urge the First Minister, who is proposing the bill, to give this matter serious consideration. The questions that we are dealing with here are nonpartisan questions, they deal with basic human rights and I think that it might be wise to have the Legislature itself the final reporting body.

I wonder as well, Mr. Speaker, if in the case of functions of the Commission we might not look again to the recommendations made to us by the Civil Liberties Association, Manitoba Branch, in a brief which I think all of the members of the Legislature received some time ago. I think that the functions as spelled out there on Page 2 are somewhat more specific than those in the bill now before us. I think that the functions as listed in the bill are not wrong, but I don't think they are sufficiently specific or broad enough. For example, the Civil Liberties Association suggest as specifics that the Commission should make recommendations to the government at appropriate times; review legislation here and elsewhere to keep it up-to-date; take the initiative to do extensive research into areas where rights are denied; enforce existing legislation. Well, our Act says something of this sort. It says to promote compliance with the Act, but who then is going to actually look after the enforcement of the Act. Is it the Commission or is it going to be the Attorney General's Department, or who? I think we might consider making the Commission itself the body who takes on this responsibility.

I think that there are further matters in the recommendations of the Civil Liberties Association, specifically, and I quote again, "to review the work of government departments to ensure that each department is not contributing to the infringement of rights." Because it can happen within government as well, the mistakes are not always on the outside. This would make it clear that the Commission has rights within the department services as well. Then, "to provide for close co-operation with federal and provincial governments in the enforcement of legislation." Here would be involved the constant contact with human rights commissions in other provinces.

So, Mr. Speaker, I think that we would be wise to specifically ask the Civil Liberties Association to appear before us when the bill goes to Committee and explain the basis of their recommendations. It is my understanding that they have made a study of the subject in many other provinces and I think could give us some useful recommendations at this time. This group has been active in this area for a number of years, it's been urging on the government movement towards the establishment of a Commission.

In some of the specifics of the Bill, Mr. Speaker, - and these are not the important sections, I repeat that to me the important part of the bill is the establishment of the Commission and then the careful choice of the people to be on the Commission. From some of the specifics on the bill - and this may be falling into the area then of the Minister of Labour - I know the section regarding employment practices where there could be no discrimination whatever, with which I agree, but there is one, I think, technical problem and that is the discrimination regarding sex. Now this presents a problem at times for employers, because under the present laws if there are males and females employed in the establishment then there are some specific provisions of sanitary facilities and so on, and there are problems as well when you go to isolated areas, for example mining camps or bush camps and so on, and I think that in this area we might

(MR. MOLGAT cont'd.) want to ensure that nothing we say in this Act is contrary to some other Act or that it is impossible of actually doing it. I subscribe to the principle but there are specific problems in certain areas, and I think we have to recognize that when we write this this way it may be impossible of fulfillment, given all the best intentions of the employer. So we might have a look at that. The Minister of Labour may have the answer to the question, but I would like to know before we finalize this exactly where we stand.

So, Mr. Speaker, I support the Bill and I compliment the government for proceeding with it. I urge on the First Minister a very careful assessment in his choice of personnel to make up the Commission. They will succeed in direct relationship to the quality of people that we appoint to the Commission.

MR. SPEAKER: Are you ready for the question? The Honourable Member from River Heights.

MR. SPIVAK: Mr. Speaker, I move, seconded by the Honourable Member from Swan River, that the debate be adjourned.

MR. PAULLEY: Mr. Speaker, I am not rising to oppose my honourable friend, but I trust that he will be able to proceed this afternoon. I realize he has not been with us for certain reasons, but I know my honourable friend realizes the position of the House at this time.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried.

MR. PAULLEY: Mr. Speaker, will you kindly call Bill No. 96.

MR. SPEAKER: The proposed motion of the Honourable Attorney-General, Bill No. 96. The Honourable Member from Birtle-Russell.

MR. HARRY E. GRAHAM (Birtle-Russell): Thank you, Mr. Speaker. When I first took the adjournment on this bill, Mr. Speaker, as a farmer I didn't have any strong feelings regarding the rights of employers or the rights of employees. In fact I had a fairly limited knowledge of the field of trade unions and trade union negotiations. I was looking around for some information and the Winnipeg Free Press of two or three days before this had an editorial which gave me quite a bit of information, and the editorial was entitled "Free Speech and Picketing". If I may, Mr. Speaker, I would like to read at this time that particular editorial.

"As anticipated in the Throne Speech, the Schreyer government has moved to outlaw back-to-work orders and injunctions that would restrain a union from picketing. A bill introduced in the Legislature this week by the Attorney-General would amend the Queen's Bench Act to prevent the Court of Queen's Bench from issuing an injunction making anyone perform a service for his employer when he didn't want to or curtailing a person's right of free speech. The government's contention is, of course, that when a man is prevented from picketing his right of free speech is curtailed. This is what unions all over the country have been seeking with no results elsewhere, and represents another sop by the NDP government to its labour supporters. It is a change of doubtful merit. Certainly amending the law, as the Legislature is perfectly within its authority to do, is a better way of effecting the change than the way in which labour leaders in other provinces have been trying to enforce their demands by defying the law and being heavily fined or jailed for their pains. Nevertheless, in proposing the change, the government is deliberately glossing over certain aspects of labour relations."

A Winnipeg lawyer commenting on the subject in this paper a few weeks ago said that he did not know of any law taking away the right of freedom of speech by injunction, and if I may, Mr. Speaker, I would just like to stop here and ask the Attorney-General if this is a correct statement. Is there any law that takes away that right? Is there a law that takes away the right of freedom of speech? Mr. Speaker, freedom of speech is one of the most cherished things that we in this country have, and if we have laws that take away that freedom of speech then they should not be on our statutes.

MR. PAULLEY: That's what we want to get rid of.

MR. GRAHAM: Mr. Speaker, this lawyer says that there are none.

MR. GREEN: That lawyer is wrong. It's Sam Breen and he's wrong. He doesn't know what he is talking about.

MR. GRAHAM: Well, Mr. Speaker, the words of the Minister of Mines and Natural Resources can probably be better explained after I am finished speaking. He has his opinion, other lawyers have their opinion. Mr. Speaker, I'm quite sure that they have argued in court before the judges and no doubt this very same subject has been a point of contention in a lawsuit at some time or another

MR. GREEN: That's right.

MR. GRAHAM: . . . whether or not the freedom of speech of an individual has in fact been denied, and I would ask the Minister of Mines and Natural Resources if he has ever argued this point in court.

MR. GREEN: Yes.

MR. GRAHAM: And has he won his case?

MR. GREEN: Some I've won and some I've lost.

MR. GRAHAM: Well then, the question of whether the freedom of speech of an individual has ever been curtailed by law is a point that even the law society may or may not agree with.

However, Mr. Speaker, if I may be allowed to continue, in this editorial the editor says, "An injunction was intended not to take away a right but to stop or remedy the abuse of a right". To remedy the abuse of a right. Mr. Speaker, I think at this time we might very well be facing the abuse of the right of this Legislature. I would like to ask the Attorney-General what prompted the government . . .

HON. AL MACKLING (Attorney-General) (St. James): On a point of order, Mr. Speaker, the honourable member is indicating there is some suggestion there is an abuse of the Legislature involved either in something I've said or something that is contained in the bill. This is a very serious charge and I would like to know the foundation of his charge that there is an abuse of the Legislature involved somewhere.

MR. GRAHAM: Mr. Speaker, the member may have a point of order but somehow I doubt it; it seems pretty far-fetched to me. If I may continue with this editorial, the editor goes on, he says: "What abuse is an injunction against picketing intended to halt? Simply that some trade union members seem to think that once a strike is called the company concerned must close its doors, sit back and await the outcome. In fact just as employees have the right to strike, so do employers by the same token have the right to continue their operations and protect their property. It is when picketing obstructs an employer in pursuit of this right that an injunction usually is called for and granted.

"The attitude of one NDP Cabinet member, Mines Minister Sidney Green, is on record. In 1966 Mr. Green proposed a resolution declaring that no one should be enjoined from exercising the right to the peaceful use of the public streets and from the peaceful use of free speech for the purpose of persuasion, even though such persuasion might result in a loss of trade to other persons or the termination of employment relationships.

"In normal circumstances an injunction restrains but does not prevent picketing. It is aimed at protecting property, reducing the chance of violence and assuring freedom of access to a strike-bound plant. The difficulty is that the line between what Mr. Green calls persuasion and intimidation or coercion is thin indeed. The proposed change is not one that will endear the Schreyer government to employers or to the general public."

Mr. Speaker, when I read this, I thought to myself, what am I getting into here? I thought this was an innocent bill.

MR. PAULLEY: I wonder if my honourable friend would permit a question on the editorial that he read.

MR. GRAHAM: After I've finished, Mr. Speaker.

MR. GRAHAM: I wondered what I was getting into because I thought this was an innocent bill. The Attorney-General certainly never gave us any indication when he introduced the bill for second reading that such was the case. In an effort to find out more about it, I consulted with several legal firms and individual lawyers throughout the city. I also did some research of my own and, Mr. Speaker, I must confess that a subject which I knew nothing about when I started into, has scared me considerably at this particular time.

I would like to know, Mr. Speaker, what prompted the government to introduce this bill. Has there been representations to the government to introduce it? Did the unions make representations to the government or did the employers associations make representations to the government to have this type of bill introduced? If the government has such, I would ask the Attorney-General to table that information. Has the Woods Commission made recommendations for this type of legislation? Has there been any recommendations from the Department of Labour to the effect that this bill would lead to better labour-management relations?

MR. GREEN: Everybody is important except the legislators.

MR. GRAHAM: Does the Minister of Labour and the Minister of Industry and Commerce really support this? I would sincerely ask the Minister of Industry and Commerce - I'm sorry he's not here - to consider this seriously because it could affect the Department of Industry and Commerce. Does this bill really intend to prevent the court from enjoining striking? Is it the

(MR. GRAHAM cont'd.) intention to prevent the court from enjoining striking when it is clearly established that such activity is illegal? -- (Interjection) -- I'm asking you, is this what the intention of the bill is?

MR. GREEN: No. It enjoins them sending a person to work.

MR. GRAHAM: If this would be so, would it not defeat the main purpose of the Labour Relations Act?

MR. GREEN: No. Well then, you have nothing to fear

MR. GRAHAM: Mr. Speaker, there's another thing that this poses. Is the Queen's Bench Act a proper place to be dealing with these matters? Isn't it essentially a labour relations matter?

MR. GREEN: No.

MR. GRAHAM: Has the effect of this Act on collective bargaining and collective agreement been given full consideration? Mr. Speaker, these questions I think have to be answered before we take further action on this bill, because if this type of legislation is going to endanger the labour relations field in this province, then I think it would be better if it wasn't passed.

Mr. Speaker, I notice that it's the Minister of Mines and Natural Resources and not the Attorney-General who seems to be answering most of the questions on this, so I would assume from that that maybe it was the Minister of Mines and Natural Resources that drafted this bill. Maybe it was the insidious plotting of the Minister of Mines and Natural Resources all the way through, to circumvent a decision of the Supreme Court. I know the Minister of Mines and Natural Resources doesn't like to lose, and just because he lost one particular case, he says I'll change the law. Mr. Speaker, if this is the case then it's a sorry day for Manitoba, when one member of that Party, being unsuccessful in the leadership, now says, well I'll ignore the political part of it, I'll change the law.

MR. GREEN: The courts change the law.

MR. GRAHAM: He's not quite ready to abide by the rule of the law. Where it doesn't suit him, he says I'll change it.

MR. GREEN: Mr. Speaker, on a point of privilege, is the honourable member saying there is something wrong with a legislator coming in here and trying to change the law by democratic process?

MR. GRAHAM: Mr. Speaker, I pondered that same question myself, and I looked for advice and I searched quite a bit, but I found that in Ontario in 1964 they established a royal commission to enquire into the civil rights of individuals. This enquiry carried on for four years and they made a pretty important study, and I would like to quote from Chapter 2, Page 55 of Report 1, Volume 1: "The Legislature cannot of its own powers limit or effect the right of appeal to the Supreme Court." Mr. Speaker, the Minister took his case to the Supreme Court; he lost it

MR. MACKLING: Mr. Speaker, will the honourable member submit to a question at this stage?

MR. GRAHAM: When I'm finished. And further on in this same civil rights, it says: "Although it is recognized that it is necessary for effective modern government to confer the power to legislate in proper cases, there should be constant vigilance to retain adequate control by the representative Legislature and practical and effective safeguards against the abuse of the subordinate power." Mr. Speaker, that made me feel good. Here I am a little farmer who knows nothing about labour, and here they're telling me that I have the right to question some of the decisions made by certain individuals in a political party where they are trying to change laws which in my opinion may not be in the best interests, so I should be watching it.

In another place it says: "It is presumed that the majority of the legislators will work within the standards of justice and propriety generally recognized throughout the community so as to avoid onerous actions taking away or changing the rights of an individual or group unless clearly justified in the general interest." Mr. Speaker, we have a daily newspaper which considers this matter of sufficient importance to write a lead editorial on it questioning whether it is in the general interest of the public, and we have a Minister who has decided that he should try and remedy a decision of the Supreme Court, or change a decision of a Supreme Court or prevent such a decision happening again. Mr. Speaker, this gives me undue alarm.

As I see it, the matters involved in this bill are largely matters of labour relations. The high-sounding phrases in the bill may be just the tip of the iceberg and we will have to have a lot more information as to the real purpose and objective of this bill before we can decide what

(MR. GRAHAM cont'd.) position our party can take on the bill. We do know that for example in the construction industry in other provinces such as Alberta and Ontario, who have had a great deal more experience than this province in these areas, have been quite concerned about the rights of the individual because they have just completed their royal commission of enquiry into civil rights. In these areas it appears that they are passing legislation that might tend to move in the other direction to what this bill appears to be doing.

On June 23rd, in the Winnipeg Tribune, there's an article entitled "Ontario May Cut Power of Building Trade. The Ontario government has moved to strengthen the power of building contractors in their negotiations with construction unions. New labour legislation introduced in the Legislature Monday would permit the province's contractors to form employer associations to bargain collectively with the building trade unions. The idea is to offset what Labour Minister Dalton Bales calls an economic imbalance of power. The government hopes that the new arrangement will prevent a repetition of the inflationary wage increases which characterized the industry settlements last summer. While acceding to this request of the building contractors, the amendment to the Labour Relations Act also eased certification procedures for unions and protect individual workers' rights." Mr. Speaker, in Ontario the individual workers' rights are protected under the Labour Relations Act; here we find they're trying to do it under the Queen's Bench Act.

Going on further, Mr. Speaker, "The bill guarantees job security for striking workers and makes unions and companies liable to pay damages for illegal strikes or lockouts. It gives new power to the Ontario Labour Relations Board, to recognize new bargaining units, and to order workers back to the job in illegal strikes or lockouts in the construction industry.

"In Winnipeg, the Builders Exchange now acts as bargaining agent for some, but not all local contractors. Individual firms may negotiate labour disputes without the assistance of the Exchange and building unions may pick out an individual company without having to deal with the entire contractors association. The Builders Exchange is now petitioning the Provincial Government for legislation similar to that proposed in Ontario. Such legislation would obligate both unions and contractors to negotiate through the Exchange."

Mr. Speaker, this surprises me, that this government is now passing a piece of legislation when they are getting petitions which are actually requesting legislation in the opposite direction to what this bill suggests. Mr. Speaker, I would like to know to whom those petitions were directed. Were they directed to the Minister of Labour or were they directed to the Attorney-General or were they directed to the Minister of Mines and Natural Resources, who is the House Leader and also apparently the leader of all labour legislation in this Cabinet. We find there seems to be a conflict of interest between the Minister of Mines and Natural Resources in his line of thinking and the petitions of the Builders Exchange of Winnipeg.

MR. GREEN: There sure is, that's right. The Builders Exchange will elect you to change laws.

MR. GRAHAM: I would ask the Minister of Mines and Natural Resources to consider carefully, along with his cohort the Minister of Industry and Commerce, is this in the best interests of the Province of Manitoba. If we are going to have a continual war, is this going to make Manitoba proceed and prosper in the way it should?

MR. GREEN: You'd rather have a continuous surrender.

MR. GRAHAM: We have seen some of the demented plots of the Minister of Mines and Natural Resources in other areas and now we find it showing its head in the field of labour relations.

MR. IAN TURNBULL (Osborne): Harry, who wrote that?

MR. GRAHAM: I believe it must have been the Member for Osborne. Mr. Speaker, if the Minister of Mines and Natural Resources has in effect drafted this legislation, then at this time I would ask him to stand up and defend it.

MR. SPEAKER: Are you ready for the question? The Honourable Attorney-General.

MR. MACKLING: I'm wondering, Mr. Speaker, whether the honourable member could now consider a question. Mr. Speaker, the honourable member referred to the . . . Report he quoted from it. Could he indicate how the proposed legislation will prohibit appeals on legal cases to the Supreme Court, which was the subject matter of the section he quoted.

MR. GRAHAM: Mr. Speaker, I am not a lawyer and sometimes I wonder whether the Attorney-General is.

MR. MACKLING: Mr. Speaker, a supplementary question. Would the honourable member

(MR. MACKLING cont'd.) indicate what the section that he was reading referred to then?

MR. GRAHAM: I was reading from Chapter 2 of the first volume of Report No. 1. It was dealing with the political control of legislative power and the responsibilities -- constitutional principles.

MR. MACKLING: You don't know what you're talking about that's what

MR. SPEAKER: The Honourable Minister of Labour.

MR. PAULLEY: During the speech of my honourable friend, he quoted at length -- I'm asking a question, Mr. Speaker. During the discourse of my honourable friend, he rejected at that particular time my asking him a question and indicated that he would permit it at the conclusion of his remarks. My honourable friend quoted at length from an editorial. I wonder if my honourable friend could tell us the name of the editor who wrote the article that he referred to.

MR. GRAHAM: Mr. Speaker, I cannot give you the name of the editor, but I can endeavour to find out if the Minister of Labour is that concerned. I'm sure that he could find out himself if he was willing to contact the Free Press.

MR. PAULLEY: The paper was the Free Press?

MR. GRAHAM: Yes.

MR. PAULLEY: The edition was what day, Sir?

MR. GRAHAM: It was one day last week, I'm not -- well maybe I have -- no, it isn't on here. It was one day last week, I think it was Monday or Tuesday but I'm not positive.

MR. PAULLEY: My honourable friend isn't positive as to who wrote the editorial; on what day it appeared.

MR. GRAHAM: For the information of the Minister of Labour, the headline for the editorial was "Free Speech and Picketing".

MR. PAULLEY: If I may, just supplemental to that, I am very concerned and interested and I would suggest to my honourable friend that possibly it would be advisable to find the source of information before reading it in this House.

MR. SPEAKER: The Honourable Minister of Mines and Natural Resources.

MR. GREEN: Mr. Speaker, the Honourable Member for Birtle-Russell says that if I drafted the legislation I should get up and defend it. I want to assure the Member for Birtle-Russell that the legislation embodies a program which has been adopted by the New Democratic Party in 1966, throughout the years 1966 to 1969 provincially, and a program which was adopted by the New Democratic Party in 1969 federally, so that it doesn't represent, as my honourable friend would imply, the position of any particular person; it represents a position which the Party of which I am a member has taken with regard to a civil rights question.

The honourable member is in a terrible box because he cannot argue against this legislation unless he mentions the term labour, and what he fails to understand is that this is not labour legislation. If he had been in the House in 1966 he would have heard me defend these two propositions, and by the way these two propositions were put to the House in 1966 and in one case, the one which the member appears to be very concerned with, it was supported by the Liberal Party in the House and I rather expect that from recent statements that I've heard from the Liberals that they will agree that the civil rights which are guaranteed in this bill, and which everybody else in society takes for granted, will be now available to every person in the community.

I would think that he would tell me whether he agrees, because this is what the legislation says, "The court shall not grant an injunction that requires a person to work or to perform personal services for his employer." Does he say that the court should grant an injunction that requires a person to work or to perform personal services for his employer, because if he does, then let me tell him that the only time the court would enjoin it would be on my honourable friend's insistence, because it has been a rule of law . . .

MR. GRAHAM: Have they ever done it?

MR. GREEN: Let me continue - it has been a rule of law for well over three hundred years that nobody should be enjoined to perform a contract of personal services. Now what the court did in Manitoba is they accepted an injunction which said - and I want the honourable member to understand these words - that a person was on strike because he was not at work. In other words, they defined that the reason that he was on strike was that he was not working, and then they said you shall stop striking. The definition of the strike was that he was not working and then they said you shall stop striking. So the effect of that injunction on the individual

(MR. GREEN cont'd.) who received it, and they served it on individual workmen, a whole group of individual workmen suddenly got 12 or 13 pages of court documents which said to them, you are not working therefore you are striking and you are to stop striking, which to them and to anybody else who read it meant, and to the lawyers indeed who issued the injunction, you shall stop not working.

Mr. Speaker, if it requires anything further, the first injunction that was issued on that case said that you shall go back to work - and it was in these terms - that you shall return to work for the employer who you were working for yesterday. Those were the words of the injunction, even though another employer was paying 10 cents an hour more. The honourable member is surprised and he should well be surprised. The judge was absolutely wrong -- (Interjection) -- Well, they changed that injunction.

MR. SPIVAK: That's right.

MR. GREEN: Now the fact is, Mr. Speaker, that they changed the injunction, and instead of saying that you shall go to work, they said that you shall stop not working. And the individual employee who got that injunction, and indeed if he did not go to work he would have been subject to a contempt of court violation, and it would be the only group of people to whom this applied.

Mr. Speaker, when I got up in this House in 1966, I asked honourable members opposite to judge my remarks in accordance with the rule that I would not speak for labour, and I asked them to judge those remarks. I would not push a particular position for labour. What I want for the person who works, I want for myself; what I want for myself, I want for the person who is an employee; that I am not here pleading a special position for any group in society. And I say, do you people want for yourself the right to say that you will not work, let us say, next to a person who is an actor. You will not work under those circumstances, you will not complete a contract. You can be sued for damages and this law doesn't change that. It says that if a group of people who are under a contract refuse to work, then the same as anybody else they can be sued for damages; they can have their property taken away from them; they can be enjoined; they can have their wages guaranteed but they cannot be required by a court to perform personal services; because once you bridge that gap, Mr. Speaker, you bridge the gap from freedom to slavery. Because if a court can order you to work today and then you go back to work and do not work like your employer thinks you should work, he can go back to court and say that you should work harder. The ultimate effect of it is that if you don't work harder he can send the bailiff down to your place of employment, he can chain you to the desk, he can stand there with a whip and he would say the court has ordered you to work this hard.

Now the only way, Mr. Speaker, the only way that you can bridge that gap is to do what every other person in society has a right to do. He has a right to say that I will not perform a contract of personal service. Nobody can require a lawyer to work, nobody can require a doctor to work, and all that can happen is that they can be sued for damages. They could even be, Mr. Speaker, prosecuted - and I'm not objecting to that. If a person is on strike and refuses to work and he is prosecuted, he can be put in prison if it's an illegal activity but he cannot be required by a court under threat of injunction to go to work or to go to jail which is what the courts are doing.

The Member for River Heights says they are not doing it and I'm telling him that they are doing it. In British Columbia they ordered a whole group of fishermen - they ordered a group of fishermen to go back to work. The leaders of the union went to the group of fishermen and they said a court injunction has been issued telling us that we have to tell you to go back to work. Do you or do you not want to go back to work? They took a vote, and because they took that vote, because they never told the men that they have to go back to work under threat of injunction, they were put in jail. The union leader - this is the effect of that kind of injunction - the union leaders were imprisoned for saying to the men, do you or do you not wish to obey this injunction which requires you to go to work. They were imprisoned and the union was fined thousands and thousands of dollars. But, Mr. Speaker, this law, if my honourable friend the Member for River Heights is right, who says that no court will order a person back to work - and I, Mr. Speaker, claim to know a little better in this respect . . .

MR. SPIVAK: Lost the case to the Supreme Court.

MR. GREEN: Yes, I lost the case. Well, Mr. Speaker, I lost the case in the Supreme Court because the Supreme Court said . . .

MR. SPIVAK: That you were wrong.

MR. GREEN: The Supreme Court said, Mr. Speaker, not that I was wrong, they said that we can now issue an injunction which will have the effect of requiring people to go to work. And after you get that from the court, what the Member for River Heights says and what the Member for Birtle-Russell says, is that the Supreme Court has spoken and we should not change the law. Does the Member for Birtle-Russell really believe that, that we in the Legislature really should be subservient to the courts and that when they make the law we shouldn't change it, that the elected representatives of the people should then say, well the courts have decided and that becomes the law and we can't change it.

I make no objection for having tried to change this law. As a matter of fact, Mr. Speaker, I am very proud of the fact that I have worked in an attempt to try to rectify this decision. Does he find something unusual about that? Does he know that the Conservative Party did the same thing, that the courts made a decision on their labour law - it was on labour law not on general law - the court made a decision on their labour law and the labour law said that a strike vote - the Conservative Government passed legislation relating to strike votes - the court said that once a strike vote is taken the union has to do what the vote says. Immediately, before the case could be appealed, the Legislature here changed the law. The Conservative administration said we will not accept that court decision, that when a strike vote is taken the union can either strike or not strike, because we will not accept what the court has said with regard to that law. Does the Member for Birtle-Russell know that? Well then, I am bringing this to his attention. Does he know that in England between the years 1850 to 1970, and continuing, the whole course of labour legislation has been the courts saying one thing and the Legislature coming in and changing it because the Legislature never intended that that's what would happen?

In 1871 the English Parliament had to pass a trade union law which undid all the reactionary decisions that were made by the courts which were contrary to what was to apply to everybody else. But the courts had a way of making decisions with regard to labour law, so in 1871 the British Parliament passed a law saying that this is not the case with regard to trade unions any more, we are passing a law which will undo all the court decisions which are contrary to what the people of the country think should govern this area. That didn't change anything. Between 1871 and 1875 the courts, by interpretation, reversed the 1871 statute. So they had to pass another statute in 1875 reversing the court decision. Do you think that helped? No. In 1890 and 1896 the courts again made rules which were directly contrary to what the people in Legislative Assembly had decided. So in 1906, Mr. Speaker - and we are 64 years away - the British Parliament passed legislation which was much to the effect of what we are saying here. And how do you think they did it? Directly contrary to a decision that had been made by the House of Lords. And you refer to the Supreme Court of Canada. Do you think that changed anything? No, Mr. Speaker.

In the mid-1960's the courts again, because they felt that it's more important to maintain the economic status quo than to protect the liberty and freedom of the individual, they reversed the 1906 statute. They went again, and in 1906 they passed an Act in England which was much to the effect of what we have here, and they said we have figured out a way by using legal arguments to reverse that law. And they did. Do you think the English Parliament sat by and said, well the courts have decided that our laws are no good, the laws that we the people in the Legislative Assembly made are no good and therefore we should leave it that way? No. In 1968 the English Legislature had to again pass a law to reverse court decisions that had been made.

So if the honourable member thinks that this is unusual or somehow sinister, then I suggest to him that his statement that I know nothing about labour law is really the only intelligent thing that he has said. Because, Mr. Speaker, if we in the Legislature are going to say that the law that is made in the courts shall be the law no matter what the people think, then why do we have a Legislative Assembly? How would I then, as the honourable member says, and the Free Press says, that it's a better thing to try to change the law than to act in contempt of it.

Well, Mr. Speaker, let me say this - and I don't only tell it to this Chamber, I told it to the courts - that any time a judge tells me that I cannot walk down the street telling the truth I will disobey that law. I consider it not only my right to disobey that law, I consider it a responsibility to disobey that law, and if what I am saying sounds peculiar to you, then I suggest that you read what a judge of the Supreme Court of the United States said with regard to this very matter. It was a judge by the way that the Senate refused to make the Chief Justice of the Court, but he said that if I was living in a southern state which prevented me from doing the things that the Negroes are being prevented from doing in the United States, I would have to as

(MR. GREEN cont'd.) a matter of conscience disobey that law. I'm not saying I shouldn't go to jail for it; I'm not saying that I shouldn't accept the responsibility of disobeying that law; but the notion that the honourable member is prepared to accept the fact - and that's all this bill says, it doesn't talk about violence -- and you know, when I read the Free Press, what has it got on its masthead? - free speech, civil liberties or something -- equality, it's the most hypocritical paper that one could ever lay their hands on.

Here you have a newspaper that pretends to be a champion of civil rights. I want to put these questions to the Winnipeg Free Press. Does the Winnipeg Free Press say that the court should be empowered to issue an injunction telling a working man that he shall go to work or go to jail? Does the Free Press say that they should have the right to do that? Does the Free Press say - because that's all the bill says, let's not talk about violence - does the Free Press say that a man shall not have the right to walk down a public street saying Three Cheers for the Free Press or Three Cheers against the Free Press, or up with the New Democratic Party or down with the New Democratic Party, or union people are employed here or union people are not employed here? Because every time we get into this argument they are unable to face the fact that all we are talking about is the right to make a true statement or a statement of opinion.

Well, Mr. Speaker, the right to freedom of speech, and if we dealt with that in this legislation, the right to freedom of speech is the right to say anything you want to. To give people the right to say only what you think they should say is not free speech at all. That kind of free speech isn't worth a pinch of coon snuff. If you can only say what the Member for Birtle-Russell wants you to say or what the Member for Fort Garry wants you to say or what the Member for River Heights wants you to say, then that's not freedom of speech at all. The real question is - and the Member for River Heights says that it's not true - that in Manitoba and in Canada, in Canada a single workman acknowledged to be completely peaceful, acknowledged not to be molesting anybody, not to be in any way creating a disturbance but saying the following things, saying "non-union men employed here", a single workman has been enjoined by a judge to prevent him from saying "non-union men employed here", which was a true statement.

Now my honourable friend thinks that's wrong. I suggest to him that I can give him numerous decisions to show that that is the kind of injunction that we are talking about. We are saying that just as the members of the Keep our Agents Committee had the right to walk down Portage Avenue or to walk into the Legislative grounds and say "Ed the Red" or "Schreyer to Siberia" or all kinds of junk of that nature - and I give them the free right to express that and they could do it every day, and if they could get the 10,000 people they would do it every day because this would demonstrate the strength of their position - that just as they have the right to do that, a working man has the right to say "non-union men employed here" and he has a right to ask his family to help him say it and he has the right to ask me to help him say it, and if I want to walk down the street saying the same thing, he has the right to ask us to do this, and we have a right not to be enjoined from doing it. The Member for Assiniboia appears to be anxious to ask a question.

MR. STEVE PATRICK (Assiniboia): Mr. Speaker, would the Minister permit a question? If he has that right now and I believe he has, why is it necessary to have it in the bill in Section 62, that the court shall not grant an injunction restraining a person that exercises his right of freedom of speech. Because I believe he has it now.

MR. GREEN: Well, he's saying that I have it and I really think that probably he is right, but the trade unionist doesn't have it because the court is enjoining the trade unionist and only the trade unionist. When we talk about this being labour law, that's a bunch of nonsense. This is law to put the trade unionist on the same position as is the Member for Assiniboia, the same position as is the Member for River Heights, the same position as is the Member for Birtle-Russell. And that's what you can't stand, because you people who talk about special rights for trade unionists as being our position, what you say is that you want to continue the special discriminatory position that is exercised against trade unionists. You want to keep them, you want to keep them as subjugated people and I say that if any person -- what you fail to realize is that if any person is denied that right then it's as much a challenge to your own freedom, if not more, as it is a challenge to the person whose rights you are taking away.

Now, Mr. Speaker, I want to answer not the Member for Birtle-Russell because he admittedly has no intelligence in the area - and I say that not as an insult, when I say "no intelligence", I'm saying that he doesn't have a grasp of the area - but I say it to the Free Press, that this bill would not prevent a policeman or even a court from ordering a man to stop

(MR. GREEN cont'd.) exercising violence against somebody else, as if you need that, because if the Member for Birtle-Russell was preventing me from walking into my house or preventing me from walking into a business, the notion that I would have to go to court to get an injunction to prevent him from doing it is just ridiculous. I call a policeman and the policeman takes care of the Member for Birtle-Russell, and I would never go to court. Why would I waste time going to court if a man is committing an act of violence on me? Why would I go to court to get an injunction against him? It doesn't prevent the police from dealing with a situation where anybody is preventing access or egress to a place of employment; it doesn't prevent a situation where there is a defamation involved; it doesn't deal with anything except the rights that everybody know they have, to walk down a public street carrying a sign bearing true information. Does the Free Press believe that a person should be prevented from walking down the street with a sign carrying true information?

Let us assume, let us assume that there was a strong - well we have, we have the Liberal Party - let us assume that the Liberal Party which represents or which appears to talk as the spokesman for Canadian unionism, and the Canadian Union is a relatively small organization, let us say that they gained a great deal of support and let's say they got into the construction trade which is very difficult, and let's say that they walked down the street with a sign saying "CLC employees employed here" - on a construction job. And let us assume that because they said that, people who were very strong for Canadian unions said, well I'm not going to work with an International Union employee; I'm not going to get paid; I can't do anything but I don't want to work with that person. Does the Free Press say that Johnny Googland's union can't walk down the street with a sign saying "CLC employees employed here" because it may affect the operations of that building site. Is their position that the economic status quo is more important than the right of free speech, because that's what it comes down to; that is the nub of it. We have two conflicting rights. One is the right to the freedom of speech, the other is the right to engage in a trade and to engage in it unmolested. If a person uses the right of free speech and it affects somebody who is engaging in a trade, do you then say we will enjoin the right of free speech?

Well, let's examine it. I want the Free Press to answer another question - or anybody on that side. The Russian dancers come to Canada and they go and they perform at the Winnipeg Arena and people who have been the victims of tyranny and oppression in Eastern Europe, they say nobody should support these dancers. In the meantime, maybe people have bought five or six thousand tickets but the people say nobody should support these dancers and they walk in front of the ticket agency and they say the Russians killed my relatives or the Russians have destroyed liberty, don't support the Russian dancers. And let's say that as a result of that you, Mr. Graham, were going to buy a ticket to the Russian dancers but when you came to that place where the man was walking, you said well maybe these people are right, maybe I shouldn't buy a ticket and you affected the economic status quo.

And as a result of that, let us say there was a picket line in front of the Winnipeg Arena and as a result of that everybody who came to the Arena said we are not going to support these Russian dancers, we're going to stay away. Does the Free Press agree that the courts should enjoin those people to prevent them from walking down the street saying that they disapprove of the Russian dancers? Think about it, because that's what they're talking about. They're talking about protecting the economic status quo against what would happen if people had the normal right to appeal to people's sense of justice, to appeal to people's sense of fairness, to see what would happen to the economic status quo if liberty of speech were permitted. That's what we are talking about.

MR. GRAHAM: And equality.

MR. GREEN: And equality - yes, equal for everybody. I want the trade unionist to have a right to say it and I want the right to say it too. I want the right to join the trade unionist who says that non-union men are employed here. I want the right to walk down the street, and I say that when a judge tells me that I'll go to jail if I propose that people belong to international unions or don't belong to international unions or that people go to the Russian dancers or don't go or that I say vote for the New Democratic Party or I say vote for the Conservative Party, when a judge tells me that I don't have the right to do that, I go to jail. And you should too, because nobody . . .

MR. GRAHAM: Let's go Sid.

MR. GREEN: Well, we'll go together. I suggest to you that that is what is happening, and courts in British Columbia are starting to realize it because they in British Columbia are

(MR. GREEN cont'd.) starting to realize it because they in British Columbia have put so many trade unionists in jail in the last few years that they're going to soon find that the jails are not big enough and that they will have too much of a jail budget to take care of all the people. The last decision that I have read from a British Columbia court is where a judge said "I think that these injunctions are a bad thing. I think that if they are doing something wrong they should be made to pay damages. They've got money; if they are breaking somebody's rights they should be made to pay damages." And that, Mr. Speaker, is what the law was.

That's what the law was and that's all we are saying in this bill - and I want the Liberal members to recall that they supported at least the proposition that nobody would be put in jail for refusing to obey a court injunction. And I ask them now, with all of the stipulations that we have put in, it doesn't permit anybody to prohibit the use of public thoroughfares, it doesn't permit anybody to destroy public property -- the protection of public property; it doesn't permit anybody to deal badly with private property; the restrictions that are available in the Criminal Code with regard to conduct of people disturbing the peace and inciting riots, anything else, all of those things apply. No laws are being changed with the exception of a law which says that a person does not have the right to walk down the street carrying a sign bearing true information.

Now if my honourable friends say that that is a sop to labour, then I have to tell them that they are willing to discriminate against labour, and that the real difference between our party and theirs, and the reason they call it the labour party, is we are willing to treat labour equally, and anybody who will do that - it's such a revolutionary concept that labour can be equal - they say that they're giving special treatment to labour, they're making them equal. How unheard of! What audacity to make labour equal. And I say, Mr. Speaker, it's not because I am a friend of trade unionists that I do this. If the Member for Birtle-Russell wants to know, I would do this whether the trade unions were for it or against it because it has nothing to do with trade unions, it has to do with freedom, it has to do with the things that you people have been talking about for years but which you have reserved away from one category of the population. Maybe that's an accident; maybe it is a sincere belief that somehow the courts have treated these people the same way as they've treated everybody else.

Mr. Speaker, it's just not so and it's not because I lost the case. The Member for Birtle-Russell would like to make this personal. I suggest to you that the same fight that we are fighting in this Legislature, where the present Minister of Mines and Natural Resources is present, is a case that was fought in the United States; it was fought in England; it's got nothing to do with me. And I'll tell you something. It'll have to be fought thirty years from now because there is a very very important expression that freedom is not something that is won and kept, it has to be fought in every generation, and we are just one generation of people fighting for it.

If the Conservative Party really believes that their notion of society is inconsistent with free speech, then at least we know where they stand. If their notion of society is inconsistent with the right of every human being able to say -- and you know, lawyers have it, doctors have it. I can refuse to work for a client even if I've got a binding contract with him. He can sue me, he can collect damages, and what we are saying with regard to labour unions is they can sue, they can collect damages, but they cannot enjoin in such a way as to require a person to work.

If the Member for River Heights says that I am misinterpreting the judgment - and I believe that I know a little bit more about that judgment than he does - I know what the lawyers said to me who got the injunction, what they were going to do to the people who didn't go to work. I know what the courts would have done because I have appeared before them, and my honourable friend will have to agree that I have appeared before the courts of this province on labour matters, I would say, more than any other barrister in Winnipeg. Has he ever appeared in one case in labour questions? Then I am telling you that in this area I know whereof I speak. And I have probably appeared in the Supreme Court of Canada on labour questions more than any other barrister in Winnipeg. And I tell you I know whereof I speak.

All we are saying is that if they don't want to issue an injunction requiring somebody to work, well hallelujah for them. But if they do, the people are saying no, the only group that is able to change the law which deals with an individual's freedom is the Legislature, and if we get together as Mr. Thatcher is getting together now with his Legislature in Saskatchewan and we decide in the full face of the public that we want to say that people will go to work or go to

(MR. GREEN cont'd.) jail, I don't agree with it but we can do it, but not the courts.

MR. SPEAKER: The Member for River Heights.

MR. SPIVAK: Mr. Speaker, the Honourable Minister of Mines and Natural Resources anticipated that I would be entering the debate. He's correct. I listened with great interest to his presentation and I think that we on this side recognize that he is one, along with many others, who has been concerned in the civil liberty field as well as the labour field and he speaks with a great deal of passion in connection with matters that he's discussed here and in the matters dealing with civil liberties and labour matters outside of this Chamber as well, but I think it's really necessary to review to a certain extent what really has taken place and at the same time then deal with this legislation.

I'd like to make one general observation. The legislation itself, at least a portion of it, really declares the law as it actually is. -- (Interjection) -- That's right, it declares the law as it actually is. That's not what the Honourable Minister of Mines and Natural Resources said. He said it was something different, therefore we have to enforce, we have to declare it.

MR. GREEN: I say "individual judges are making it."

MR. SPIVAK: Yes, well judgments are always going to be made. I think the Honourable Minister of Mines and Natural Resources is going to know this and will admit this, that once a law is put on the statute book, judges of the Court of Queen's Bench, the judges of the Court of Appeal and the judges of the Supreme Court will differ in their interpretation, and this is our court system.

MR. GREEN: Right.

MR. SPIVAK: Yes. Well, I think you'll agree with me on that. Now there's no guarantee necessarily that even the law as will be stated in this amendment will be interpreted even in the way that the Honourable Minister of Mines and Natural Resources suggests. But let's now deal with what the law actually is as has been interpreted by the courts. Mr. Speaker, I have to say that there is a consistency with the Honourable Minister of Mines and Natural Resources who has stood up in this House in the debates on the resolutions that he brought forward in 1966 and in this debate today in which he specifically said, this is the law and this is the right, this is the right interpretation of the facts. Well the truth of the matter is, Mr. Speaker, that the Supreme Court reject that interpretation of the Honourable Minister of Mines and Natural Resources and they say that he's wrong. They say that the law is, and it's a very simple explanation, that no one can in fact be forced or ordered back to work.

MR. GREEN: They never said that.

MR. SPIVAK: Yes, they did.

MR. GREEN: Mr. Speaker, with great respect, they've never said that.

MR. SPIVAK: If the Honourable Minister of Mines and Natural Resources wants to cross-examine me, if in turn he wants to ask questions, he may very well, but let him allow me to finish. I'm suggesting that the Honourable Minister of Mines and Natural Resources is not correct. What the Honourable Minister of Mines and Natural Resources is saying is that if in fact an injunction is obtained and in fact the injunction is not adhered to, then those people who do not adhere to the order of the court are in contempt and therefore they can go to jail.

MR. GREEN: That's right.

MR. SPIVAK: Now that's the procedure. The court gives an injunction, and it can give an injunction in a labour matter or in any other matter, and there is an obligation on the part of the people to whom the injunction is referred to to obey it, and if they don't they go to jail.

MR. GREEN: Right.

MR. SPIVAK: We've had the experience of the Chicago trials. We know, and everyone is aware of the fact, that during the period of those trials the defendants acted in a manner contrary to the rules and procedures - and I'm not arguing the merits of the trial or the fact whether their conduct was justified or not - but there's no question that they acted in violation of the rules of the court and therefore they were told to desist and they didn't, they were held in contempt and subsequently received sentences. Whether the merits of that were right or wrong, there is a procedure that is followed. The court does give an order and it's expected to be followed. If it's not followed, there in fact then is contempt proceedings taken and in fact someone could go to jail. Now what the Honourable Minister of Mines and Natural Resources is saying is that where an injunction is given and prevents someone from picketing, that that in itself means that there is no alternative but to go back to work.

MR. GREEN: No. No.

MR. SPIVAK: Now there has been one specific case, there's been one specific case that he's been involved in, in which in fact a judge did give an order to go back to work. That was a judge of the Court of Queen's Bench, but that subsequently was argued as a result of his participation in it. But that was a judgment of the Court of Queen's Bench which never went to the Court of Appeal, which never went to the Supreme Court, and that was one judge who was wrong in the law. Now we've admitted already - and there's an agreement that there will be judges who are going to disagree - but that judgment I suggest, Mr. Speaker, was in fact wrong in the law and was incorrect. But that's but one example. There are no examples in Manitoba that I know of where there has been a specific order that you must go back to work. What the honourable member is suggesting is that in fact the order to desist and stop, means the alternative is you must go to work because obviously if you continue you're going to be held in contempt and if you continue and you're held in contempt, then . . .

MR. GREEN: Desistance of what?

MR. SPIVAK: Picketing.

MR. GREEN: Mr. Speaker, I do want to ask my honourable friend whether he would not want the correct information. The order that I am referring to is an order not that they stop picketing but that they stop striking, and the striking was defined as not being at work, and that's the order that went to the Supreme Court of Canada. Would my honourable friend not accept what I'm telling him in this connection. The order that I am complaining about had nothing to do with picketing. I did not defend the picketers in that case, my clients were not picketing, my clients were having coffee, they were served with an injunction which said that you are not at work, you are therefore on strike and you are to stop striking. Now would my honourable friend accept that, that that's what I'm talking about.

MR. SPIVAK: Mr. Speaker, I would hope that I'm not going to be continually interrupted. May I, Mr. Speaker -- and we may not be talking about the same case, this is the problem. I'm talking about the case that went to the Supreme Court.

MR. GREEN: That's the one.

MR. SPIVAK: Yes, and I'm going to read what the court ordered.

MR. GREEN: Mr. Speaker, may I again advise my honourable friend that there were several defendants involved. There was one defendant who was involved with picketing; that my clients were not picketing; that there was no evidence against my clients picketing; they were having coffee; they were ordered to stop striking.

MR. SPIVAK: Well, Mr. Speaker, it may very well be that the particular client that the Honourable Minister of Mines and Natural Resources was defending was not the one involved, but let me now deal with the court order, and, Mr. Speaker, I'd like the opportunity to be able to read it in the record because I think it's pretty relevant to what the honourable member said.

"This court doth order that the defendant and each of them, their officers, servants, agents and members and any person acting under their instructions or any other person having notice of this order, be and are hereby strictly enjoined and restrained until the trial or other final disposition of this action from declaring authorized counselling, aiding or engaging in or conspiring with others, either directly or indirectly, to bring about or to continue an unlawful strike with respect to the employment of employees and the plaintiff Poole Construction Limited and of its sub-contractors, in combination or in concert, in accordance with the common understanding.

"2. And this court doth order that the defendants and each of them, their officers, servants, agents and members and any person acting under their instructions or any other person having notice of this order, be and are hereby strictly enjoined and restrained until the trial or other final disposition of this action from watching, besetting or picketing, or attempting to watch, beset or picket at or in the vicinity of the Royal Bank Building"

I'm not going to read the rest of the order, Mr. Speaker, it's not necessary.

Now, Mr. Speaker, let's understand something. The Supreme Court has said that the interpretation the Honourable Minister of Mines and Natural Resources has given us is incorrect, that that's not the law. In effect . . .

MR. GREEN: Mr. Speaker, on a point of privilege, that is not what they said.

MR. SPIVAK: Mr. Speaker, if it's necessary to go through this again, we'll go through it. I'd like to refer the honourable member to Page 639, the judgment of Mr. Cartwright, and I quote: "In these passages the learned Justice of Appeal" - this is referring to Mr. Freedman's judgment which in effect expresses the opinion of the Honourable Minister of Mines

(MR. SPIVAK cont'd.) and Natural Resources - "said: It appears to me to enunciate as a principle of law that when a group of employees engage in concert in an illegal strike, forbidden alike by statute and by the terms of the collective agreement by which their employment is governed, the courts must not enjoin them from continuing the strike and the employer must resort to forms of redress other than the application for an injunction. The question we are called upon to decide is whether the principle so enunciated is a correct statement of law. In my respectful opinion it is not." And Mr. Justice Freedman's reference to it is on Page 638, in which he says: "The order in essence tells these men that they must not strike, that is to say that they must continue to work on the Royal Bank job." Mr. Justice Cartwright rejected that and that is the majority opinion of the Supreme Court, and that again is a rejection of the basic position of the Honourable Minister of Mines and Natural Resources.

Now, Mr. Speaker, it's not my intention to get involved in a legal argument with the Honourable Minister of Mines and Natural Resources because there's something far more fundamental in here. What we now have, I suggest, in a portion of this bill, or this amendment, is a declaration of what the existing law is.

MR. GREEN: Hear, hear.

MR. SPIVAK: Now - hear, hear. Well, Mr. Speaker, there was a way in which this could have been dealt with, not by the amendment to the Queen's Bench Act but if the government had fulfilled an obligation that they made at the time the Speech from the Throne was presented, and in effect, Mr. Speaker, if a Provincial Bill of Rights had been presented to this House. Now the truth of the matter is, Mr. Speaker, we do not have a Provincial Bill of Rights so far presented to this House, and from what I can understand we are not going to have it in this session, yet if we referred to Page 9 of Hansard, or Page 3 of Hansard we will find that in the Speech from the Throne at this session of the Legislature they will therefore introduce the following, a Bill of Rights.

Now, Mr. Speaker, I'm going to argue about the Bill of Rights when I talk about the Human Rights Commission later on this afternoon. But there's an important point to make here. The reason that there is no Provincial Bill of Rights being presented here is because of the fact that (a) it would be declaratory in nature; and secondly, it would be difficult to draft, Mr. Speaker because in effect a Provincial Bill of Rights to a large extent will have to enunciate the basic rights that we now possess by common law, which when you reduce it to writing, by the very reduction in writing it affects the flexibility and the parameters of those rights as they are interpreted and applied by the court.

Now that we understand, and this is why in our society in the British tradition and in the British heritage we have followed through the common law, and the common law has been a living part of our law which has adapted to change and which has given us the rights and freedoms we now possess. So therefore, Mr. Speaker, there is a certain lack of maturity on the part of the Honourable Minister of Mines and Natural Resources who, when he makes the impassioned plea, suggests that the declaration in effect declared something that in fact is the law, but he says there are cases where it hasn't happened that way and then suggest that we now reduce it in writing.

Well, Mr. Speaker, I would say to the Honourable Minister of Mines and Natural Resources and to the First Minister that if this is important, then at least now codify or at least put it in some declaratory way in a Provincial Bill of Rights which will in fact deal with all rights, so that in effect the court will be able to deal not with the limited position that's been presented here but with the far greater position in terms of the civil rights of the individuals in our society in Manitoba within the competence of the laws of Manitoba and within the competence of the Legislature of Manitoba itself.

Now, Mr. Speaker, the problem of granting an injunction of a person to exercise his right to freedom of speech, on the face of it that appears to be valid; on the face of it that appears to be a correct statement. But then we have to examine the kinds of situations that can take place and I think here, Mr. Speaker, we have to be frank about what does happen because it's not exactly as the Honourable Minister of Mines and Natural Resources would like us to believe. When someone stands in front of a building, as they did in the case that went to the Supreme Court, and says - and I'm quoting exactly what was on the sign - "There are non-union glazers on this project." That may be the truthful statement, but the truth of the matter is that by that individual standing there, the union employees refused to cross the picket line which was their right. By exercising that right they broke the contract and they can be sued.

(MR. SPIVAK cont'd.)

Now, Mr. Speaker, much of the progress in this province has come as a result of the goodwill, understanding and working relationship between labour, management and government. Now, let's be frank about it. -- (Interjection) -- I wonder if the Honourable Minister of Mines and Natural Resources will just give me a few moments. He's going to have all the time he can now and when we get into the committee, when we get into third reading, to discuss this matter. But the truth of the matter is that much of the progress that has been made has come about as a result of a working relationship which understood essentially the point in history that we were at the particular time, the nature of the developments that were occurring in Canada, the necessity for creating good relationship as a means of adding to the economic climate so in effect things could happen. It was recognized at an early stage that if in fact the economic climate did not develop and if conditions were not satisfactory and if we were in a volatile situation in which there could in fact be difficulties, that progress would not be made, and there's no doubt that the labour leaders who were responsible and who dealt with government, co-operated fully, that many of them supported the New Democratic Party was known; that many of them actively solicited for them and many of them had run as candidates for them municipally was known as well; but nevertheless there was a great deal of co-operation and much of the progress - in fact a great deal of the progress is attributable to their understanding and their co-operation and their leadership.

Now, Mr. Speaker, the reason, the reason - the reason for the injunction in a situation such as this is a very . . .

MR. CY GONICK (Crescentwood): Would the member permit a question?

MR. SPIVAK: Yes, in a few moments. The reason for the injunction being required in this situation is because in fact it is understood, you know, it's commonly understood that if in fact a picket line is put - in this case it was one man - that in case a picket line does take place, the union members are not going to cross that picket line. So in effect what they're going to be able to do in this particular case, the individual was going to be in a position to try and force a small contractor who is on a job to become unionized even though he had represented that his people did not want to be unionized, so in effect there was an attempt to influence a decision which was away from the original objective. The original objective wasn't to put up a sign saying that there are non-union glazers on this project, the original objective here was to try and unionize a small contractor, a small operation. Now whether it was a small operation or a large operation is insignificant. My point is that this was part of a specific project, and what the Honourable Minister is saying is that the court therefore on this basis, if the statement is true, cannot go behind the intent and cannot grant an injunction.

Well, Mr. Speaker, let's talk about some examples that can occur. We could have a strike in the garment industry and we could have pickets who would have signs saying: "We are on strike because wages are low," and they could be marching in front of the garment industry and they could then walk over and march in front of the Richardson Building and say: "We are on strike because wages are low." Now on the basis of what the Honourable Minister of Mines and Natural Resources said, the walking and picketing in front of the Richardson Building would not be illegal because it is a truthful statement - in their opinion it is a truthful statement. It applied to a garment industry over maybe three or four blocks away, but nevertheless based on what the Honourable Minister of Mines and Natural Resources is saying is that the statements that are being made in front of the Richardson Building or in front of the Winnipeg Inn which is now under construction are correct, and if that has the effect of stopping union labour from going in or trade union labour from going in there to complete their work, that's too bad, they've broken their contract and the courts are powerless in this situation to in fact do anything except . . .

MR. GREEN: The situation is ridiculous.

MR. SPIVAK: Well, the situation isn't so ridiculous. Mr. Speaker, if we trace the history of labour, you know, of specific situations . . .

MR. GREEN: I'll trace it for you.

MR. SPIVAK: I'll tell you another situation. We can have the situation - and I suggest that this will happen in this kind of situation - and the reason, Mr. Speaker, that I'm putting this on the record now is because if in fact this law is passed there is going to be reference in time, whether any of us are in the House or not, that somebody is going to have reference to this. We'll have a situation where in fact on the basis of this someone, an employee, several

(MR. SPIVAK cont'd.) employees, can stand up, put signs on and walk in front of a particular place and say first, the wages are low; there are some non-union employees employed; and can also refer to the ethnic background of the people who are the principals and the owners. And that's a truthful statement and there's nothing wrong in that. -- (Interjection) -- Well I know there's laws against hate literature but it doesn't apply against this. -- (Interjection) -- Yes, I know, and I want to tell you something, that's not going to incite to riot, but I'm suggesting to you that that statement in itself, the ethnic background of the people who are the principals and the owners of the business coupled with a statement that the wages are low and there are non-union help being employed, on the basis of what the Honourable Minister of Mines and Natural Resources has said and on the basis of this section, would be allowed and the court would not be in a position to give an injunction, and he thinks that's right.

MR. GREEN: And should be allowed.

MR. SPIVAK: It should be allowed? Mr. Speaker, the court under normal circumstances in reviewing this matter, would look to the intent to see what kind, if there is in fact a conspiracy involved, and would in fact grant an injunction under a situation if in fact they felt that there was an intent here, notwithstanding the truthfulness of any of the statements, but was part of a larger design. And the Honourable Minister of Mines and Natural Resources knows that. So we could have that situation based on what he has here. Now, Mr. Speaker, you know, we can - and it's not my intention here - but we can bring example after example after example of this particular statement and of this particular situation - and the Honourable Minister of Mines and Natural Resources says that there's nothing wrong in it.

MR. GREEN: When did it happen?

MR. SPIVAK: Well, Mr. Speaker, let me suggest this. There has been no situation that I know of in Manitoba outside of the one example that the Minister of Mines and Natural Resources referred to where the judge in fact did order them to go back to work, and that was never tested in the Court of Appeal and never tested in the Supreme Court, and I suggest that that judge was wrong on his law, because no injunction can order someone to go back to work - indirectly he may limit their options, that they may either have to go to work or they may be sued, but that's true of anyone who in fact has civil responsibilities and receives a court order on anything, they have alternatives and the alternatives are limited. But nevertheless, Mr. Speaker, no one, with the exception of that one case has been ordered. There have been cases, Mr. Speaker, where employers have been ordered by the courts to keep employees on pending a decision on a matter. And the Honourable Minister of Mines and Natural Resources knows that case; there are employers that in fact have been ordered by the court - there was no injunction given, there was a direct order by the court, that they must in fact continue on with the employees during the period of settlement or the period of dispute until there was some decision made. But . . .

MR. GREEN: Would the honourable member permit a question? Would the honourable member, knowing that I argued the case, that I appeared before the Court of Appeal on the case that he is referring to and they only granted that order because they had granted the previous one and that while arguing the case I said that I believe that we are wrong in doing this, I believe that it is wrong law for you to grant this injunction, but you have granted the other one and you must grant this - and that's why it was granted.

MR. SPIVAK: Mr. Speaker, we have a very interesting point. The Honourable Minister of Mines and Natural Resources is in this Legislature now and I don't know how long he's going to be in this Legislature, I don't know how long I'm going to be, I don't know how long any other member is going to be; but you know, there's going to be a time when he's going to be out of here and someone else is going to have to make the laws, interpret the laws, and someone else is going to have to be the person who is going to be talking about the laws -- (Interjection) -- but let me say this, Mr. Speaker, I recognize that the honourable member has argued many cases and has been consistent in his position. What I'm suggesting, Mr. Speaker, is that the law as it now exists, there is no way in which an injunction will provide an order directly for anyone to go back to work. That is a law and every first year law student knows that to be the case. -- (Interjection) -- That's right. So therefore in effect -- (Interjection) -- I have no objection to this, but I'm suggesting to the honourable member that in his rush to try and achieve it, because he's been committed to this and because in fact he has argued this way and has been rejected by the Supreme Court and he wants to change the law.

(MR. SPIVAK cont'd.) I'm suggesting, Mr. Speaker, in his rush to have this legislation put in that a much more fundamental thing has been forgotten, and that is that it would have been far better, and it may take more time to do it, to come out with a provincial bill of rights and deal with our specific freedoms and with our liberties, and which in fact would not be an amendment to the Queen's Bench Act and would not relate to a specific part with respect to trade union law, even though the Honourable Minister of Mines and Natural Resources wants to say that this applies to everything, but would have had it in a declaratory form in which the courts then would have been in a position to have interpreted fully and expand on it in their interpretation as it applied to every section of legislation and as it deals with every aspect of society. That would have been a far better way, Mr. Speaker, than what we have here.

Well, Mr. Speaker, the problem I think that the Honourable Minister of Mines and Natural Resources and the First Minister now have -- (Interjection) -- yes, I will in just one second.

HON. ED. SCHREYER (Premier) (Rossmere): . . . third point you touched on. I think it's important, Mr. Speaker, to have the honourable member indicate this. Is it a correct interpretation of his view on this bill that really it is not any extension of the present law with respect to the use of injunctions in ordering persons to go back to work, that the bill before us in practical terms is not any tangible change?

MR. SPIVAK: I suggested, Mr. Speaker, and this is extremely important, that I do not consider that 60. 1 and 60. 1 (2) the first two sections, are in fact new law, I think this is a re-statement in a codified form of the existing common law, notwithstanding what the Minister of Mines and Natural Resources said. But I'm also suggesting, Mr. Speaker, that if you're going to codify this, then I think it's far better to have codified a provincial bill of rights; because I think in a provincial bill of rights you could have dealt with things in a much more definitive way, but I recognize -- (Interjection) -- Well I know, but there was -- but let me explain something, Mr. Speaker. There was a commitment in the Speech from the Throne that there was going to be a bill of rights, and we do not have a bill of rights before us, we have this section, but no bill of rights. And I'll tell you, Mr. Speaker, the reason we do not have a bill of rights is because it is simply darn difficult to be able to codify and reduce in writing a bill of rights. Because, Mr. Speaker, as soon as you start to reduce the existing law in writing you limit to a certain extent the flexibility and capability of the common law. And in effect this is what these sections are doing.

Now when we deal with the second portion of this, with respect "they shall not grant an injunction that restrains a person in the exercise of his right to freedom of speech," I would think that this is the law, but I have suspicion that we have in many respects, not only with respect to criminal matters, but we have also limited before the right of freedom of speech and whether this is recognized, and the common law has limited the right of freedom of speech. The classic case of course, and the one that everyone is familiar with, all the lawyers are familiar with, and that's the case in the judgment of the judge of the Supreme Court of the United States: "You can yell fire but you can't yell fire in a theatre." Now we know that. You have the right of freedom to yell fire but you have no right of freedom in a theatre to yell fire because the common law recognizes what the purpose and the intent would be and what the effect would be, and it overrides it. So therefore, Mr. Speaker, it seems to me -- (Interjection) --

MR. GREEN: Protected in the bill?

MR. SPIVAK: It seems to me that we now have codified a section which I suggest will limit to a certain extent the flexibility of the court and will accomplish, not what the Honourable Minister of Mines and Natural Resources wants it to accomplish, but I think can have a more serious effect, and one wonders why this was necessary, one wonders really why this was necessary. Is it because of the specific cases that are referred to? Well the specific cases referred to simply have been means and ways by which some union organizers, in some cases, not in all cases, have attempted to try and use that pressure to be able to unionize a section of building trade that may be working on a project.

Mr. Speaker, there's one other thing we should mention. Essentially this section and all we're talking about is really restricted and limited to the construction industry basically -- essentially. This is what we're really talking about. So we're really talking about a specific area and a specific concern rather than a general. -- (Interjection) -- Well in terms of the cases that have been advanced . . .

MR. GREEN: No. It's not true, I can give my honourable friend . . .

MR. SPIVAK: Oh I know you can give cases . . . but in terms of Manitoba . . .

MR. GREEN: Brown's Bread, B.A.C.M., Bell Foundry . . . all good cases.

MR. SPIVAK: Yes, Okay. But with respect to . . .

MR. GREEN: There are more out of the construction industry than there are in.

MR. SPIVAK: Yes, but essentially in terms of the use, it's been involved . . . -- (Interjection) -- who said the facts don't matter? -- (Interjection) -- Well as a matter of fact the facts will matter, and my suspicion, Mr. Speaker, is that - and I say this because I want this on the record at this time - that the Act itself is not drafted to accomplish the result the Honourable Minister of Mines and Natural Resources, the Minister of Labour, the Attorney-General and the First Minister want - that the courts, by the time they get finished with interpreting this will interpret the law as it actually is now, that the concern and abuses that the Honourable Minister of Mines and Natural Resources is concerned about will in fact - in his terms are going to occur . . .

MR. SCHREYER: Mr. Speaker, I rise on a point of privilege. There's something in that last statement made by the Honourable Member for River Heights that is quite a slur on the way in which the courts have conducted themselves. I'm sure when we read Hansard tomorrow we'll find that the honourable member has said in effect that regardless of what the Legislative Assembly or Parliament might pass, that the courts will continue to interpret the law as they like, and that is casting an aspersion on the conduct of the judiciary.

MR. SPIVAK: No, Mr. Speaker, I did not say that. What I did say, and I'll clarify it in case there's any confusion, is that the sections do not in any way change the existing law, so therefore, the law will be interpreted as it was in the past, because these sections do not change it, and that in effect the objective that the Honourable Minister of Mines and Natural Resources wanted to achieve in my opinion is not indicated in the drafting. That's not meant, Mr. Speaker, for the First Minister, a slur on the courts, but I'm simply suggesting that the objectives that the honourable members opposite are trying to achieve by the wording in this legislation in my opinion is not going to be achieved, and all we're going to have is the extension, the carrying on of the existing law; but the danger is, the danger is that in a specific situation - and I've given one; I'll repeat that one again - there will be an interpretation which will now be allowed which will allow something to happen that couldn't have happened before, and that would be the specific example of people who would be carrying cards in front of a place of business where the ethnic background of the people who are the principals or the owners of that business will be mentioned and tied in specifically with the question of - to the fact of whether it is non-union help; whether in fact the wages are poor or the wages are good. Oh no, no, no, no. Look at what you've put in. And that that based on these sections that will be allowed, Mr. Speaker, and there will not be an ability to be able to get an injunction in that situation based on this, "the court shall not grant an injunction that restrains a person" - I should not be reading from the clauses section - if I have permission and leave - "that restrains a person in the exercise of his right to freedom of speech, for the purposes of this section the communication by a person on a public thoroughfare of information by true statements." What statements are we talking about? The statements of wages is an opinion. The statement of whether it's unionized or not is a matter of fact. The statement of the ethnic background of the principals involved is a matter of fact. And, Mr. Speaker, I suggest that this section, and I know the First Minister is going to jump up and say, that's nonsense.

MR. GREEN: It is nonsense.

MR. SPIVAK: Sure it's nonsense, but that's what this section says, Mr. Speaker; and that I suggest to you, Mr. Speaker, is the danger of codifying in the way in which this has been done, codifying the specific section to achieve the objective of the Honourable Minister of Mines and Natural Resources. It would have been far better, Mr. Speaker, it would have been far better, to have advanced the provincial bill of rights and to have listed them in detail and let the court interpret them in the application of the specific situation as it came before them. The First Minister obviously is either going to speak or -- (Interjection) -- Mr. Speaker, one point, if I may. The Honourable Minister of Mines and Resources says, I'm saying that the trade unions are going to do this.

MR. GREEN: Right.

MR. SPIVAK: Let's understand something. In the earlier part and in the speeches that he's made, he said that this is not law for trade unions, this applies to everyone.

MR. GREEN: But you've said that . . .

MR. SPIVAK: No, Mr. Speaker, no, Mr. Speaker, I have not - I've simply said that

(MR. SPIVAK cont'd.) someone could do this. I have not said -- as a matter of fact the likelihood is it would not be done by trade unions but would be done by others. And there is just no way, if this law is passed, that I can see, that a person who states a fact of ethnic background which is a communication of a true statement of facts, along with other true statement of facts, is going to be able to be enjoined by injunction by the court. It will not happen, Mr. Speaker, as a result of this section, and this is why codifying it to in fact restate existing law has the difficulty of other interpretations and affecting other situations; it would seem to me it would have been far better to recognize the law as it actually is and to recognize that the Honourable Minister of Mines and Natural Resources that he did lose a case and that in effect the law as it's been interpreted will still be interpreted, that no one is being forced to go back to work . . .

MR. SCHREYER: Mr. Speaker, would the honourable member permit two questions, the first one for his own sake, I really believe. The honourable member has left the inference, which I'm sure he would welcome the opportunity to clear up, that there is an inherent latent racism apparently in certain trade unions that will prompt them, that will motivate them to want to have pickets carried about with reference to ethnic background. Now if that is what he believes, can he explain why it is that for the past decade, two, three, four, for the past many many years, this has not been the kind of message carried on picket signs. Why should it start now?

MR. SPIVAK: Mr. Speaker, let's get something straight. I have not said anything about trade unions. The Honourable First Minister, again, and the Honourable Minister of Mines and Natural Resources are now talking about this section as if it applies only to trade unions. -- (Interjection) -- No I'm not saying it. Let's take the example of the Russian -- (Interjection) --

MR. GREEN: You said it only applies to the building trade. That's right.

MR. SPIVAK: No, Mr. Speaker, I said that in terms of the area of concern it applied to the building trade. The cases that have come, the cases that have been argued, the question of whether they've been union -- (Interjection) -- No, I didn't say any danger, I said -- (Interjection) -- I said the government just another example. Mr. Speaker, so that there'll be no confusion on this.

MR. GREEN: But it's all dealing with workers. That's right.

MR. SPIVAK: No, Mr. Speaker, my example isn't dealing with workers. Now let's, and if there's any -- (Interjection) -- because what the Honourable Minister of Mines and Natural Resources has allowed as a result of this section is that so long as you communicate truthful information, you can stand up and picket. Now truthful information (a) there's union help or non-union help, that's truthful information, and someone else can do it other than a person involved in the trade union movement. But the ethnic background is a matter of fact, when someone is included other than involved in a union.

MR. GREEN: Can't you do it now?

MR. SPIVAK: Well let's say, let's try and . . .

MR. GREEN: Have you ever heard of a court enjoining that?

MR. SPIVAK: Well see if the situation arises . . .

MR. GREEN: As a matter of fact they'd probably say this is free speech.

MR. SPIVAK: If someone says that, eh?

MR. GREEN: That's right, they have said it.

MR. SPIVAK: I wonder if the Honourable Minister of Mines and Natural Resources will admit that if - and forgetting about these sections that are now before us - that if someone was to in fact stand in front of a building and say they employ non-union help and in turn the ethnic background, whether they would be enjoined or not by injunction.

MR. GREEN: Let me turn the question around . . .

MR. SPEAKER: Order.

MR. GREEN: May I ask the honourable member a question, Mr. Speaker?

MR. SPEAKER: Is the honourable member still continuing with his debate? If he is I wish to remind him that he has about three or four minutes remaining.

MR. GREEN: I think if they said non-union men employed here and then the ethnic background they would be enjoined, but it would be because they said non-union men employed here. Let us assume that they just carried a sign saying this man's ethnic background; I am sure they would not be enjoined, because it's the labour people they're enjoining.

MR. SPIVAK: Well, Mr. Speaker, I don't think the Honourable Minister of Mines and Natural Resources is correct; I think they would be enjoined and I think, Mr. Speaker -- well I disagree with him on that -- (Interjection) -- Well, Mr. Speaker, I disagree with him. I think they would be enjoined because I think -- (Interjection) -- No, Mr. Speaker, this is a question of interpretation, Mr. Speaker, and the Honourable Minister of Mines can disagree with me but I'll tell you why they would be enjoined. They would be enjoined because the court would look to the purpose and in examination of that purpose would determine whether in fact this was truthful information being communicated or whether there was some other design.

MR. GREEN: Did they do it with regard to Rhodesian goods? Rhodesian goods?

MR. SPIVAK: Mr. Speaker, let me suggest to the Honourable Minister of Mines and Natural Resources that in my opinion, the court would in fact, by injunction, stop this.

MR. GREEN: No.

MR. SPIVAK: Yes, I believe they would and whether he says so or not. They would do this because they would look to the actual purpose and intent and would in fact, on the basis of that intent and purpose, would in fact grant an injunction if they thought there was something more and beyond this. What the Honourable Minister of Mines and Natural Resources and the government are now allowing, assuming it can be done by truthful statements and those statements can be put -- and each statement will be truthful but there can be in fact be a conspiracy and on the basis of that, there can in fact be a conspiracy and on the basis of that no injunction will be allowed. There may be criminal proceedings that may be able to be commenced but that could take some time. But the truth of the matter is, Mr. Speaker, that what this will allow, will allow that kind of situation where in fact the court would not have that freedom and I suggest, Mr. Speaker, that in codifying this way rather than declaring it as part of the Bill of Rights where there would be a total codification or a total declaration of the civil liberties of this province the government is not achieving its purpose and in effect is putting itself in a position where I think the objectives that they want to achieve are in fact not going to be achieved.

MR. GREEN: Mr. Speaker, would the honourable member permit another question? He refers to legislation affecting an individual case. In preparation for the question I would inform him that the subject matter of this legislation deals with cases throughout this country which various industrial committees have been looking into which do not deal with cases which I have allowed. Now I'm going to ask you the question. I'm going to do like you do. Now I'm going to say that did not his government legislate with a particular case and it happened to be my case, if he wants to know it was my case, where the Legislature passed a law saying that a union had to take a strike vote. The union which I represented took a strike vote; the union members voted for a strike; the others voted against; the union members went on strike and before it even got to appeal, his administration (he wasn't a member at the time) - but talk about an individual case, there was no other case in Canada of that kind - immediately changed the law to say that the court was wrong. Now wasn't that a case of legislating with regard to an individual case and the present law not such a case?

MR. SPEAKER: Are you ready for the question? The Honourable Member for Assiniboia.

MR. PATRICK: Mr. Speaker, I'll be very brief on this bill. The debate has taken some time already but I'm sure the members are aware of my position in respect to injunctions and picketing from my previous remarks in the House. But I do agree with some of the other members. I wonder if the government is dealing with this in the best possible way because all I see in one of the principles is how what we're doing is restating what the law actually is.

MR. GREEN: No.

MR. PATRICK: Well in my opinion I don't think at the present time that there is any court that can restrain any person from freedom of speech.

MR. GREEN: May I ask the honourable member a question? Is the honourable member aware of the case which involved the Bell Foundry employees where the courts enjoined the members from walking in front of Bell Foundry for carrying signs bearing true information?

MR. PATRICK: No, I'm, Mr. Speaker, not familiar with that particular case and I've listened to the other members and I'm not certain if the legislation that's before us is the result because of the Supreme Court's decision that was handed down that was not in favour of the . . .

MR. GREEN: No.

MR. PATRICK: . . . Honourable Minister for Mines and Natural Resources, I don't know.

MR. GREEN: No, no it's not.

MR. PATRICK: But I do agree with the . . .

MR. GREEN: I had more than one case when I was a lawyer.

MR. PATRICK: . . . principle that there should be no injunction forcing a certain person to work and I could just relate it, if I can use a hypothetical example, for instance let's use an athlete that signed a contract for very large sums of money and after a few years he decided he didn't want to play or didn't want to perform for a certain team. I cannot see why any court would force this player to say that he must continue to play. I think there should be the right for that particular team to sue this individual say for loss of revenue or something but let's use the situation of Bobby Orr. He's decided that he's had enough of hockey and he didn't want to play and I don't think the court should force you to play. So under those circumstances I see some merit in the legislation in respect to forcing the man to play.

But really what we're dealing with in this bill, it's not so much freedom of speech; I think what we're dealing with is strictly economic struggle between the employer and the union. I think this is what we're dealing with and my only concern in this whole respect at the present time is I don't think we've solved the problem by just taking away the right from the court to grant injunctions because if you take this right away I don't think that you've solved the problem of picketing and so on. I think that some other jurisdiction or somebody else, you know, should have been given this jurisdiction and I'm wondering if the matter of picketing should have been placed - perhaps if it's taken away from the courts maybe it should have been given to the Labour Board to deal with. I feel that we have not solved this problem at the present time and I think that perhaps this should be the jurisdiction of the Labour Board.

I know the two principles involved in this area is taking the rights from the courts to grant injunctions and the other principle is about injunction that restrains a person in the exercise of his right to freedom of speech. Now I know there's many lawyers and legal people that will not agree and many of them will say that there is such a thing as you can have an injunction of freedom of speech and the others will say there's no such thing because you have full freedom of speech at the present time. I'm not aware personally that any court would restrain a person with the exception that the Minister tells me that there has been a case; I'm not aware.

MR. GREEN: Does the honourable member wish me to give him five, six, a dozen cases?

MR. PATRICK: Well, perhaps we'll hear this before the committee, Law Amendments Committee and I could be more informed. But there's just one concern that I have. I don't think the government is completely solving the problem of picketing. I think it should be the jurisdiction of the Labour Board and as far as injunctions in respect to forcing a person back to work, I'm in agreement with the bill. I think if a person doesn't want to go back to work he should -- if the employer wants to sue him for damages, this is fine but I don't think he should be forced back to work so I'm prepared to let the bill go into committee.

MR. SPEAKER: Are you ready for the question? The Honourable Minister of Labour.

MR. PAULLEY: Mr. Speaker, this morning as I listened to the Honourable Member from Birtle-Russell take part in this debate, he continuously raised the question of the position of the Minister of Labour in respect of this legislation and wondered where I stood and where the Minister of Mines and Natural Resources stood. I want to tell my honourable friend that I stand foursquare in favour of the amendments to the Queen's Bench Act. I must confess in saying so that at one stage I thought that it may be possible to achieve the desired by merely changing the Labour Relations Act by some statement to the effect that ex parte injunctions in labour disputes shall not apply. However, on reflection, we considered that the matter should be done by way of an amendment to the Queen's Bench Act and I want to say that this is not just peculiar to Manitoba, that in the judicature acts in other jurisdictions and also in the Queen's Bench Act in some jurisdictions, the general principle contained in Bill 96 have been adopted in a slightly different manner.

It is not my intention to be long in this debate. I'm sure the legal members of the Assembly have given vent to their legal possessions and sometimes I guess, the Minister of Labour being an industrial worker himself, or previously, is really treading where angels fear to tread. However, with that I have no qualms; I've trodden in areas previously where maybe I should not have but I want to say, Mr. Speaker, that as far as the Minister of Labour is concerned, he has long fought for the general principle contained within Bill 96. My main purpose in taking part in the debate at this particular time is to indicate that in the field of industrial relations, management-labour relations, the whole question of injunction has been to the fore

(MR. PAULLEY cont'd.) over a long period of time. The previous administration had referred this matter on a few occasions to our local Woods Committee for consideration and as a matter of fact there was a suggested draft paper dated December 20th, 1967 by the legal advisor in the Labour Department for the consideration of the Woods Committee, and I would just read the working paper which came into my possession on assuming office. It is as follows: "Whereas there has been an increase in the number of injunctions in labour disputes granted by the courts in various jurisdictions in Canada, and Whereas certain injunctions have been granted ex parte on affidavit evidence alone, and Whereas this has in certain instances worked to the detriment of relations between employer and union, and Whereas this has also resulted in criticism of the courts as being too prefatory in granting such a conjunction, Therefore be it resolved that this committee is agreed that it is in the best interest of continuing good relations between employers and unions and maintaining the prestige and dignity of the court that (1) injunctions should not be issued in labour disputes where they may interfere with the lawful conduct of such disputes" - and that is a basic principle, I suggest contained in Bill 96 - "injunctions should not be issued except where normal process of law enforcement has failed to control the committing of unlawful acts" - and there is provision in the last sections of Bill 96 for that and further - "and irreparable damage to the complainant's property has been caused or is likely to follow. (3) Injunctions in labour disputes should not be granted ex parte and in circumstances in which notice could be given to the party against whom an injunction is being sought and (4) Injunctions should not be granted on affidavit evidence alone but only where there is possible the examination and cross-examination of the party to a motion for an injunction and any witnesses they can produce."

This is a basic principle and my honourable friend, the Member for River Heights, kept referring to a Bill of Rights. The Member for Birtle-Russell kept referring to labour, Woods Committee and a good labour-management relation, and this is the whole basis on which this problem has been considered. I had the opportunity last October, as Minister of Labour of the province, to go down to Ottawa to a conference of Ministers of Labour together with the federal Minister of Labour to consider the report of the Task Force on Labour Relations, the so-called Canadian Industrial Relations Committee Report which was headed, incidentally, by Professor Wood, the same distinguished gentleman who is the Chairman of the Manitoba Woods Committee. I think it may be interesting to members to read some of the observations contained in that report because my friend, the Member for Birtle-Russell, suggested that this matter hadn't really been considered in the light of management-union relations. In the report on Page 185 is outlined one of the reasons, in the opinion of the Industrial Relations Committee, that employers resort to the use of injunctions. And paragraph 641 says: "Another reason why employers resort to injunctive relief grows out of inadequate criminal law enforcement in some situations; uncertainty in the availability of criminal law enforcement subverts the essential purpose of such relief. In the absence of effective policing, employers cannot be blamed for seeking alternative remedies." Further, "Whatever may be the rationale of the employer's preference for the use of equity injunction, the remedy is susceptible to some telling criticism. These criticisms are of three kinds. The first is a charge of abuse of process; the second is the prevailing procedural rules of court relating to the injunction are unjust; third is that the substantive law by which the legality of the enjoined conduct is determined is unjust. In short the machinery of justice stands accused of abuse of process, procedural injustice and substantive injustice." Now that's what the purpose of this amendment to the Queen's Bench Act I suggest, Mr. Speaker, is attempting to overcome.

I would also like to refer to another couple of paragraphs in the report of the Woods Committee (Federal) dealing with the questions of freedom because my honourable friend, the Member for River Heights, attempted to make much of this. On Page 138 dealing with employee freedom the Woods Task Force had this to say in respect of employees: "Freedom to associate and to act collectively are the basic of the nature of Canadian society and are root freedoms of the existing collective bargaining system. Together they constitute freedom of trade union activity to organized employees to join with the employer in negotiating a collective agreement to invoke economic sanctions, including taking of a case to the public in the event of an impasse." And is that not what has been done in the courts. - it's been to attempt to prevent the taking of a case to the public? "Collective bargaining legislation establishes rights and imposes duties derived from these fundamental freedoms just as legislation in other fields protects and controls corporate action. Most of our recommendations relate to the . . . rights

(MR. PAULLEY cont'd.) and duties which are susceptible to review and emendation. Then what does the Woods Committee say in respect of the employer? On page 159 it says in respect of management, "Freedom of speech for management ought to be recognized as a general right." No one disputes that. "Any infringement thereon should be justified in specific terms. There is one circumstance in which restriction is justified, where union representation is an issue. An employer who opposes certification of an union should be limited to defending his record as an employer through the statement of facts and to rebutting union allegations and promises without threat or promise of future action. In other circumstances, we see no case for restraining free speech beyond prohibiting threat of unlawful consequences." I respectfully suggest, Mr. Speaker, that this is the purport of the amendment to the Queen's Bench Act proposed by the Honourable the Attorney-General.

So I say to my honourable friend from Birtle-Russell, before he makes such statements as he did in respect of the Woods Committee, in respect of the relationship between management and labour - and good relationship - he should take a good look and read the recommendations of the federal Task Force on industrial relations, and take under his consideration the paragraph insofar as freedoms are concerned contained within the report, and also references that I made as to the use of injunction in labour disputes. So far as the legalities and the technicalities and phraseologies contained within the Act, Mr. Speaker, I make no comment. I do know, as is pointed out in the report of the Woods Committee, the Canadian Industrial Relations Committee and the Task Force on Labour Relations, reference after reference is made to the fact that the use of ex parte injunctions in labour disputes, no matter how you call it, have tended to harm rather than enhance industrial relations and labour-management relations.

Now, I have met with representatives of labour in Manitoba and I have met with representatives of management in Manitoba in respect of the use of the ex parte injunction in industrial disputes, and I will say, I can say that I anticipate when Bill 96 is before Law Amendments Committee that there will be representation by management particularly, in protest of the amendments, in order to continue the situation as referred to in the Woods Report that employers resort to injunctive relief grows out of inadequate control. I suggest that labour is responsible as, indeed, management is responsible, and if the amendments to the Queen's Bench Act will help lay a better foundation for the enhancing of industrial relations, then as Minister of Labour I will be more than pleased.

Again, Mr. Speaker, I say that this is not new - just simply because we have had a change of government. As I illustrated, a few moments ago, that the previous administration and the previous Woods Committee had considered this whole matter on a number of occasions, and it is true, it is true according to the reports that I have received that there wasn't any consensus arrived at between labour representatives and management representatives on the Woods Committee, but at least they were talking about it and they realized the problem and we suggest that the possible solution is contained within Bill 96. If it isn't the solution, if it isn't the solution, then, Mr. Speaker, we will have to reconsider and adopt other legislation, to achieve what we feel is desired, that no side, or no court, can enjoin a person to go back to work who is only conducting himself in a manner of exercising his freedom in this province of ours.

MR. SPEAKER: Are you ready for the question?

MR. GRAHAM: Would the honourable member permit a question?

MR. PAULLEY: Surely.

MR. GRAHAM: Would it not be better then if this had been brought about under Labour Relations where both parties can sit down and talk rather than by imputing motives to the court as is done in this case?

MR. PAULLEY: Well, Mr. Speaker, I regret very much my honourable friend suggests that I imputed any motives to the court so I will discount that, as I have had to in a number of occasions discount some of the utterances of my honourable friend, the Member for Birtle-Russell. I gave the answer to the first part of his question, the legitimate question, when I started my remarks, Mr. Speaker; so that there is no misunderstanding, may I repeat them. It was not done insofar as amendments to the Labour Relations Act because we want basically this principle to apply to everyone, not just those under the Labour Relations Act but even my honourable friend, who confesses in this House that he is a member of that honourable profession of farming.

MR. SPEAKER: The Honourable Member for Rhineland.

MR. FROESE: Mr. Speaker, I certainly couldn't let this Bill go by without making some

(MR. FROESE cont'd.) comments on it, because I remember too, all the long and heated debate we had on certain resolutions that were brought forward by the then member for Inkster in 1966 where he discussed these points very thoroughly and at length, and I had rather difficulty this morning when I heard him reconciling some of the things that are going on, with the late adjournments in our committee, it certainly didn't sound to me that that was the same person speaking that was calling for us to sit all hours in committee. It seems that he was really cracking the whip in committee and here it sounds as though that he was the complete reverse. I couldn't just figure out the situation. It seems to me, in talking about and listening to him that here we were - I was thinking about some stories of slave drivers and so on.

-- (Interjection) -- Well, I'll forego telling the story then, but certainly I had very great trouble in reconciling with what the Minister said and what is taking place in actuality. It sounded to me as though the jails in B. C. are being overpopulated by union people as a result of court actions. I don't think this is the case at all. I would certainly take the time, if permitted, to find out about this and at some future date just tell the people of this House what the score is. Certainly I know that the government in B. C. is looking after its people, I think, better than this government is looking after Manitoba affairs for the people of this government. Certainly when we listened to the people in committee last night, you didn't get the story there that the people were looked after properly. In fact they resented very much what this government was trying to do through Bill 56. On the other hand, I know that in B. C. we have prosperity, that we have employment and that the people are doing very good. There is very good prosperity in that particular province and I do not think that we, in any way, should slur the B. C. Government for what is taking place in British Columbia.

I have one thing that I always question and that is the matter of picketing. When picketing goes on before a firm that is not involved in a particular case, and that people might picket before such a business, or in front of such a business, and have the right to do it, when it doesn't involve that particular business at all, I don't think that this is proper. I don't think this should be allowed. We have in the section which is headed "Meaning of 'exercise freedom of speech' " in Section 60.2 Sub-section (2), "For the purpose of this section the communication by a person on a public thoroughfare" - just what do we mean by a "public thoroughfare"? Does this mean, for instance, that the shopping centre in Polo Park that people can picket before any of the stores? That is where the public is passing by, but is that a public thoroughfare in the sense of the section that is before us? In my opinion it would not be. I would like to hear from the Minister concerned what is the interpretation of "public thoroughfare", because there is no definition in the Act of that very term, and I question the right of picketers to picket before places of business that are not involved in that particular affair. I feel that this is disturbing the business where this is happening and it can affect a business when they themselves are not in dispute at all, and I feel this should be prevented by legislation and that if we make amendments, let's make amendments of that type and bring them in before this House.

I have been very interested in the honourable members and the Minister debating various points of law. Certainly very often I feel that I should have gone into the law profession myself. I didn't have the opportunity or else I think I would have. I guess it's too late now, so maybe if the farm economy gets worse and we are driven off the farm that I may enter that particular profession and -- (Interjection) -- Do you think there is a glut on the market as far as lawyers are concerned? . . . I think the lawyers are looking after that in this House so that there will be continued employment so far as they are concerned. I don't think that we have to worry on that point. I would like to see them being socialized to a certain extent and find out just where they would be, where we would hear the hues and cries from that group if this happened to them. Sometimes I would like to see a debate on that point in this House. I feel that this particular section here could go to the point of where you actually plaster certain places of business and I, for one, would not like to see this happen at all in this province.

Mr. Speaker, I do not want to keep the debate going here in this House at any length at all. As I mentioned I have heard the discussion of these matters on previous occasions. I don't necessarily subscribe to what is being asked for in the Bill here. I think the Member for River Heights made a very good point when he said that this could certainly be incorporated in a Bill of Rights and that it better come in that way and maybe more properly so, if it was done in that way. I hope the Minister when he is closing the debate will give us a few points in connection, especially with the matter of picketing and also in connection with the interpretation of "public thoroughfare". I would like to know just what is the meaning and what is the

(MR. FROESE cont'd.) interpretation that is being placed on this section by the government.

MR. SPEAKER: Are you ready for the question? The Honourable Attorney-General.

MR. MACKLING: Mr. Speaker, in speaking now I would be closing the debate. -- (Interjection) -- Thank you.

Mr. Speaker, we heard a number of very interesting contributions in this debate. I must point out that initially we heard contribution from the Member from Birtle-Russell which left me slightly confused because I think that was really the manner that's befitting the speech of the honourable member. He read an editorial with which he obviously agrees. He referred to some material which obviously he thinks is relevant but I don't think he really understands the import of the Bill itself or the nature of the arguments that have been advanced in respect of the principles involved. But apparently, he is opposed to us.

The Honourable Member from River Heights presents quite another picture, however. He is a study in contrasts. He indicates at one stage that it would have been much better if the government had brought the principles that are enunciated in this Bill in a comprehensive bill of rights because that would be a better framework in which these principles would be shown. And yet, he obviously implied during the courses of his arguments that he thought that a bill of rights would provide a rigidity to the common law which wouldn't be acceptable to him. Oh he shakes his head "No" but that was the clear import, Mr. Speaker, if I can - I have a few minutes left before the hour of adjournment - that was the clear import of his remarks. Again, he left a good deal of confusion by virtue of the fact that he said that there was no implied racist threat in the remarks he made, and I hope and I certainly accept that that wouldn't be the import, that isn't his thinking, and yet when he advanced his concern about the type of information communicated, he said that the sign would indicate low wages, some of the members not being members of the union, and also advising us as to some basis of the ethnic origin of the owners or the people in the business. -- (Interjection) -- If I have time I'll certainly permit a question, but I hope and pray, Mr. Speaker, that that certainly wasn't his thinking. Later on he indicated that that wasn't his thinking, but nevertheless when he proposed his concern, it was in the framework of a communication linked with low wages, membership in trade union .

MR. SPIVAK: Mr. Speaker, on a point of privilege.

MR. MACKLING: On a point of which?

MR. SPIVAK: On a point of privilege. Mr. Speaker, on a point of privilege, the honourable member has contradicted himself in his presentation by suggesting -

MR. MACKLING: What is the point of privilege?

MR. SPIVAK: Mr. Speaker, there is an imputation and motive here which I think is pretty critical and which I have a right to speak. The honourable member has suggested that I didn't intend to say something and then he went on to say but on the other hand when I did say it, this is what I was saying which meant that I really probably did intend to say it and this is the import of what he's suggesting . . .

MR. MACKLING: Mr. Speaker. Mr. Speaker, . . .

MR. SPIVAK: . . . and I would ask him to withdraw that, Mr. Speaker, because I indicated and I think the Hansard will show this, Mr. Speaker, that I did not use that in the context of what the Honourable the Attorney-General is suggesting. I indicated to the First Minister when he questioned me that that was not what was intended, if it had happened, if it had been expressed, but I did recite a specific situation and I brought in the reference specifically to wages and to union only as a means to show that those who have an intent to accomplish another result, having nothing to do with the trade union movement, could in fact be in a position to exercise their freedom under the section and could accomplish the result and the court would not be in a position to enforce an injunction. .

MR. MACKLING: Mr. Speaker, I thank the honourable member for making a second speech in respect to this question. I still think that he clearly confused the scene by indicating, when he did in the context of his remarks, a concern for a racial import that no one else has seen fit to introduce in any way, shape or form in the debate. There has been no suggestion in all the history of conflict in respect to the use or misuse of injunctions, of any suggestion of racial overtones. The only example that was cited that has any relevance to this question of nationality or principles of political point of view or anything else was introduced by my colleague, the Honourable Minister of Mines and Resources, and indicating that here was

(MR. MACKLING cont'd.) an example of a demonstration of people who had particular views. But the views of the Honourable Member from River Heights seem to be distorted in connection with the use of pickets during labour disputes and he was the only one that introduced that sort of thing. I think that that is a danger that we don't face in our community and if he wants to indicate, if he wants to indicate his concern in respect to this field he'll have ample opportunity, as he indicated he'll be speaking this afternoon in respect to the Human Rights Act and hopefully he can clothe his remarks in the full dress of the rights and the privileges and the concerns that he sees for individual rights of nationalities and ethnic groups and so on in the province. We don't see any fear in this legislation of anything like the honourable member suggests. Obviously the Honourable Member from River Heights seems to imply that what this bill provides he's basically in agreement with, that the court should not take away, should not take away any fundamental rights and one of the fundamental rights surely is that a person should be able to refuse to work under any given circumstances. -- (Interjection) -- Yes.

If the honourable member had been -- and I don't fault him for not having had the benefit of hearing me in my introductory remarks in respect to second reading -- but I would have liked the honourable member to have taken the trouble to have read my remarks in Hansard -- (Interjection) -- Oh, that's good. I'm glad you did. So that you're aware of the fact that prerogative risks, prerogative risks - and the injunction is one of them - was a technique used by the court to provide equity where the common law, where the common law rigidity had brought about injustice in society, in the society of that day. But when the courts were merged, the prerogative risks then were continued by the courts and they have been applied in given cases not to work to correct an injustice but the practical effect has been to create an injustice in society and it's not the fault of the court. The court acts upon the laws as this Legislature and other Legislatures and the Parliament of Canada enact. It's not the courts that make law. In interpretations occasionally they seem to be creating law and the common law has been doing that. But this Legislature is the one that's entrusted with the ultimate responsibility of deciding the law in this field and that's what this bill seeks to do, to clarify this, simply clarify it. And obviously the Honourable Member from River Heights has no basic disagreement with the clarification that's provided in this bill.

The Honourable Member from Birtle-Russell, however, accepts that somehow the editorial that he read which seems to try to strike fear in the hearts of everyone should be accepted and he's 'agin' it. The Honourable Member from Assiniboia I think quite rightly, has consistently followed the position that their group have taken that the use of ex parte injunctions and the technique of injunctions works a disservice to the community as a whole rather than any benefit.

The Honourable Member from Rhineland asks about a particular interpretation. I'm sure that again - and I have lots of confidence in the legal profession and the judiciary - that public thoroughfare will be given its common sense meaning and surely it's a place to which the public has access by right, it's something that's owned jointly by the people and it's somewhere where you can come and go. It's a means of access to and from a given point. And it will be interpreted in its common sense meaning. It's only where there's some ambiguity that there would be any difficulty. But -- (Interjection) -- Not private property, no. Does the bill suggest anything about the right of people to communicate on private property? It doesn't say anything about that and I'm not going to offend the rules, Mr. Speaker, by referring or reading the specific section. But it's amazing to me, Mr. Speaker, that there has been no reference to the particulars in the Act which clearly provide that nothing in this bill, nothing, takes away from the criminal or civil rights of any by-law of any community or any municipality respecting the use of public thoroughfares or the protection of public property, the general conduct of persons in public places or anything in respect to restrictions or prohibitions against the making of certain statements or certain types or anything in connection with civil proceedings dealing with anything that offends against an Act of Parliament of the Legislature, or anything that offends against the law respecting defamation. So, Mr. Speaker, obviously the bill doesn't take away any rights, it clarifies the position of the individual who is an employee in society and that's all this bill does.

Now the Member from River Heights has a quarrel about where this principle should have been enunciated. Surely it should be enunciated in respect to the vehicle that administers the law and the prerogative risks and it's in respect to what prerogative risks can be issued that clearly apply in this case, that the prerogative risks which override, which override given

(MR. MACKLING cont'd.) situations, override rights, override common law rights. This is an equitable remedy that goes beyond the common law and that's something we don't want to take away from the court. In my introductory remarks I pointed out that the use of prerogative risks does play an important role in our society and we don't want to remove those altogether because they can work for justice. But we say in this case they should be prohibited by an Act of the Legislature and that's what this legislation seeks to do.

So, Mr. Speaker, despite all of the misgivings or the confused thinking on the part of some members opposite I think that my honourable colleague has clearly enunciated in a very convincing manner, the position of principle that's involved here which we recommend to the Legislature for its immediate acceptance.

MR. SPEAKER: Are you ready for the question?

MR. SPIVAK: I wonder if the honourable member would permit a question -- the Honourable Attorney-General permit a question? Is he aware of the fact -- and I'll try to make this brief, I realize we're at 12:30 -- is he aware of the fact that in Toronto there was a group who distributed hate literature for a period of time in an organized fashion who, if I'm correct on the interpretation of this Section 62, Section 62, would be allowed to be able to distribute on a public thoroughfare -- (Interjection) -- Yes, hate literature . . .

MR. MACKLING: I have your question. Mr. Speaker -- (Interjection) -- Well I have the question. If you're just going to tell me something . . .

MR. SPIVAK: I'm just going to try to clarify it because the Honourable Minister of Mines and Natural Resources . . .

MR. MACKLING: No, never mind. I've heard his comments and I've heard your question.

MR. SPIVAK: Well, Mr. Speaker, either you're the Chairman of this Legislature or the head of the Legislature or the Attorney-General . . .

MR. SPEAKER: Has the honourable member put his question?

MR. SPIVAK: No, I haven't, Mr. Speaker. I've asked the Honourable Attorney-General whether he's aware of the fact that there's a group that distributed hate literature and I'm asking him whether based on this section if some of the statements that they distributed notwithstanding the fact they were hate literature but were true, but notwithstanding the fact that they were hate literature and part of a conspiracy but were true on the basis of what this section says, does he believe that a court would now be in a position to enforce an injunction against him?

MR. MACKLING: Mr. Speaker, this legislation isn't designed to get at all of the problems in society and the Federal Government recently has enacted legislation dealing with hate literature, and where the authorities are satisfied that there has been an offense against that federal Act, or any Act that we may pass in this Legislature dealing with any specific problem, that's another matter.

MR. SPIVAK: Mr. Speaker, I wonder if the honourable would allow another question?

MR. SPEAKER: Perhaps subsequent questions could be asked when this matter next appears on the Order Paper.

MR. FROESE: . . . member not be entitled to a question?

MR. SPEAKER put the question and after a voice vote declared the motion carried.

MR. SPEAKER: The Honourable House Leader.

MR. MACKLING: Ayes and Nays.

MR. SPEAKER: Call in the members.

A STANDING VOTE was taken, the results being as follows:

YEAS: Messrs. Allard, Barkman, Barrow, Bilton, Borowski, Burtniak, Cherniack, Claydon, Craik, Einarson, Evans, Ferguson, Fox, Gonick, Gottfried, Graham, Green, Hardy, Jenkins, Johannson, Johnston (Portage la Prairie), McBryde, McGill, McGregor, McKenzie, Mackling, Malinowski, Miller, Molgat, Patrick, Paulley, Pawley, Petursson, Schreyer, Shafranksy, Sherman, Spivak, Toupin, Turnbull, Uskiw, Uruski, and Weir.

NAYS: Mr. Enns.

MR. CLERK: Yeas, 42; Nays, 1.

MR. SPEAKER: I declare the motion carried. The Honourable House Leader.

MR. GREEN: Mr. Speaker, may I first announce that the Public Utilities Committee will be meeting on Saturday at 9:30; Law Amendments Committee will be meeting on Thursday at 9:30; the Industrial Relations Committee will be meeting on Thursday at 7:00 p. m. and all

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(MR. GREEN cont'd.) of the other committees to which bills have been referred will meet to hear representations on Friday at 9:30 in the morning, to hear representations. I believe that that is acceptable. If there is any clarification, I don't mind it being made right now.

MR. BUD SHERMAN (Fort Garry): Mr. Speaker, I would like to ask the Minister a question, if I could, with respect to Public Utilities Committee. Is the avenue still open to receive notification from persons wishing to make representation before that committee, or have we passed the cut-off point there?

MR. GREEN: Well, Mr. Speaker, there has been no change in regard to the procedure of that committee.

MR. SHERMAN: So the people who wish to make representation to that committee can so advise the Clerk?

MR. GREEN: Mr. Speaker, I'm attempting to state the position as I know it. The committee, of course, governs its own proceedings but there has been no change to this point regarding the proceedings before that committee.

MR. GRAHAM: Another question, Mr. Speaker. You called all other committees for Friday. Does this include the Agricultural Committee.

MR. GREEN: Yes, all committees to which bills have been referred. I believe the Clerk has given all parties a list of committees and the bills which have been referred to them.

I move, seconded by the Minister of Cultural Affairs, that the House be now adjourned.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried and the House adjourned until 2:30 Tuesday afternoon.