

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS
Friday, February 23, 1990.

TIME — 2 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Edward Helwer (Gimli)

ATTENDANCE - 10 — QUORUM - 6

Members of the Committee present:

Hon. Mr. Enns, Hon. Mrs. Hammond, Hon.
Mr. Neufeld, Hon. Mrs. Oleson
Messrs. Ashton, Edwards, Ms. Gray, Mr.
Helwer, Ms. Hemphill, Mr. Patterson

WITNESSES:

Mr. Leo Desilets (Manitoba - Winnipeg
Building and Construction Trades Council
Mr. Brian Hunt (United Steel Workers of
America)
Mr. Colin Trigwell (United Food and
Commercial Workers Local 111)
Mr. Dennis Fitzpatrick (Private Citizen)

MATTERS UNDER DISCUSSION:

Bill No. 31—The Labour Relations
Amendment Act

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* (1405)

Clerk of Committees (Ms. Patricia Chaychuk-Fitzpatrick): Will the Standing Committee on Industrial Relations please come to order? I have before me the resignation of Parker Burrell as Chairperson of the committee, therefore the position is vacant. Are there any nominations for the position of Chairperson? Mrs. Oleson.

Hon. Charlotte Oleson (Minister of Family Services): I will move that Ed Helwer be Chairman of the committee.

Madam Clerk: Mr. Helwer has been nominated. Are there any further nominations? Seeing as there are no other nominations, Mr. Helwer is elected Chair of the Committee.

Mr. Chairman: The Standing Committee on Industrial Relations will resume hearing public presentations on Bill 31, The Labour Relations Amendment Act.

I will shortly read the names of the presenters from the first page of the presenters list. If there are any members of the public who wish to check and see if they are registered to speak to the Bill, the list of presenters is posted outside of the committee room.

If members of the public would like to be added to the list, or give a presentation to the committee, they can contact the Clerk of the Committee, and she will see that they are added to the list.

If we have any out-of-town presenters who have to leave shortly or are unable to return for subsequent meetings, please identify yourselves to the Committee Clerk, and she will see that your names are brought forward to the committee as soon as possible.

Does the committee wish at this point to give some indication to the members of the public as to how late we will sit today? Mr. Ashton.

Mr. Steve Ashton (Thompson): We have had some discussions. There was I think consensus, I do not know if some Members of the committee were here, perhaps we should sit until five o'clock.

Mr. Chairman: Until five o'clock, is that the will of the committee? Agreed.

Picking up from where we left off yesterday then, the names of the presenters from page 1 of the presenters list are: Mr. George Smith; Mr. Leo Desilets; Mr. Brian Hunt; Mr. Colin Trigwell; Ms. Bev Seman; Mr. Jim Murphy; Ms. Buffie Burrell; Mr. Ken Crawford; Ms. Linda Fletcher; Mr. Irvine Ferris; Mr. Lou Harries; Mr. Randy Porter; Mr. George Bergen and Mr. Bruce Buckley.

* (1410)

Is Mr. George Smith present? He is not here? Mr. Leo Desilets? Please come forward. We have your presentation. We just want to wait a minute, Mr. Desilets, until we distribute your brief. Mr. Desilets, you may proceed.

Mr. Leo Desilets (Manitoba-Winnipeg Building and Construction Trades Council): Thank you, Mr. Chairperson. Mr. Chairperson, Members of the Committee, the Manitoba-Winnipeg Building and Construction Trades Council represents 17 affiliated local unions and over 5,000 construction workers within the Province of Manitoba.

Our affiliated locals, the Building Trades Council go on record supporting the provisions of final offer selection process being retained within The Manitoba Labour Relations Act.

We believe that the provisions of final offer selection provide a valuable option for employees in resolving disputes on the terms and conditions of employment between employees and employers, especially where workers are employed by a small company which may be in competition with a number of other companies in a particular region of the province. Employees may elect to use final offer selection to resolve the dispute

of working conditions in renewing the collective agreement.

The alternative may be a strike or lockout, providing hardship on the employee and his family along with the employer and the company, of course. The interruption to business could lead to the permanent loss of the jobs to other competitive companies and the loss of the Manitoba business. Allowing the employees the option of choosing a method to attain the rights granted to employees in a bargaining unit, that of collectively bargaining their working conditions other than through strike action, should not be considered an obstacle of doing business within the Province of Manitoba.

Long drawn-out strikes or lockouts which are experienced from time to time in many of the provinces, such as we see and have seen in British Columbia and the Alberta construction industry lockout, are not good for provincial economies. Manitoba's record shows that the number of work stoppages in 1975 totalled 33. In 1980 it was 49; in 1985 it was 21; 1988 was 11. There were approximately 215 agreements to be renewed in 1989.

Applications for FOS since the proclamation in 1988 have totalled 72, with 58 finalized by the board to date, while over 50 percent of the strikes in 1988 were settled through final offer selection. That was six out of 11 applications.

We believe with good labour laws including the FOS component, there is a picture of reduced work stoppages and shorter duration of such disputes within the province.

Today's industrial world has high emphasis on competitiveness. We have to face the realities of the Free Trade Agreement, and collective bargaining must be mindful of such competitive pressures.

The Manitoba Labour Relations Act should continue to provide innovative options for resolving labour disputes. In today's world a lockout lasting many months could have a disastrous effect on an industry and its workers against the impact of competition from another province or a company operating under the free trade regulations. The option of final offer selection to end such an impasse, if employees so choose, should continue to be provided in Manitoba's Act.

* (1415)

We would, however, suggest that with the final offer selection remaining within the Act, the provisions of the employees in the bargaining unit be clarified to better address the practices that for many years have operated within the construction industry of provincial-wide certification and multi-employer bargaining negotiating groups.

On behalf of the affiliated Locals of the Manitoba Building Trades Council, we would like to thank you for the opportunity to allow us to express our thoughts regarding that particular legislation.

Mr. Chairman: Thank you, Mr. Desilets. Are there any questions for the presenter? Mr. Ashton.

Mr. Ashton: Mr. Chairperson, I just wanted to ask, first of all, what the initial position of the Building Construction Trades Council was. We have heard a lot of suggestions on those who want to remove final offer selection, going back to the committee a few years ago, that somehow a lot of the unions oppose final offer selection. I am wondering what the position has been of the Building Construction Trades Council previously and today, and what your sense is in terms of the labour movement? Are people in favour of maintaining final offer selection in the labour movement, or indeed are there many unions, as has been suggested, who oppose final offer selection?

Mr. Desilets: Originally, when the legislation was proposed, the Building Trades Council did not oppose the legislation, even though we did not endorse the legislation, because at that particular time, and even though it remains unchanged, we have reason to believe that the application of the legislation FOS, in its present form, would be rather difficult to implement to the construction industry with its multi-employer bargaining groups, namely because of the voting structure within the legislation. The voting structure is in a singular fashion when you are referring to employer, and the employees of the employer.

This is why we are saying that if it is going to be the result of these hearings that the legislation will be maintained, we would appreciate if that particular concept of the legislation be reviewed to allow the construction industry to have a greater access to it. Right now it is a belief amongst ourselves, none of us within the construction industry with multi-employer groups, have ever applied for FOS regulation, even though some of the affiliates of the building trades that have single employer bargaining units like municipalities, production shops, et cetera, we have not applied for it.

Mr. Ashton: So essentially the position of the Building Construction Trade Council is supportive of the final offer selection mechanism in principle, but you would like to see some changes that would reflect your particular industry, the fact, as you said, there are situations where you have multiple units, rather than the singular situation which the legislation was designed for. In other words, you would like to see FOS kept but with some amendments?

Mr. Desilets: Correct. We know that FOS works; as I stated in my comments, there were 11 strikes that occurred, of which six were resolved by final offer selection. You were talking yesterday and the day before yesterday in regard to the amount of weeks that you were out on strike; well I can inform you that in 1975 the sheet metal workers were out for 22.5 weeks. I think we hold the record within the province and I do not want to brag about that because that is not a thing to brag about but, yes, we do in fact support the final offer selection because we know that it works. All we would like to see, if it is retained, is we would like to have a greater opportunity to be able to utilize the legislation.

Mr. Ashton: One of the arguments that has been put forward against final offer selection has been that the

60 day window in some way, shape or form can encourage strikes. It has been suggested that people may go on strike for 60 days so they can access the final offer selection window. With your experience in this particular industry, and I am sure the many contracts that you have been involved with, do you think that is a reasonable argument? Do you see a scenario in which someone would recommend, a union leader recommend to his/her membership, that they go on strike for 60 days so they could access the final offer selection window after 60 days, is that a reasonable assumption?

* (1420)

Mr. Desilets: No, I do not think so. As an individual who has been involved in quite lengthy negotiations, I think that I would suggest to my membership at the beginning and ask them if they would be prepared to go via the route of final offer selection, but I do not think I would place myself, or the membership of my local union, to make application for final offer selection after the 60 days, or prior to the end of the 70 days. I think that if people are going to go for the final offer selection they should go right up at the beginning of it.

Mr. Ashton: One of the other concerns that has been expressed with final offer selection really goes back to the original committee hearings, has not been expressed at this current committee hearings by presenters, but it has been expressed by both Liberals and Conservatives, is that they have suggested that final offer selection erodes the accountability of union leadership to their members and, in some way, it actually acts to weaken unions.

We have had final offer selection in the province for over two years now. Has it been your experience with the 5,000 construction workers, the 17 affiliated unions that you represent, that final offer selection has weakened the unions or weakened the accountability of the union leadership to its membership in any way, shape or form?

Mr. Desilets: No, it has not. I think that you have to realize that through the process of negotiations sometimes management maintains its adamancy, and labour is not immune to that as well. Sometimes we maintain our adamancy and we reach a stalemate and there is no way—we become intransigent. Consequently, if we have an option available to us, in order to be able to break that, we can accomplish many things. I honestly believe that the final offer selection has an awful lot of merits.

Again, I think the amount of time that it has been in practice is insufficient to be able to allow us the opportunity to be able to use the statistics properly. I think that we should allow it to go the route that it was meant to go and then analyze it after that period of time. Then we will have a better knowledge as to whether in fact it has worked to our expectation or whether we should withdraw it. I think at the present time it is too early to withdraw it. It has not been given the opportune time to really show all the merits that it has.

Mr. Ashton: I appreciate what you are saying. I would like to ask you in terms of another issue too and that is the suggestions that final offer selection, and this is a direct quote once again: it has created unrest in the workplace and will continue to do so. In this case, it was a statement from the Liberal Party, but it has been made also by Conservatives as well.

Has final offer selection in any way, shape or form in the two years that you have had experience with it, the time that it has been on the legislative books here in Manitoba, has it created the disruption that was being suggested? This was by the way a quote from, to be fair, from September 29, 1989, from the Liberal Labour Critic. It is a fairly recent quote. Has it created disruption in the workplace that you are aware of?

Mr. Desilets: No, I am not aware that it has created any disruption within the workplace. As a matter of fact, I really would have a hard time to be able to accept that statement, because I cannot see how it would create a problem within the workplace. The employees are the ones who in fact vote in favour of it or rejection of it. If they vote in favour of it, how can it create problems within the workplace? They are the ones that chose it.

Mr. Ashton: You are suggesting to the committee that essentially the experience has not been negative. Many of the criticisms of final offer selection that have been made have not been borne out by the facts. You feel that, and I know from the brief, that there is some potential correlation between final offer selection and the good labour relations record that we have in Manitoba. You are suggesting that we keep it for a number of years more before making the final decision as to whether to continue it or not.

Mr. Desilets: I would suggest that it be left intact until the exploration of the sunset clause and then analyze the statistics and see exactly as to whether it has lived up to its expectations. If it has, then a decision could be made at that particular time to leave it or to remove it. I would say that it is too early at the present time to decide.

* (1425)

Mr. Ashton: I have just one further question. One of the criticisms that we have made is the fact that the Government has proceeded to move this Bill to seek to dismantle final offer selection without having done any real study, has not really contacted people who have had dealings with final offer selection or people who potentially would have dealings.

In fact, our caucus took the initiative to phone some people who had been involved with disputes that had been settled through final offer selection or involved in final offer selection in one way, shape or form. No one had been phoned. No one had been contacted whatsoever, and this is a criticism we made of the Labour Estimates Committee. On this one the Liberals and us did agree that there was no real indepth research done.

I would like to ask you if the Minister of Labour (Mrs. Hammond) or her department in any way, shape or

form, has asked yourself or has asked any of the 17 affiliated local unions what their experience with final offer selection has been? Have they made any effort to contact people and ask what has been happening since we have had final offer selection?

Mr. Desilets: As the president of the Building Trades Council, I have not received any correspondence from the Department of Labour, from the Minister of Labour of today or of the past in regard to the effects or the results of the final offer selection.

Mr. Ashton: So in other words, there has been absolutely no contact. No one has ever suggested or asked you for your opinions or the opinions of any of your affiliated unions as to what the experience with the final offer selection has been even though this procedure was put in place in the original legislation with the full understanding that it was innovative. It was put in for a five-year period recognizing it had to be evaluated. In other words, this Government has made no effort to contact you to conduct any sort of evaluation whatsoever on final offer selection.

Mr. Desilets: Correct.

Hon. Harold Neufeld (Minister of Energy and Mines): Mr. Desilets how do you feel about extending the choice for final offer selection to the employer?

Mr. Desilets: Well, I would not agree to that. I mean, could you, can I—I am not too sure as to whether I understand your question properly. Are you asking me what I think about having—

Mr. Neufeld: I am asking you whether you are in favour of extending the same rights to the employer that the Act extends to the employee.

Mr. Desilets: Well, right at the present time the employer has the right to make application for the final offer selection process. He can make the application, but the voting, whether it is accepted or not, is entirely up to the employees.

Mr. Neufeld: That is my understanding of it as well.

My question to you was, Mr. Desilets, are you in favour of extending the same option to the employer that is extended in the Act to the employee, that is, can the employer be able to impose final offer selection without the consent of the employee?

Mr. Desilets: If you were to allow us the opportunity to be able to have a choice in regard to being able to say as to whether we want a lockout or not, we may be able to review your position.

Mr. Neufeld: I wish you would answer my question. Would you be in favour of having the employer have the same rights under this Act that the employee has? That is all I ask you.

Mr. Desilets: Right at the present time, the employer has the right to make application for final offer selection.

The employees, the bargaining unit, has the right to make application for the final offer selection. If you are asking me of the final results, that is allow the employees to vote in favour of or rejection, you are asking me if the employer would have that right. I would say no.

Mr. Neufeld: I would ask you why not; why does he not have the same rights the employee has?

Mr. Desilets: Does the employer give us the right when he is going to go ahead and create a lockout?

Mr. Neufeld: The fact of the matter is that strikes are caused by an impasse.

Mr. Desilets: I am sorry?

Mr. Neufeld: Strikes are caused by an impasse between employer and employee. The employees sometimes decide that they must strike in order to gain recognition for their rights, what they consider to be their rights. The employer sometimes feels he must have a lockout in order to get what he considers to be his right. So those two issues are quite apart from final offer selection.

* (1430)

I only ask you whether or not in final offer selection legislation the employer should have the same rights as a union. You say the employer is not entitled to the same rights as the union. I am asking you, why not?

Mr. Desilets: I answer that by saying to you, sir, does the employer give us the right to vote whenever he is going to lock us out? The answer to that is no.

Mr. Neufeld: We are talking about some very different things. The employer does not have a right to vote on the strike as well. I am asking you about the legislation. Can final offer selection be requested by the employer as well as the union, and your answer is no, and you will not—

Mr. Desilets: No, no, no. I am not too sure whether I am understanding you correctly. My answer was that the employer and the bargaining unit have the right to make application for final offer selection. They both have that right, but when it comes down to the initial crutch, is the employees vote in favour of or against. If you are asking me as to whether the employer should have the right to vote in favour of it or not, I said no. Please do not misunderstand my answer.

Mr. Neufeld: I understand your answer perfectly, Mr. Desilets.

Mr. Desilets: Well, sometimes I wonder.

Mr. Neufeld: The union votes on whether or not—the employer sure can ask whether final offer selection should be imposed. If the union says no, final offer selection will not be imposed. The union says final offer should be imposed and it is imposed. I am asking for the same rights for the employer that the union has. That is all I am asking.

Mr. Desilets: I would say no to that.

Mr. Neufeld: I would ask you why.

Mr. Desilets: Again I have to go back to the same question, to the same question that I asked you. Would the employer be prepared to grant us the opportunity to be able to vote in favour of a lockout?

Mr. Chairman: I wonder, Mr. Neufeld, if we could keep the questions that pertain to the brief so that we do not get into a debating situation.

Mr. Neufeld: Yes, well, Mr. Chairman, I am sorry to say the question of whether or not equality is given in any legislation is pertinent to the debate. We do not have equality in this legislation.

Mr. Chairman: Mr. Neufeld, it is not a debate though, it is just to hear the presenters and to ask questions of the presenters for clarification of their brief.

Mr. Ashton: Just to be fair to the Member, I appreciate your comments to this. It is not a debate, but we have had some fairly wide-ranging questions and you know, having been admonished yesterday for my questions, I would certainly be the first to suggest that we do keep a fairly open status in terms of questions. I do not think it really is fair to engage in quite the level of debate we are engaging in today. Yesterday there were some people who I had some major disagreements with and I tried not to get into any—there was discussion and I suppose there might have been some indirect debate, but I do believe we can perhaps continue if we all keep a level head.

Mr. Chairman: Thank you. That is not a point of order, but thank you for your comments. Mr. Neufeld, on a point of order or did you—

Mr. Neufeld: I understand that the level of debate may be turning into an argument and I will back off, recognizing that I am not going to get an answer to my question.

Mr. Paul Edwards (St. James): Mr. Chairman, first off I want to deal with some of the comments about your not being contacted. I want to thank you for your invitation to a Christmas party at which both myself and Dr. Patterson attended as the only politicians, at least when we were there. I hope we get invited next year.

Mr. Desilets: You have to realize you were not the only politicians that were invited so consequently you were the only two that showed up, probably because the others knew you were coming.

Mr. Edwards: Mr. Desilets I am very proud to take that as a compliment. If the other two do not show up it is because they do not want to see me, that is okay with me, I hope I get invited next year, it was a good party.

Mr. Desilets: If you are a good boy we do.

Mr. Edwards: We had a good time talking about final offer selection at some length with some of your members who were there.

I just want to point to page 2 of your brief where you cite some statistics. You cite 1975, you cite 1980, 1985 and 1988 and I presume that you cite 1975, 1980 and 1985 because they were particularly high years for the numbers of strikes in this province and I believe that, as well, it was somewhere in the early '80s we had 34 strikes, as well. There were some very high years for this province.

Surely you are not disputing the fact that since 1975 this province has ranked second lowest in terms of strike days lost per 1,000 workers, non-agricultural workers, in this country and that indeed, we have been low in terms of strike days lost pretty well as many decades as you want to go back but, certainly since 1975 where you have started, we have been in second place six times. You do not dispute that?

Mr. Desilets: No I do not dispute that at all. I would have to agree with you that since 1975 the work stoppages in regard to strikes have decreased in numbers.

Mr. Edwards: Well in fact that is not exactly my point, Mr. Desilets. If you look in 1975 we had 33, we reached—as you have written down here—49 in 1980, it was 34 I believe in 1981 or '82, then '85 we had 21, '88 we had 11, in fact in 1987 we had 10, so it went up in 1988, the first year of final offer selection. So I guess my point is that being in second place in Canada, which we were in 1989, is not unique for Manitoba and that is a good thing, obviously we have had some success and no doubt we will be at second place again.

Mr. Desilets: Correct.

Mr. Edwards: Thank you.

Mr. Chairman: Any other questions for the presenter? Mr. Patterson, I am sorry.

Mr. Desilets: Mr. Chairman, if I may make a comment in regard to that, in regard to the last statement that was made. Even though since 1975 the work stoppages have decreased in number, really should not allow us the opportunity to be able to remove a piece of legislation that in fact would create the opportunity of maybe even lowering that number, and we do not know as to whether in fact it would, or it would not, so it is too early to tell.

Mr. Chairman: Just a minute Mr. Edwards, I addressed Mr. Patterson. I think he . . .

Mr. Allan Patterson (Radisson): Well, let Mr. Edwards speak.

Mr. Chairman: Okay. Mr. Edwards did you have . . .

Mr. Edwards: Just to finish this line. In 1988 strikes did go up; that was the first year of final offer selection.

In 1989 they went down, as they did in seven out of 10 provinces in this country. Mr. Desilets, in speaking yesterday with Manitoba Federation of Labour President, Ms. Hart-Kulbaba, she agreed with me and had last week, that the statistics from 1988 and '89 probably were not worthy of assessing in terms of FOS's relationship to strikes and strike days because other factors, and I am sure you will agree, such as, the economic cycle that the province happens to be in; such as, the number of collective agreements and the particular collective agreements that come up in any given year in this province, are likely to be far more influential on the number of strike days lost in this province, given the size of our economy. I mean, let us face it, one strike of a major union of any significance can throw us off significantly in this province because we are not a large province in terms of numbers of organized workplaces.

Mr. Chairman: Mr. Desilets did you want to make a comment on that?

Mr. Desilets: Really what you are asking, in the sense of the word, is that the work stoppages have decreased in the past years. Is this what you are saying? Okay, I am sorry I lost you someplace there.

Mr. Edwards: Mr. Desilets, all I am saying, in my discussion with Ms. Hart-Kulbaba yesterday and indeed last week it was agreed by her that other factors affecting the number of strike days lost in this province are far more significant than FOS would ever be in terms of assessing impact on strikes, such as the economic cycle of the province, such as the number of collective agreements and the particular collective agreements that come up in any given year in this province. I am just wondering if you agree with her and I on that.

Mr. Desilets: Yes, I have to agree with that. But again, that really is no reason for us to be able to consider removing final offer selection.

Mr. Patterson: Mr. Desilets—

Mr. Desilets: You better be nice to me, or I will not invite you to the party next year.

* (1440)

Mr. Patterson: Yes, the drinks were good too. I just wanted to clarify—if I got correctly—something that you mentioned, that you had preferred to have it invoked before the deadline. Am I correct in assuming what you meant by that was that the decision should be made before the expiry of the contract, and if it is not made then, you will take the chances on a strike without the final offer window?

Mr. Desilets: I think we are going to find that the greatest majority of the unions who are going to make application for the final offer selection are going to make it in the initial stage prior to going out on strike. Any bargaining unit who decides to go out on strike is going to go out on strike because they honestly feel

that they have the bargaining power and they have the tool to be able to persuade the employer to be able to change its ways. I have reasons to believe that very few will in fact make application after the 60 days for fear that they will not be able to accomplish what they wanted to accomplish in the beginning.

Mr. Patterson: Yes, Leonard, in view of that, would you be in favour of, lets say, amending the legislation to remove that 60-day strike window but to have the option before the contract expires? Then if there is a strike, that is it; it is to the end.

Mr. Desilets: I would say to you that if you were to allow the legislation to go until its sunset clause and at that particular time be able to review the legislation, yes, I would be prepared to look at the removal of that particular 60 to 70 days after the strike has occurred. Again, I would not be prepared to commit myself to say, yes, I would agree to the removal of it now, because there is insufficient data to be able to say as to whether a reasonable number of bargaining units have in fact taken advantage of that 60, 70-day open window. It is too early to tell. Two years from now, if you would be prepared to review it, I would be prepared to look at it.

Mr. Patterson: Thank you, Mr. Desilets.

Mr. Ashton: I would be interested to see if perhaps some time we can ask the Liberals, in terms of some of the questions, what their answer would be. I think some of us would like to see final offer selection kept. If they have some constructive suggestions, we may have some constructive suggestions of our own. My question though to Mr. Desilets falls from the arguments put forward earlier by the Liberal Labour Critic (Mr. Edwards). He talked about the trends. Your answer essentially was that you feel it is too early to indicate. I noticed you did not reference it in the brief, but I am wondering if you are aware that last year, in 1989, we had the lowest level of strikes in Manitoba in 17 years, not only the second lowest in Canada, but the lowest level we have had in this province since 1972.

Mr. Desilets: I am sorry, Mr. Ashton. I did not understand the question.

Mr. Ashton: We had a much lower number of days lost to strikes than we have ever had. In fact this is the lowest. 1989 had the lowest levels of days lost to strike that we have had in 17 years. I know the Liberal Critic is trying to suggest that we have always been second lowest, but we still have had the best record in 17 years, in 1989, with final offer selection.

Mr. Desilets: Okay.

Mr. Ashton: The reason I am raising that is because the Liberal Labour Critic has—and this is a quote from Friday, February 9, 1990—said that final offer selection has not worked. The direct quote is: it has not worked. It creates an incentive for unions to call a strike knowing it will only go 60 days. In other words, the suggestion is that with final offer selection you end up with more

strikes and longer strikes when in fact the record is quite the opposite.

I would like to ask you directly, do you believe that it has not worked? Do you believe it has created incentive for unions to call a strike knowing it will only go on 60 days? You have direct knowledge of many agreements in your own particular field. Is that statement a fair statement from the Liberal Labour Critic?

Mr. Desilets: No. Not at all. Anybody who is going to go ahead and choose the final offer selection will do it in its initial stage and will not attempt to go ahead and bail themselves out after the end of the 60, 70 days. If they are going to go for it, they are going to go for it right off the bat.

Mr. Ashton: In other words, the suggestion that final offer selection lengthens strikes is not only empirically not the case, but, in terms of your experience, has not been the case at all. It is a false suggestion based on the evidence.

Mr. Desilets: That is right. If I may make one comment, it is impossible to be able to say that the strikes have in fact increased because of final offer selection. I honestly believe that because the six applications for final offer selection that were done during a strike period were terminated, that in itself tells me, and many of us within the labour movement, that there is some rate of success with the final offer selection. We have no knowledge as to how long the strike would have lasted beyond the 60 days. Let us dwell on that for one moment. Normally when a strike lasts for 60 days you can bet your bottom dollar that it is going to last till hell freezes over and that is a long time.

Mr. Chairman: Thank you, Mr. Desilets. Mr. Ashton, do you have one further question?

Mr. Ashton: I have just a couple more questions. I find it interesting because what you are suggesting in other words, to those who have said that the 60-day window can increase strikes, not only has that not been the case, but there is every possibility that it has actually decreased the length of strikes that otherwise would not have gone 60 days but would have gone considerably past that. You mentioned a strike a number of years ago that went 22 and a half weeks. You are suggesting that the 60-day window may equally have ended up with shorter strikes rather than longer strikes.

Mr. Desilets: If the legislation would have been in effect in 1975 and the provisions would have been there in regard to the construction trades, the multi-employer group—to be able to use it—I can guarantee you that it would not have lasted anywhere near that length of time.

Mr. Ashton: Just one final question, it follows from the questions of the Minister of Energy and Mines (Mr. Neufeld) before indicating the Conservatives' interest in the balance in terms of labour relations in Manitoba. I am wondering if you feel it is balanced under legislation

currently when we were talking before about strikes and lockouts, where in a lockout situation the employer can lock the employees out.

In a strike situation the employees can be off work and yet, because we do not have what has come to be known as "anti-scab" legislation, the employer can still bring employees onto the site to continue the operation of the work. Do you consider that to be balanced? It is easy to pick one narrow part of The Labour Relations Act, but do you feel it is fair and balanced when employers can hire strikebreakers and keep their plant operating when obviously, of course, the employees cannot in a lockout walk in to the plant and demand that it open and they can continue to work?

Mr. Desilets: I think with final offer selection there is a greater balance in regard to employer versus employees. You have to realize that the employer can go ahead and create a lockout of which the employees have absolutely no say in the matter, none of that sort. So I honestly believe that there is a greater balance between employee-employer in regard to labour relations negotiations with final offer selection.

Mr. Chairman: If there are no further questions, I want to thank you very much for your presentation, Mr. Desilets.

Mr. Desilets: Mr. Chairperson, Members of the committee, thank you very much.

Mr. Chairman: We will go on to our next presenter, and I will call Mr. Brian Hunt, United Steelworkers of America.

* (1450)

Mr. Brian Hunt (United Steelworkers of America): Mr. Chairman, I have—

Mr. Chairman: Just one minute, Mr. Hunt. Do you have your presentation?

Mr. Hunt: I am sorry, I do not have a presentation to give you.

Mr. Chairman: You do not have a written presentation?

Mr. Hunt: That is what I was just getting into. It will be verbal—

Mr. Chairman: Okay, fine.

Mr. Hunt: —and, I am not known to be brief, but I will try to be, because I know you have a lot of people to go through today. There is a number of issues that come to fore with this final offer selection. Our union is—just to give you a bit of a background, we represent approximately 6,600 members in Manitoba, in the mining and the manufacturing sector of the province, from the Town of Churchill, right down to Brandon and parts in between.

It is a diverse field. We have some public sector employees. We have mostly private sector employees,

and as such—so we are coming from you from not just, as the previous speaker was, representing the building trades, we represent as well private and public sector people.

I want to tell you that when this plan of FOS was first brought forward, our union gave it a lot of consideration. We looked at it as a piece of legislation that we did not believe in fact we would ever have to use. We are a large organization with great resources and with a pretty strong mandate, and a track record of not being afraid of backing down from an employer if there was an issue. We have had strikes and we have had lockouts, and we have quite successfully I believe been able to represent our people.

We did know that there has been a trend growing in this province that is growing across the country, and we have seen a need for some sort of legislation that would enable the workers in fact to make a decision to get out of a nasty situation that they may be placed in, whether it be for some major concessions that have forced them to go out on strike, whatever the case may be. We see that this legislation can in fact do that, and in fact has done that.

I will give you some examples of where it in fact has happened within our organization. One of them, surely the Minister of Mines will recall a few years ago, Leaf Rapids, a strike that went on there for some time, not during his tenure, but it certainly went on. It was a long-going, long strike. The union was able to provide lots of resources for our members, but the question was that they wanted to get back to work, and they would like to have gotten back to work. At that time, management requested that FOS be implemented. In fact the next step took place that a vote was held. I will not go so far to say as it was a Government-supervised vote, but in fact the vote was taken of the membership to see whether or not they wished to use the final offer selection process as a means of ending the strike.

Well, that process was rejected by those people, they decided to stay out, and the terminology we use is "stay on the bricks" and "to hit the bricks and stay out there" and they did that. It continued on for some period of time and we reached the settlement that both parties were able to live with through the collective bargaining process.

The one other instance is going to take a little while longer to explain to you. It started over a number of years actually. It was a farm implement manufacturer in the City of Winnipeg here. This plant has about 110 people currently employed in the city, and we had been in bargaining for quite a long period of time. In fact the employer had started negotiations earlier, had requested them. We got involved with them. We did not get a settlement that we thought could be taken forward to the membership on the basis of a recommendation of acceptance.

He asked us—that he felt that we really did not know the wishes of our members, and would we please take that offer for it. We said we would and in fact we did. We took it forward to him and it was rejected rather resoundingly, something in the vicinity of about 90

percent rejection. We brought it back to him and asked to meet to tell him the areas where in fact the proposed collective agreement was found by the members to be deficient. He listened, I cannot say attentively, but he did listen. He said to us, I am sorry but there is not anything else there. We said, fine, if you are telling us there is nothing else there, we will then follow the law and will take a strike vote of our members. We had not done that. There was no threat there of a strike at that point in time. We will take a strike vote, and we will get back to you and give you certainly notice as to what our actions will be.

That took a couple of days to orchestrate to get a room such as we could have a meeting of a group that size when in between time, at the close of the very next shift, he came out around three o'clock and said to a fellow, how much more work do you have to do on this particular job? The fellow replied that he thought he would be finished before the end of the day and that was about another hour and a half. The employer, not his foreman, but the principal employer, the man whose name bears the company's business address said, when you are finished this run, Dick, I would like you to start—we are going to have an electrician come over, he will unwire your machine for you and you can start unbolting it.

The question was: where are we going with this machine? He said, in a short while there will be a semi trailer backed up to the side door, and when you are finished get the forklift operator to lift this machine up—it was a small punch press—and put it on a pallet and we would like you to take it and put it on the truck because we are going to move your job to Morden, Manitoba because, sir, you guys will not accept the amount of money we have and we are going to move your operation. Thank you very much. He proceeded to go on to the next guy until he found another person that would be concluded, and he said the same thing to them.

Those people did exactly that. They unbolted the machinery and they got it prepared to go. The truck was there, the truck showed up as per. Needless to say, that received quite a reaction when the word travelled around the plant, that this is what was taking place. That their jobs were going out the door to Morden, to an ununionized plant that he had. A much smaller plant that, quite frankly, could not have done the production that he wanted to do, but it was a pretty damn good threat.

That brought about a petition within our union. In fact a petition is brought forward by a number of people, and only 10—it is not something that necessarily has to be a majority—then a special meeting can be called to deal with the question, no matter what the question may be. Obviously the question here was: what are we going to do? In fact it proceeded to be a petition that we would like to have another vote on the collective agreement.

The law says that you cannot vote on the same collective agreement, exactly the same. There has to be something changed and, quite frankly, ladies and gentlemen, you can undot an "i" and you can uncross a "t" and that is a change, but you have to be able to get an agreement to do that.

We could not get that agreement from the employer until we explained to him what the law said. He said, you can undot an "i" or take a coma out of it, but if that is what you have to do to make it legal, you do that. We said, fine, we will do that. However, we are not sure that will be the case. We will have a meeting and we will see what transpires.

Let me tell you that was quite a meeting. It was long and it was hot, and it was not long and hot, it was a cold day, but the meeting got quite hot. The pros and cons of whether or not there should be a strike vote taken at that time, and as a responsible union representative, I had to say to them, no, there has not been proper notice given. We cannot take a strike vote, you cannot go out. Even though they were in a legal position and they had not taken that strike vote, we said to them, look, the issue is brought before me that you wish to have perhaps another vote on the collective agreement. It is exactly the same and I explained to them what had been changed, that really to go along with the law, because I knew that some of our members knew what the law said and would raise that and then we would have a real fiasco as to whether or not it constituted a correct vote.

As a result a vote took place on the amended package if you will and it was passed by a one-vote majority. That left a rather bitter taste in the members. Of course the next day you could not find 10 people who had voted to accept the collective agreement. I am not sure that that is not unlike a process that you follow every four years. I have been told that quite often after some of you people are elected, you cannot find enough people to get a quarter of that who have voted for you. That seems to happen in everything where there is a vote. Nobody wants to admit that they have made that decision, because they may believe it was an incorrect decision or whatever the case may be.

* (1500)

To go a little bit further, we then were able to negotiate another collective agreement. That collective agreement was voted on, proposed and ratified by the membership. It went through. It did not meet the expectations, it did not meet the inflation rate at the time. However, I think you could say there was a mind-set predominant amongst the members. They did not want to be into the fiasco, the debacle if you will, of basically twisting arms to convince one brother or another sister to vote one way, and there are both males and females working in this manufacturing plant.

Now we get to the most recent collective agreement. Legislation is in place. Final offer selection is in place. The employer quite straightforwardly in bargaining has said that he is contemplating a large order, he would like a long-term collective agreement, certainly not something any longer than what our union signs every day. A three-year collective agreement is not unheard of. Not all of them are that long, but certainly we do sign them. We bargained in good faith, and I want to add again, much before the terminal date of the collective agreement, much before the law says we must get together. It was again his request. We had bargained in good faith and gotten to a position where he said

he could not go any further in wages. I might add that the wages that he had proposed were three, three and three over a three-year collective agreement.

He asked us to again take that back to our members for a vote. We had been apprising them that it was a three-year collective agreement that he was after. It was not something that was sprung on them. They voted almost unanimously to reject that offer. We were at the point about which if we had waited any longer we could not have used the final offer selection process. We said to the people, this is an option, this is a way we can go, or we can go back to them with a rejection.

It was suggested that we go back and do face-to-face bargaining and we did. We received the same sort of answer we had two contracts previous. That is all there is. There is no more. You are going to have to accept it or forget it completely.

Well, we said, it seems to make some sense if we were to use final offer selection here. We did just that. We used the final offer selection process. We applied for it. As I understand the process that we went through, we made application. The board agreed that our application was timely, the Labour Board did. We then caused a vote to be held of the membership of that local union to decide whether or not they wished to do it. I maybe should correct myself. When I was referring to "us" before, I was talking about the bargaining committee of that local union. We then caused that vote to be held and it was accepted by—there were only two votes that were against going to final offer and quite frankly those people had said, let us strike. We said, the offer is there, the position is there. They said, by 90-some percent, let us go to final offer selection and we did that. We then let the board know that we had caused that vote to be held, the results of it, and then they turned around and named a selector.

The selector contacted me when I was out of town and indicated that he would like to have a conference call, wherein the parties and himself could get together to discuss what the issues were. The process, as I understand it, is that we must name the issues that are outstanding and that can be brought before the selector. We had basically three monetary issues that we wished to have addressed. They were wages, pension and some changes in vacation, which of course has a cost attached to it.

The employer and ourselves got together through this conference call and near the close of it, the selector asked the company if there was any other issues outstanding. They said, no, there really was not. Then he said, as an offhand—and the length of the collective agreement has been agreed. The company said, yes, it has. I said, no, it really has not. Yes, we have taken back your position on three years; it has been rejected as far as we are concerned. It is my understanding that unless we agree, the legislation says that you can only impose a one-year collective agreement.

The selector was not sure of that. He checked; he had the legislation in front of him. He said, you are correct, so there are three issues. Thank you very much, and he hung up the phone. There was another voice

who I assumed to be the company who said but—we were connected since they made the call—we were disconnected. My phone rang 10 minutes later. It was the company saying, can we sit down and discuss this. We need to have a longer term collective agreement. We said, of course you can. Of course you can sit down, and we will continue to discuss it.

The employer checked what the legislation was, found out that in fact that was the case and said, well, we need a three-year collective agreement Brian. What is it going to take to get a three-year collective agreement? I said, well, you are going to have to move in the areas of money most definitely. We discussed parameters on kind of a general basis as to where we could see moving in the area of pension and the area of vacations. In the spirit of getting a collective agreement, in consultation with the bargaining committee, we thought that we could make some other language changes that would make us happy, that we could forego those two previously mentioned areas, that being vacations and pension, and concentrate in the area of wages.

We believed that the wages were lagging behind and that would be the area that we would wish to have some concentration put. The company asked for some areas and we said, but we have been discussing those in the past—talking about something in the vicinity of the cost of living that at the time was in the vicinity of 4.2 percent.

I want to tell you matter of factly that we did not go to final offer selection. We did reach an agreement with the company. The company put forward—bearing in mind that we had something in the vicinity of a 4.2 percent inflation—a package that has seen 7 percent paid to the people across the board in the first year, with a further increase down the road and for the third year, taking from the province in the negotiations that the province has done, putting in a cost-of-living kicker. In other words, if the cost of living just prior to the anniversary date in the commencement of the third year was 5.6 percent, that would be the increase we would receive. We took that back to the membership, and it was accepted rather resoundingly.

So there is an example of where the process worked and the way we have seen the process being able to work—being reasonable, both sides becoming reasonable. If one side wants something badly enough, there will have to be some move given on both. In this instance, they wanted a three-year collective agreement. We certainly did not, unless we could build in some cost-of-living protection. Most of our collective agreements, in fact I would say all of them that have three-year collective agreements, have some form of cost-of-living protection in them, at least in the third year, and some, in all three years, such that we have seen the process being very reasonable.

We did not strike. We were not locked out, and we got a collective agreement, a collective agreement that the membership said was worthwhile, and that brought management to the fact that they could have tried to push us to a strike. I think quite frankly they would have had a strike. They would have probably had a long and bitter one. I think it would have been long and bitter because the farm implement industry is not

a very good industry in the last few years. I do not think I have to tell you people that. It would have been very divisive. It may very well have meant the loss, the permanent loss, of jobs.

What final offer selection did, ladies and gentlemen, is it brought both sides to realize that in fact there was more movement that could be made. Yes, the union could go with a three-year collective agreement, and, yes, the company could raise its offer. Had we not had that process, we would have been on strike.

I want to tell you also that our union is not afraid of a strike. Our union has had strikes in this province, in this city, that have lasted, in the '70s, some 38 months. We are not afraid of taking our people out for a long period of time. We were able to make sure that—and I can tell you that no one lost a home in that period of time. There were 54 employees who were involved in that labour dispute. No one lost a home.

* (1510)

The employer lost the business because at the end of the last six or eight months of the collective agreement, he was not producing the same product that he was when we went out on strike. In fact, he had gone from a metal manufacturer of bed springs to a recycler of paper, and in fact had gotten rid of his machines and had moved a lot of his machines. That was Quality Bed and Spring, in case any of you were wondering exactly what I am speaking of.

So it is not as if we are afraid of a fight or that we have the resources, it just seems that in an age, or at this point in history of the world, that evolution had got to a point where we do not necessarily have to have these labour disputes, that as I am sure previous speakers have talked about the survival of the fittest, and let us have a free-market approach to negotiations, so be it.

We are fortunate in our organization of having a strike and defence fund that numbers in the millions, in the hundreds of millions. That can go a long way to keeping people actively on the picket line and making sure that strike is continuing. I do not see that as necessarily always the way to go, and again we see final offer selection is giving that other alternative that the members can in fact invoke upon the union.

I spent, in 1986 and 1987, some time in Alberta servicing for our union, and I can tell you that we have a battle there, a strike going on there in Medicine Hat, that has lasted in excess of a year, and is still on at a plant called Wittke Iron Works. Now it differs slightly, because I want to be very honest with you, in that it is for a first collective agreement, but there are other operations in that province that have been on strike for a much longer period of time. It is not for a first collective agreement. The Zeidler (phonetic) Forest Products up at Lake Athabasca, that if they had this sort of legislation in place, reasonableness would be brought to bear and we might in fact see a settlement of that.

It is ironic, just after I left the province there was an announcement of some, I believe, billion dollar pulp

and paper operation that was going to go up in that very same area. Now, I do not know if that was a direct result of the fact that plant was not producing and in fact that they believe there was a real market for it, but it seemed—and there was Government money involved, both federal and provincial money. It seemed to me that if that was one of the reasons it would make much more sense to have some form of legislation in place that would bring the parties back to the table. Yes, they have conciliation; yes, they have mediation; but nothing that would necessarily bring about the final resolve of that dispute. That is what this province enjoys, and that is why I do not know of any long-term strike, protracted strike that we have ongoing in the province at the time, and that is why I do not know of any that are planned. I am certainly not planning any at this point in time, and we have lots of bargaining going on.

Our relationship with our major employers, Hudson Bay Mining and Smelting in Flin Flon, Inco in Thompson are coming up this year. That process is available currently for our members. We have had strikes at both locations, and we have had collective agreements that have been settled. It is not a situation where we strike every second contract just to make sure they understand that we are still there. Where we can get a collective agreement that is worthwhile, we will take it back to our membership and say, this is the best deal we can get for you, or this is the best deal that is available. So we are able to do those things.

I want to urge you, just in closing, that this is a process you should all take a long, hard look at. I am sure you have had a lot of statistics, and I will not bore you with them because I probably would be slightly inaccurate. I am sure that you have the up-to-date—I am sure the Minister of Labour (Mrs. Hammond), in any event, could tell me the number of days lost to strike in this province. I think it is pretty commendable, and I think it is the fact that legislation is there.

Our union has only ever used it once. We do not represent people in the service sector, in the predominantly low-paying jobs. Most of our people make very good wages. It is not uncommon for a miner in Manitoba—I should not say uncommon—it is heard where miners can make in excess of \$10,000 in a month. Those are pretty darn good wages, more than I make and more than most of you make, I believe.

An Honourable Member: Just a little bit.

Mr. Hunt: Just a little bit.- (interjection)- You get extra for that, do you, sir?

Again in closing, I urge you to take a long, hard look at this legislation. I think that as it is set up, it is working. It is my understanding, having a little bit to do with the implementation of it and being on a committee of this House, that in fact there is a sunset clause there that says we will take a look at it down the road. I would like to see it go around completely to get the full—I believe it was—five years worth of use. As I said, not all our collective agreements will terminate within the period of time where we could use that, because of the long-term collective agreements that we do get.

I thank you for your time and would be only too willing to answer any questions that I can.

Mr. Chairman: Thank you, Mr. Hunt. Are there any questions? Mr. Ashton.

Mr. Ashton: I have a number of questions actually. After a presentation by the Steelworkers', I would not miss the opportunity here—

Mr. Hunt: Thank you, brother.

Mr. Ashton: —to talk to you in terms of the experience in terms of strikes. I have mentioned in terms of my own experience in Thompson. We had a strike in 1976; we had a strike in 1981. You outlined that there have been some fairly lengthy strikes here in Winnipeg. What I would like to ask is not just what the experience has been in terms of strikes but what your experience has been in terms of those strikes.

I do not know if you would call it an advantage, but the one thing I will say in the positive sense about the two strikes that took place in Thompson that I was involved with—the first one actually was ironically supported by Inco. It was when we took on the then Liberal Government on the anti-inflation board, so you had a rather interestingly different situation where both the company and the union were arguing for the same thing. Even in 1981, when the company and the union were at loggerheads and it lasted three months, there were never any strikebreakers hired, and we have had some discussion even today about balance.

I just wonder what the experience has been with Steelworkers' Locals in Manitoba when they have been on strike. Has the general rule been that strikebreakers have been used or have not been used, in terms of your knowledge?

Mr. Hunt: I would say that there are probably—I can think of four strikes that I was involved with where in fact in three of them there were strikebreakers used. In one, there was not. I would be remiss if I were to comment on the strikes that other staffpeople have had. We have had some bitter picket line experiences. Indal Wall comes to mind. It was called Dominion Bronze at that point in time back in 1980, but they bused people through the picket lines in the school bus that had the windows blacked out so you could not see who was going in. They were mostly university students. The strike took place in the summer. Some of them had worked at the plant in previous years and so they were known and we knew where they were.

It has happened and it does happen. It is going to happen frequently because of the way the laws are structured. Once we are out, there is nothing saying that the employer cannot manufacture, so they continue to do that.

Mr. Ashton: Well, I raise that because when one talks about this Bill, obviously one has to talk about labour relations in general—

Mr. Chairman: Would you like to speak into the mike, Mr. Ashton, please.

Mr. Ashton: I am sorry, Mr. Chairperson. I am raising that point because obviously even the steelworkers have

run into the situations where strikebreakers have been used, because in terms of the northern contracts I know it has not been the standard situation. Mining companies have not generally tried to operate the plants, but even steelworker locals have, in other words, had strikebreakers used during a strike situation.

Well I want to talk then—and this leads me into my next questions. I have been asking people who have been making presentations for their comments, because these are comments, once again, that have been made in the Legislature itself by people suggesting that we repeal final offer selection. I have asked this to other presenters and I would like to ask you, as well. In terms of final offer selection the suggestion has been made by both Parties—and this is a direct quote here from the Liberal Labour Critic (Mr. Edwards) again—that final offer selection creates unrest in the workplace and will continue to do so.

You used an example of a situation, the first situation you talked about which certainly created unrest, nothing to do with final offer selection. We have just talked about a situation where strikebreakers have been hired. Presumably some of them could have been members of the union on strike as well, because that often happens I know—

Mr. Hunt: We do not refer to them as strikebreakers then.

Mr. Ashton: That is right.

Mr. Hunt: We have another name for them.

Mr. Ashton: Scabs.

Mr. Hunt: Yes.

* (1520)

Mr. Chairman: Mr. Ashton, do you have a question for the presenter?

Mr. Ashton: Oh, yes. I am asking a question, Mr. Chairperson, do not worry. I am asking, what has your experience been since final offer selection has come in place. I have listed two areas which clearly create unrest. Has final offer selection, as has been suggested by those who want to see it repealed, and I quote, created unrest in the workplace, and also the further quote was that it will continue to do so. Has that been your experience?

Mr. Hunt: Final offer selection—

Mr. Chairman: Mr. Hunt, okay, you may answer the question. If you would just wait until I address you, until they get the mikes turned on.

Mr. Hunt: I understand you, I am sorry.

Mr. Chairman: Go ahead, Mr. Hunt.

Mr. Hunt: Final offer selection has not created any unrest in the workplace. If anything, it is, as we said

and as our membership says—in fact they expect to see reasonableness come forward from both sides—and, no, if anything the repeal of it is sure going to cause some unrest.

I certainly can tell you that Transcona plant, whose area falls into Mr. Kozak's area, who certainly would like to speak with him, and when it comes to that being repealed—because let me tell you, they live in that constituency of Transcona and they understand very well that they would have been on strike had they not had that offer in place.

He can rest assured that he will be hearing from them next week with respect to that. It is my understanding that he believes there is nobody in his constituency that would like to see that sort of legislation remain in place. I can tell him that is not true. There are people that want to see it kept in place.

An Honourable Member: . . . marching orders.

Mr. Ashton: Mr. Chairperson, the Liberal Labour Critic (Mr. Edwards) talks about, they are going to get marching orders. I think that comment is insulting to members of that particular local. Perhaps the Liberal Labour Critic might wish to talk to them and find out directly before making comments like that.

I would just like to ask you further on that. What you are saying to this committee is that you are aware of cases where it is the opinion of people, who are involved in disputes where final offer selection was used to some stage, that the use of final offer selection helped prevent a strike. It provided an alternative to a strike. It prevented a possible strike situation. You are citing this Transcona case as an obvious example.

Mr. Hunt: That is correct.

Mr. Ashton: I would like to go further and ask, as I have asked other people before this committee, has the Minister of Labour (Mrs. Hammond), has the Department of Labour, has the Liberal Labour Critic even, taken the time to contact either yourself or contact the particular local that was involved or other locals of Steelworkers, to ask a very simple question of how their experience has been with final offer selection?

Mr. Hunt: I can only talk for myself and I have not received communications from either of the parties mentioned.

Mr. Ashton: So in other words, despite the fact that you have evidence you are bringing to this committee that you believe shows that final offer selection is working, no one has even taken the time, despite the fact that they brought in this Bill which would kill a mechanism that is supposed to be in place for five years on a sunset clause, was put in place to review its effectiveness, no one has phoned you or sent you any letter or even in any way, shape or form, directly or indirectly, asked you for any information on whether final offer selection is working.

Mr. Hunt: That is correct. I have not received them from anyone and if I can, Mr. Chairperson, as a bit of

an addendum to the Liberal Labour Critic, I can tell you that I personally have called Mr. Kozak and I have called him on behalf of the members of Local 7292 and I have not received a return call. It may have been because the message was left as to what it was about and it said three letters: FOS. It did not come back. I never received a call back.

Why I say he can expect it is the fact that these hearings are proceeding and are taking place now and that the local union informed me two weeks ago that they may very well wish to come down here and speak. But that if they cannot, who should they best speak to? It was suggested that they talk to their MLAs. That in fact is why it will be taking place in the next little while. I do not think the decision has been taken yet as to where we are going with this legislation and as such that is why those people will be contacting him shortly.

Mr. Ashton: Some of us still hope that there will be some open minds on this issue in this committee. I want to assure you of that. I am glad the Liberal Labour Critic is indicating his interest in having an open mind on this. Well, it works both ways, I agree, but I hope the Liberal Labour Critic will indicate that publicly.

I just want to get back to questions. Once again the suggestion has been made, and I have used this quote before, I am sure you have probably heard it, that FOS weakens unions and in particular it erodes the accountability of the union leadership to their members. We have had it in place for two years. Has that been your experience? Has it in any way, shape or form either eroded accountability or weakened any of the Steelworker Locals that you are aware of in this province?

Mr. Hunt: Initially that was the fear that we heard in discussions not within our membership and not within our union, but with colleagues in other unions, that that was what was feared. We said that we did not believe that that would be a problem, that our structure, perhaps the accountability which is put inside our structure, was such that we believe we could stand on the good stead of our day-to-day operations of servicing and policing collective agreements and as such it would not cause us any problems.

That is borne out, that it has not. It has not caused us to think that we have been weakened in any way, shape or form.

Mr. Ashton: One of the other suggestions, and this has been raised not only in the limited debate in the Legislature, but in terms of comments in the media—I will put the direct quote to you again and ask you your experience. The direct quote, and this is again from the Liberal Labour Critic, and I apologize for keeping referring to the Liberal Labour Critic. Unfortunately the Liberal Labour Critic seems to be the most vocal amongst the Liberal and Conservative Parties in terms of this issue—I will do that if—I will call you, Paul, there is no problem in that. I am not taking any offence.

He indicated that FOS, and this is a quote, has not worked. It creates an incentive for unions to call a

strike, knowing it will only go 60 days. I have raised this with everybody in the committee because the suggestion keeps coming up, that somehow people are going to sit down and go into a strike situation, to use a mechanism after 60 days that they could have used prior to the strike in the first place. Somehow people are going to sit out there on a picket line for 60 days with loss of income, when as good as the strike pay may be, with the associated risks that go with going on a strike simply so they can use final offer selection.

I put this forward knowing that there is no evidence whatsoever to show that. In the last year there was not a single case of the 60-day window being used. We have heard discussion here that some of the strikes that went 60 days, and where that was invoked, that clause. In a couple of cases it may actually have shortened a strike, but I am asking you, in your experience with the locals that you have dealt with: do you think that is a reasonable suggestion in any way shape or form, that people go on strike for 60 days to apply for FOS, after 60 days?

Mr. Hunt: No, when I first got involved some 21 years ago with the United Steelworkers, let me tell you that there is quite an education process that goes on, and I can recall the first strike quite vividly that I was involved with, being at Westeel-Rosco. All indications were that if we were to strike them on Monday, that by Wednesday we would be back, at the latest Friday. The company had something to say about that. We were not back for some six weeks so that—I do not see that as any idea—the one week was out, six weeks become hard, even at the time and that was a relatively high-paid plant at the time.

* (1530)

I guess to answer your question, I do not think that I could go before a group of people and say, we will go on strike because we know we can be back to work in that period of time. It happens that when you take people out on strike thinking it is only going to be a short period of time, that they may very well enjoy it, if I can use those terms.

They see settlements and the cost of living rising. Over that period of time we have seen fluctuations in the cost of living when we were out, that had we settled a week prior, we would have found out that inflation had gone up to 5.5 percent, we would have been saying to ourselves, my God, why would we settle for this? When we would have had that leg up to say to the employer, look, inflation is running at 5.5 percent, so 12 weeks is a long time. People get fixed in their opinions and where they are going to go, their directions. I am not sure that necessarily down the road, the 59th day, they may very well want to go in that process.

Mr. Ashton: I have raised the question because I have had personal experience with having to make that decision. I remember what happened in 1981, and the strike in Thompson, and a lot of people thought it would last a week or two weeks, maybe a month. It lasted three months. I did not last three months for myself,

I ended up getting elected in the middle of it. The people that I have talked to in that situation—I am not quite sure what would have happened if final offer selection would have been in place after the two-month window had clicked in.

I think there is every likelihood it may have been invoked and in fact you would have ended with a situation where after 60 days the strike would have been settled, rather than the 90 days, but that is obviously conjecture. I just want to ask you generally, you mentioned some of the concerns that have been expressed in the labour movement prior to its introduction. What is your assessment with your context of the labour movement at the present time? There is still the suggestion as recently as September by particularly the Conservatives and the Liberals, that the labour movement opposes this. In other words, labour movement opposes final offer selection and supports this Bill. To your knowledge what is the situation in terms of the position of the labour movement at the current time?

Mr. Hunt: I have had occasion to speak, only last evening, with the president and executive director of one of the larger unions in the province, who, I believe if memory serves me right, were initially opposed to it and they each said that—and this was not certainly in preparation for today but what it was, was another meeting that we jointly were at. In fact, they asked me why I was dressed up as nicely as I was, because quite often I am dressed the way I am today. I said I expected to be over at the House speaking before this committee and that I wanted to give it every indication of my sincerity. They said, oh, on final offer selection, and I said, yes.

They raised the point that they now see where there would be some uses for final offer selection, that it may not suit them but that it may very well be useful in some of their smaller operations, that in some of their smaller places in effect it would be good. I should not say “smaller”, because that is misleading you. They sign a master collective agreement. I would name them, except I think they may very well be coming here and may very well be bringing that to you. So I would hope that is not your next question, Mr. Ashton.

Mr. Ashton: Indeed it is not. I just wanted to comment, actually. You made reference to the wages of miners and whatnot. While I do not know if the figure you used quite applies the same way it used to, I do remember when I was first elected as a—I was just mine beginner, actually, and I had just gotten some bonus. The one thing that struck me about the Legislature is there was no bonus, and especially as we sit on a committee like this with 107 presentation, no overtime either. You may be correct, and I think in a large part it is due to the work of the Steelworkers over the years, the work of the Locals, the work of the national, international offices. I thank you for your presentation.

Mr. Chairman: Are there any further questions? If not, I want to thank you very much, Mr. Hunt, for your time this afternoon.

Mr. Hunt: Thank you kindly.

Mr. Chairman: Mr. Colin Trigwell. Do you have a written brief?

Mr. Colin Trigwell (United Food and Commercial Workers, Local 111): No, I do not, Mr. Chair.

Mr. Chairman: Okay.

Mr. Trigwell: I would just like to thank the Chair and the Honourable Members for allowing me to speak. I want to stand before you as a member of the labour movement, of the one-third—and I was one person who was opposed to FOS when it was first implemented.

I guess you can teach an old dog new tricks, because when I saw what our local has gone through and some of the issues that other people have gone through and saw about how FOS has been implemented and how it has helped our Local get through bitter, bitter times, then I must say that I have sure changed my mind on the whole issue of FOS.

I have been in this business now for some 24 years, and one of the things that I have found is that the majority of strikes are created by poor industrial relations. When there are poor industrial relations, there is bitterness on both sides. My job as a negotiator becomes unruly. I cannot get people to change their positions. There is bitterness in the negotiations. It becomes a very cloudy set of negotiations; the part about being reasonable goes out the window.

I was here last night, and I happened to hear David Newman's brief on behalf of the Chamber of Commerce. This is a man who said he had a lot of friends out here and pointing to us in labour. This is the man who took us, UFCW and myself, whom I was negotiating with, to first contract with not one clause agreed to, not one clause. He would not even agree to a harmonious relationship clause. Tell me about being reasonable. If we would have had the opportunity—and I am trying to use it as a comparison—if we did not have first contract legislation, we would have been forced out on the street. Again, like Brian Hunt, the previous speaker, our union is not one that gives up. We will take on anybody at any time. We have the bankroll to do it, and we will do it. But is this what we are going to be talking about in the '90s, or are we still talking about the '40s?

Here was a situation where this man said that—as I said—negotiate reasonably. We had an opportunity to go on strike or go to first contract with Mr. Newman. The fact of the matter was, we decided to go to first contract because if we had gone and taken the strike route, we would have ended up on strike, we would have ended up with scabs. When decent citizens and people who are law-abiding citizens end up fighting for their rights, when they see scabs go across the picket line which we cannot control, we have police forces that come in and break up the picket lines. We have no say on that and no vote on that. We do not have a say and a vote on management rights clause in the collective agreement. We do not talk about production. We do not talk if they can hire scabs. We would have been in a serious situation and a lot of law-abiding citizens would have had criminal charges.

When I hear Mr. Newman's brief and Mr. Grant's (Mr. Mitchell's) brief yesterday, they talked about the balance in The Labour Relations Act. Do you know, with final offer selection, there is still a big imbalance when laws of the land are when a strike commences the company can operate—no penalty to the company. Mr. Newman talked about temporary scabs. Temporary could be full-time scabs if you can never be able to get a collective agreement. The company can force you out and stay out, never want to be reasonable. Where is the law in labour relations that says the company has to be reasonable in negotiations? There is not one.

No matter how reasonable we try to be, any moron can negotiate a strike, but it takes two people at a bargaining table to be reasonable in order to get one. I think with the economic times that we have had, the changes that are commonplace in Manitoba and the tough situations that are happening, peer pressures and the pressures on families are far greater today than they ever were in the past. I think it is our job as being reasonable to try and settle disputes peacefully, any way we can to settle the dispute. Again, there is no law that says the company has to be reasonable.

Mr. Newman is correct when he said there is a dark cloud over Manitoba. We have had some pretty dark clouds. We have had Westfair strike. Let us talk about the Westfair strike. That is not my local, by the way, but I was part of the picket line out there at the Westfair strike. Let us look at that. Here we are, bitterness, I mean it was entrenched. I was allowed to walk on the outside sidewalks while people were scabbing and while the company paid people to go through the picket lines and get free groceries.

We saw people at the bus stop with bags of groceries from SuperValu which I had to pass up and down the street, looking at us, waiting for us to say something so the company could get an injunction against us and limit the picketers. We had TV cameras up on the roofs of all the SuperValus. There was no reasonableness. There was no will to settle the collective agreement. As a result there were a lot of implications. Small business, we talk about the corner grocery stores could not buy the product from the wholesaler as cheap as what Safeway and SuperValu were battling out with each other to get people to go across the picket line. That was an injustice. That was a terrible strike. I am not proud of the fact that that took place in Manitoba.

* (1540)

Mr. Grant (Mitchell) talked about—and I understand the Liberal critics have said—that FOS promotes lengthy strikes. I have to say, this one union can say that does not happen. Let me just say that Fison's, we have applied four times, six times on record, but four times as we bargained jointly with three different units, so had to make three separate applications. The Fison's Western Corporation plant in eastern Manitoba, the contract expired May 31, 1988. Industrial relations at that were absolutely deplorable. We had in the neighbourhood of over 50 grievances, which is a very high number of grievances. There was no will on either side. It became entrenched. It made my job and my colleague's job just about near impossible to try and get anybody to be reasonable—absolutely impossible.

The employer, Mr. Grant, applied for final offer selection representing the employer, and the first window on April 12, 1988. The bargaining unit was just absolutely deplorably not interested in anything, voted against it. We started a strike. We were prepared to go on and go on and go on. The employer scabbed the operation, which resulted in almost 40—again, good citizens, community participated citizens, good law abiding citizens, had over 40 charges against them in the criminal courts.

I mean, it is hard to understand—the fact of the matter is that the guy is going across the line doing his job when he is trying to fight for better working conditions. People were getting hurt. There were threats that they were going to burn the fields, and if they burned the fields, there would be no operation period. This is where I have to step in and try and control and to negotiate.

The situation happened that three weeks into the strike the employer threatened to close the plant, because we were on strike, still working with scabs, still having police there every day. That is expensive. Talking about police forces there every day, we had three sets because we had three different sets of property that we had to picket. We had a situation that we applied, because of the rumours of burning the plant, the peat moss plant, because once the peat moss is gone and once it starts a fire, it is difficult to put it out. It goes underground and there is nothing we can do. It will destroy the whole fields.

We took the position saying, look guys, we had to work hard as staff reps and as responsible to our membership to go to the plant to talk to the members to say look, would you consider final offer selection? Will you consider it? We took a vote. We won by a very slim margin to go to final offer selection, but before that, taking that vote, once we applied and before the vote could be taken, Mr. Grant Mitchell went to the board saying that the union has voted against it in the first window and therefore we are challenging them in the second window, which increased the strike another 20 more days before the Labour Board decided that, yes, the labour can vote in the first window and/or the second window.

Once the vote took place, the company said, gee, I think we had better be reasonable. The union said, gee, we had better be reasonable. We were able to achieve a collective agreement which was absolutely not in the pictures at all and nowhere to be seen. We were able to negotiate a collective agreement without a selector being involved. That is being reasonable. Since that time the company has applied to the federal Government for industrial adjustment committee which is approximately \$5,000 to \$10,000, saying that we have bad industrial relations and that this strike has taught us a lesson, and this whole procedure has taken a lesson, and asked if the union would co-operate, which we are. We are part of the committee. We are co-operating.

The company is now—they have communications going on. So what final offer selection has done, not create animosity, what it has done is said this cannot happen again. We have a business, and we want to

run that business. We know you are going to take us on. We know you are not going to back down, but we have the biggest issue is industrial relations. This has not created animosity. This has now taught this company and the union that communications is the best result. That is what final offer selection has done in this particular case.

East-West Packers, Best Brand Meat, and Jack Forgan Meats, the contract expired June 30. The company's position, we went to the companies and said, look, we know you are not in the best shape financially. We said, we want a wage freeze. The company took that as a sign of weakness, and as we talked—this is how we were setting up bargaining—the company then said, no, we do not want a wage freeze. We want a \$3 wage cut. We want to take away your vacation package. We want to take your extended health and change that. We want to cut back your pension plan.

We went back to the memberships, and that was two days of bargaining, that is it; two days of bargaining. The company then said, that is it, that is our final position. Take it back to your membership. Your membership is weak because you would accept the wage freeze, because we were concerned that the company was not going to make it in the operations. We were forced to take it back to the membership. The membership said, we will strike until the plants close. We are fed up with working at East-West Packers. This is a company that has not paid union dues for six months because they were using it to buy hogs. The union supported that. We did not accept it, but the fact of the matter was we said, we are not going to take you to court. We are not going to do those things. We would like the union dues because that is not your money. This is the kind of co-operation that we got from this company.

Again, the company was in a position saying, okay, no negotiations. The membership says, to hell with them. We will strike here. I said, our union is tough, we are strong, and I do not mind saying that we pay \$160 a week on the strike pay. We support our membership 100 percent if we have to. We do not back down from anybody, but there is a position of being reasonable. We said, look guys, the company is not making money, and the meat-packing industry is not in good shape. We have to look at this situation. We know you have suffered hardships. The membership said, if they are talking wage concessions or pension plan reduction, because we struck for that before, we are not going to lose that. We do not care if the plants close down. We want to know one way or the other, but we are fed up being beaten back. That is what the union staff reps had to deal with in order to get a collective agreement—again, both sides unreasonable. I say our side was more reasonable, because of the fact that we were prepared to accept the problems of the company, but this time they were not going to take concessions, and I agreed with the membership 100 percent.

The company phoned us up and said, gee, how are we going to get this resolved? Take the concessions off the table because I do not know how much longer

these memberships are going to stay out. I mean, they are livid, they are strong. We are not going to be able to lead them because of the issues that have taken place. The end result was we, as staff reps, again had to go to the membership and say, look, guys, you have got to be reasonable. We have got to settle this one way or the other. We have got to get down to serious bargaining. We have got to look at the concerns of the plant, negotiate a collective agreement and take our chances at final offer selection, not because we were weak, not because we did not want to pay \$160 a week strike pay, but because what it is going to do to the industry and what it is doing to again good employees, good law-abiding citizens who have just had it up to their ears.

As a result we narrowly got it passed through our membership to go to final offer selection. We get a phone call from a company lawyer, let us sit down and bargain, let us be reasonable. As a result, we got a wage freeze. We got what we wanted originally before we even got out, but a final offer made it reasonable, a final offer stopped the strike, that strike would have gone on and crippled the industry. As a result, we lost Best Brand Meats. That strike did them in. East-West Packers would have been done in as well, if we would have continued on in the strike. There was no way that either party was going to win.

* (1550)

What final offer selection did was stop a strike, not increase a strike, stop a strike uselessly and get the people down to being serious about coming up with a collective agreement. The industrial relations are not the best yet, but they are trying. At least now they are communicating. So what that has done is kept two meat companies in business; one went down the tubes because of the strike. Again we did that process without having a selector come down with an either/or situation.

Tupperware. This is a very interesting one. Tupperware is down in Morden. I was one of the people who negotiated the first collective agreement in Tupperware in Morden. What had taken place here was we had to deal with negotiators from Miami. Okay. The local plant manager was not involved. We had to deal with negotiators from Miami. They just did not want to have, their proposals were, exclude The Labour Relations Act, exclude The Labour Relations Act, exclude The Labour Relations Act. We tried to tell them to get a lawyer, to talk to a lawyer here so that they would understand what is in The Labour Relations Act, and what would apply. They did not.

We applied for final offer selection in the first window without taking a strike. We knew we were heading, it was just unreasonable. All they had to do was force them in to see a lawyer and the lawyer would instruct them because he was not going to take my word. We applied for FOS; as a result they hired a lawyer and the lawyer explained to them the rules in Manitoba. We were able again to get a collective agreement without a selector giving us an either/or situation. That is unreasonable and again that is the issue, that most of the times we go is because we are in a situation of unreasonableness on one side or the other.

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Premier West Peat Moss. My friend, my illustrious friend David Newman, who says we applied in the first window. In bargaining Mr. Newman would not come to the table. Mr. Newman was negotiating on behalf of Premier West. We notified him prior to 90 days. We wanted to get into negotiations immediately. For whatever reason, either the company who came out from Quebec, who did the negotiating, and Mr. Newman, we could never get him into the bargaining table.

We had sent our proposals to Premier West with no response. We finally had one meeting. The company said they would look at it and report back two to three weeks later, which ended up past the open window period in the first window of the FOS period.

Again, Mr. Newman, who knows what The Labour Relations Act is and knows the issue, was avoiding bargaining because of FOS in this particular case, to try and make us go into a position of taking a strike on.

He challenged us at the board, that we did not complete the bargaining process, that there was not a dispute, and therefore we did not have the right to apply for final offer selection. Again, we won that before the board on what is a dispute. As soon as we won it, I will be damned, he did not have two weeks of bargaining dates available for us to sit down and negotiate a collective agreement, forced us into sitting down and being reasonable. Again, we came up with a collective agreement without using the final offer selector with an either/or situation. Again, it became reasonable.

So in our process in our local, we have used it, I guess if you want to classify the three bargaining units as one, six times, theoretically four times; in none of those times have we gone to a selector. All four of those times were bad industrial relations who muddied the water for bargaining to take its normal process and to be reasonable.

In conclusion I would like to say that, and again I would like to repeat one part, that the pressure and peer pressure, the economic pressure of our society today is far greater than it was in the '40s, far greater. We are talking interest rates as you are all aware of, and I am sure every one of you is fighting the interest rates, I would hope. Our mortgages running at 13 and 14 percent. I do not have to tell you that an employee who takes the option of going on strike, all right, is looking at maybe if he is on strike for 60 days or two months and not making a mortgage payment, how that interest rate adds up. He loses basically some of his down payment.

Economic times are a lot more difficult. The society has changed in leaps and bounds. I am sure you all are aware of the computer and all of the things that have gone on. Well, what we are saying, with this society today, there must be a way to resolve a dispute. Damn it, I mean, how can you not have a way to resolve a dispute and make people reasonable, because once people are reasonable, I will guarantee you there will be no strike. But it is getting unreasonable. In our experience, all this FOS has done has made people responsible and get serious in bargaining a collective agreement.

We do not have the loss as far as the labour. I heard Mr. Newman talk about us big labour people, big labour in a small company. Well, I saw big labour. It was fair. I saw the injunctions against big labour out there. I saw people going across the picket line. I saw a person get shot. I am sure we all read it in the paper. This manager thought it was a scab or a union member going around to his house, and he got shot for it.

We have serious times here. Big bad labour? I saw big bad labour. I saw them hauled off in paddy wagons, good citizens, guys who have worked hard in the community, hauled off in paddy wagons at Westfair, and I saw it at Fison's, hauled off in paddy wagons. These are people who have done nothing wrong, never had a criminal record at all, see their jobs go down the tubes and see their job security going through by a scab and being laughed at as they cross the picket line. I have seen a company up there just baiting picketers.

When they got down to being serious, got the press out of bargaining there and got serious, they were able to come up with a collective agreement. I am saying that all the injustice that took place in that Westfair strike would have been settled and they would probably have not gone to final offer selection as far as a selector being involved, because both sides would have been forced into reasonableness.

Do you think for one minute one of the reasons why I was opposed—let me just tell you a brief example. Maybe some of you do not know, are not aware of what I am talking about. When we talk about departmental seniority versus plant seniority, company can give a hell of a great argument about why it should be departmental seniority. Great argument, and you know, the motherhood issue of the labour movement is seniority.

We go to final offer selection and we say we want the cost-of-living increase of 6 percent. We could lose. We are taking the chance of losing the motherhood issue of seniority and end up with departmental seniority, so that people with 20 years seniority are being let go and five people with departmental seniority are staying. We take it very seriously. We do not use it like I have heard some people say, that the labour movement is in a position of just using it and they want to just become big business and let the Governments do their work for them. No, we take that seriously.

We do not want to go to final offer selection, and I challenge anybody to say to me that FOS creates longer strikes. It is absolutely ludicrous to believe that somebody will sit there and say, yes, I will go on strike for 60 days. It is absolutely ludicrous for us to do that. That is not the way it is, and as a result we have done—and I have told you our positions of unreasonableness. Every time we have been into the final offer selection process we have had a situation when there was bitterness; there was no reasonableness at all. Once we applied, we were able to come to a collective agreement with every employer that we applied to FOS without a selector doing anything, only appointed in name only.

* (1600)

If I have any reservations about FOS, and again, I am one who was opposed originally, I say that we have to get more stats on it. I know that our stats as far as our local is concerned have worked very, very well.

In the case of Bisons, it will save strikes there forever and save the plant. They are even applying, as I said, for Industrial Relations Committees to come in to talk about industrial relations with our participation. It is the greatest thing that ever happened. So our experience with FOS has brought reasonableness back to the bargaining table and we were able to get a collective agreement.

As I said, the only problem I have with FOS to me is the situation of the first window. I can agree with Mr. Newman, but only in principle because I know Mr. Newman delays bargaining so that the first window goes down the tubes, but it does not give the opportunity to bargain and to withdraw all bargaining process. Let the bargaining process go on till the final stage where there is finally no more bargaining, and before strike commences, they apply for final offer selection. Because what it does is it just—I mean, what I have seen out of it so far, and again this can be discussed when it is to be reviewed, but one of the issues that I have seen in our sets of negotiations when lawyers are involved on behalf of the company, they stall the process, so we really have not exercised the bargaining procedure before the first window comes up.

So I have a bit of a problem, and if you are going to review anything I say, let us look at that first window so that bargaining can exhaust its way and then open the door. That is the only problem I have, and I think that the 60-day window is an excellent window, because you know if it is going to be a disaster and you know what can happen in 60 days, but to think that people, the union would gladly go on a 60-day strike is absolutely ludicrous. I thank the board for their time and for listening to me.

Mr. Chairman: Thank you, Mr. Trigwell. Are there any questions? Mr. Ashton.

Mr. Ashton: I found the presentation very interesting, particularly the specific cases you have cited in your own personal experience. I just want to ask you as I have asked other people, including people who have quite clearly indicated in their view that final offer selection has been working, has the Minister of Labour (Mrs. Hammond) or the Department of Labour at any stage asked you for your experience or asked other members of UFCW, Local 111, as to what the experience has been with—

Mr. Chairman: I wonder, Mr. Ashton, if you could speak into the mike so we could hear you.

Mr. Ashton: Pardon me, my apologies, Mr. Chairperson. I am asking what contact, has there been any contact to ask you is it working or is it not working at all?

Mr. Trigwell: No, there has not.

Mr. Ashton: So once again, despite the fact that you have had some positive experience and you have cited

cases where final offer selection has not only resolved a dispute, but it saved the jobs, it saved the company, no one has ever taken the time to phone you or send you a letter or anything of the nature to ask you what your views of final offer selection in the first two years?

Mr. Trigwell: No, they have not.

Mr. Ashton: Well, I would like to move on, Mr. Chairperson, because we are seeing a repeated pattern here and that is that people who know what is happening with final offer selection are not being asked, and that is to ask, once again this is -(interjection)- The Member for St. James (Mr. Edwards) is suggesting there are a lot of union leaders in the province. I agree, and I think that contact should have been made in terms of what has been happening. That was my question. I asked it for a very specific reason, but I do want to move on, because one of the suggestions has been made that final offer selection does not lead to a peaceful workplace, and this is a quote: It may end the strike; will it create a peaceful workplace? Not a chance. This is from the Liberal Labour Critic.

Now, from your comments to the committee, you are suggesting that in the case of Fison's, it has been the exact opposite. I am wondering if you would like to elaborate. Was it positive or was it negative in terms of the impact of final offer selection in that workplace?

Mr. Trigwell: It has been very, very positive. You would have to understand industrial relations at Fison's. It was damn awful, to the point that we would have to give our committees hell, because there were just so many chips on everybody's shoulders, there was no talking at all.

What has happened, as I said, after that strike, both parties said—and after going to FOS—we can bargain sensibly. We have learned a valuable lesson. Let us now take a step and apply for the federal grant for industrial adjustment committee; we were a party to that and have now set up that committee. As a result, we have had one grievance which we would number 50 by now. We have had one grievance, which was settled, and industrial relations has gone a long way. I do not think we are going to be in a position of strike any more at Fison's.

Mr. Ashton: So in other words, before final offer selection was used in this particular case, there was an incredible amount of bitterness, there were continuing disputes, continuing problems, but after final offer selection, the resolution of the contract in this particular case, not only did not lead to a disrupted workplace but, if anything, has led to quite the opposite, has led to a more peaceful workplace that opponents of FOS simply have not recognized has been happening.

Mr. Trigwell: That is correct. That is why today I am standing here in support of FOS when two years ago I would be standing opposed to FOS. I have seen it in action; I have seen what has taken place. It does not create animosity. It does not and it does nothing but good.

Mr. Ashton: I appreciate your comments, once again based on your own personal experience. Another

suggestion has been made and I have mentioned this to other presenters that final offer selection weakens unions and that it has eroded the fundamental accountability of union leadership to their members. Has that been your experience in the two years that it has been in place? You have said that it has been beneficial in terms of the workplaces, in terms of the members themselves. Has it in any way, shape or form weakened your particular union and your relations or has it limited your accountability to your members?

Mr. Trigwell: Not at all.

Mr. Ashton: I just want to be very clear in terms of your comments because I have asked other people this as well on the 60-day window. You are suggesting—based on your experience, not on conjecture, not on theory, but on your experience in the Fison's situation—that you believe that not only does the 60-day window not lead to lengthen strikes—and once again it has been suggested that it creates an incentive for unions to call a strike, knowing it will only go 60 days—you are saying that is not only untrue, that what actually happens is that it provides an opportunity, in some cases at least, to shorten strikes in what might otherwise have gone on far longer than the 60-day period.

Mr. Trigwell: That is not just in Fison's. We would have been on strike for over a year. I have no doubt in my mind. There was so much bitterness. What it did do was give an opportunity to resolve a dispute, not increase a dispute. The situation at East-West Packers and Best Brand and Forgan's was, it not only shortened a strike but kept two companies in business, so when we talk about FOS and how it has affected my particular local, that is how it has to be. It has been absolutely positive. We have saved two companies from going under and the fact of the matter is that we were able to shorten the strikes.

* (1610)

Mr. Ashton: I find it interesting once again that there has been no effort to ask you of that by the Government before moving ahead with this Bill. I would just like to have it clear for the committee as well, that essentially, as I understand it, you are suggesting to this committee that the experience of final offer selection has been positive thus far and that a bare minimum at least deserves a further period of time so that we can assess it after that period of time based on what you say are some very positive developments that you have experienced.

I note by the way, with interest, that you have been talking not just in terms of your members. You have been talking about in terms of the companies. You are saying that in some cases it is probably going to save the company, and of course that saves the jobs of the members as well. You are saying that final offer selection has saved companies, saved jobs, which obviously benefits not just your membership but the companies that you are negotiating with,

Mr. Trigwell: That is correct.

Mr. Edwards: Thank you, Mr. Trigwell, for coming today and sharing your thoughts. I received a letter from one of your brothers, the business manager for the Telecommunications Employees Association of Manitoba in the union movement, and he suggests, and let me just quote, an improvement to the Act: "such as to provide the employers as equal an opportunity to apply for FOS as the unions. We suggest that while the unions must gain the approval of their membership to file, the employer's application could be validated directly by the Labour Board."

Now it seems to me that would be a very fundamental erosion of the right to strike where equal—that what this gentlemen perceives to be equal opportunity to use FOS be given to an employer. How do you feel about it?

Mr. Trigwell: I feel we will never be on an equal foot with management. The law of the land does not allow that to be. I mean, I have seen that at Fison's, and I have seen that at the Westfair strike. We could not stop the guys from going across the picket line. We could not do those things, and again I saw law abiding citizens end up being charged because they saw their job security go down the window or challenged.

So I do not think we will ever be at equal footing. I disagree totally with Mr. Newman, with principles that, geez, there is a dark cloud over Manitoba because the management has no rights. I believe the due process, the way it is right now is the way it should stay. In our behalf and in behalf of what I have seen, and I cannot tell you about what is going to happen in the future, and I cannot tell you about other strikes and other applications to FOS. In our situation, the best thing that ever happened in order to get a collective agreement was to make sure the union voted on it. If they had not, there would have been unrest like you would not believe. Then you would have an argument saying that FOS has now created animosity in the Local and created animosity with the leadership of the union, because they do not want to. If the company had the right to go and do this without having a membership vote, then I would say that your statement is very accurate and that there would be disaster in the labour force and create a lot of problems.

Mr. Edwards: It is for that reason that I was particularly surprised to hear, receive that suggestion from a union leader in this province. Anyway, on another issue, you have made quite clear your view that in your experience—and I respect your experience which is obviously lengthy in this community—it is unfathomable that someone would suggest a 60-day strike somehow frivolously with a view to using final offer selection at the end of it. I appreciate that sentiment and certainly agree with it.

However, you, telling us about your experience, have obviously on a number of occasions recommended a strike to your members, as have most union members. I do not say that is in any way taken lightly. I think most union leaders probably make that decision after a lot of thought and a lot of foreboding about what might come and how long the strike might last. Are you saying that in those situations where the issues

were serious enough to go to strike that the decision would not be somewhat made easier by the knowledge that after 60 days, final offer selection is a way to resolve it if things are not going to the advantage of the union?

Mr. Trigwell: I have to say that I disagree, especially with our situation, and I can only deal with our situation. I mean, the staff reps, including myself and my colleagues, had to do a lot of work to get these people to even consider FOS. It was a tough job for us to get considered. They were bitter—I mean they were saying, go ahead at East-West Packers, close down, to hell with it, I have had it, I have been threatened up to here for too many years. I have had it, let us make it force the issue. I mean, we had to go and make phone calls. We had to talk to people to get them to be reasonable in a situation of—as a result the vote was only 52 percent to go to FOS. That tells you that it was not taken lightly. It was a very serious job. We did that in order to save two more plants. As I said, one plant closed down. We did that because we knew that the other two plants were going to close.

We had to work our butts off to get them to consider applying to FOS for the best interests of the community and everybody at large.

Mr. Edwards: I see the East-West scenario, the picture you paint. The question remains with respect to when that critical decision is made to consider strike, to recommend strike. I take it you are not suggesting that the fact that after 60 days the strike can be ended if it has not been successful is not a factor. You are not suggesting that, are you, or are you, Mr. Trigwell?

Mr. Trigwell: No, I am not. I say that, if you take the position of going on strike, you are going on strike. Nobody knows what is going to develop during a strike that takes place. You heard from Mr. Hunt, some of the scenarios that took place.

I have, as I said, negotiated probably over 400 collective agreements in my time. I would like to say that I have been on strike only five times out of all those collective agreements in all those years. We take it very seriously. We do not say, look guys, we want you to close the plant down for 60 days, and then we will opt out to the final offer selection.

In the case of Fison's, they said, we do not want FOS. They turned the window down. The company applied to go on FOS. There was no intent to go on strike for 60 days and apply during the second window. There was no intent at all. We were scared. The union was scared, trying to get these people into a reasonable position. We had to work our butts off to get people into a reasonable position, both the company and the union committee out there.

There were threats of burning the fields. If that would have gone, that whole company would have gone. Peat moss goes once, that is it. Once it is done, it is done. There is a serious situation out there. Again, we had to work our butts off. There was no intent for 60 days down the road to go into second window. These guys were in and they were bedded in to stay in. It was ourselves, as representatives—to take a reasonable

position and try and get people back to getting back to reality. Did it work?

Our experience has been excellent in those kind of things. We have never gone and said, okay guys, we do not like what the company has offered. Why do you not a holiday for 60 days, and then we will apply in the second window. Our union has never done that. We have, I would say, more than the steel workers do in a strike fund. We pay more money per week in a strike fund than the steel workers. We have never backed down from anybody. Our union has never, ever. As a result, as you have probably heard in the press, the Gainer's strike was our strike. That is our union. We are prepared to go to the wall.

Mr. Edwards: No one is suggesting, least of all me, Mr. Trigwell, that anyone ever would take the decision to send workers or to recommend that workers go on strike for whatever length of time, 60 days or 30 days or 2 days, lightly. No one is suggesting that.

What I am asking you however is, are you saying, with your experience in this field, that the fact that at 60 days there is an option to get out of a strike, are you saying that is not a factor in deciding whether or not to go on strike?

Mr. Trigwell: I am saying, no. In the cases that I have dealt with that is not a factor. Excuse me, I have an ice cube in my mouth. The cases that I have given to you, and the opportunities that we have applied to FOS—again I am sorry, I did not wait again.

Mr. Chairman: That is okay. Carry on.

* (1620)

Mr. Trigwell: The issue of FOS in the second window was not an option. It was only because of all the disasters. If I went and talked to those guys and said, we are going to go to final offer in 60 days, they would tell me to go up my ass and they would probably hang me from the rafters. There would be no way that they would even consider FOS at that particular time. It was through hard work and after a 60-day strike that we said, now guys, will you consider it? This is getting serious. We are talking about closing down a plant. We are talking about fields that are going to be burnt. We are talking about this is your future, you live out here. Do you want a job out here?

We had to get people back to reason. I mean, bitterness was so bad and so entrenched that they did not give a damn what would take place out there. That was our responsibility. What FOS did was give us an out to get both sides to be reasonable and when both sides were reasonable we were able to come up with a collective agreement without a selector.

Mr. Edwards: Mr. Trigwell, it is interesting, I want to pick up on that comment. It gave you an out to force both sides to be reasonable. You have talked about cases in which you have been involved and obviously from your perspective it was management that was being unreasonable, but it certainly—

Mr. Trigwell: No, I did not say that. I said it was both sides that were unreasonable.

Mr. Edwards: Thank you for the clarification. Is it your experience that in most cases where relations deteriorate to the state that a strike is contemplated and even recommended, perhaps that there is generally unreasonableness on both sides or at least there is an equal number of times in which unreasonableness comes from the union's side, it comes from the employer's side? Certainly you cannot say that it is always one side that is unreasonable.

Mr. Trigwell: I do not think you have heard me say that. I am saying that what FOS has done in our experience is made both sides reasonable. Both sides do not want to have a selector giving a collective agreement. They come up with a collective agreement—and made both parties reasonable and responsible.

Mr. Edwards: But given that both sides can be unreasonable and oftentimes are, it is only one side that gets to demand final offer selection.

Mr. Trigwell: Yes, that is correct. I make no bones about that. I believe it is fair play, and based on the grounds of what you talked about—because if you force the employer to make application, if you agree that the employer made application to first contract—the press clipping that you showed me there on your statements about unrest and havoc in the union movement, it is said that the Labour Critic for the Liberals had made a statement to it.

An Honourable Member: That was Mr. Ashton.

Mr. Trigwell: Yes, whatever. Those statements would be absolutely true. Those statements would be absolutely true if you allowed the employer to make application and then the members not having a right to vote.

Mr. Edwards: I accept that, Mr. Trigwell, as the natural consequence of the type of thing that is suggested by Mr. Hales (phonetic) in his letter to me. That is that the employer have the right to go to the labour board. However, your answer to that appears to be that, as a result, because we cannot give both sides the gun, we leave the gun on one side despite the fact that both sides are most often both being unreasonable.

Mr. Trigwell: The issue is what I have told you. If I am going on what I have experienced through FOS in Fison's, East-West Packers, my colleagues and myself would be hung from the rafters. They had no will to settle a collective agreement. They were saying to hell with East-West Packers, close them down. We do not need them in our industry, we are fed up with it. We will go look for another job. Fison's were prepared to burn the fields which supply their job, but they would have no job. These are people who were not prepared to go to final offer selection. If the employer forced that issue all hell would have broken loose. They would have created industrial unrest. I see that is why the legislation is that way. Because of my experience I can understand it being that way.

Mr. Edwards: Just a final question, you are not suggesting that, of the 72 times this has been chosen, your scenario of 52 percent is anywhere near even the average level of support for FOS when a union recommends it. The vastly more common, surely, scenario is where final offer selection is recommended and a much higher percentage agree with it. You are not saying that in your case the level of support for leadership on this issue is in any way indicative of normal labour relations and indeed labour relations disputes.

Mr. Trigwell: I can only relate to six incidents which our local talked about. In all six incidents, industrial relations was at a disastrous point.

I go back to the summary that I talked about. Any moron can get a strike. It takes skill and reasonableness to get a collective agreement. What is happening if you do not have—and I say the majority, the majority of strikes that are created, the biggest majority—and if you do research I am sure you will find this out. I cannot back up my words, but 24 years I guess I could do that—is created because of industrial unrest during the collective agreements already in place. There is bitterness. Reasonableness is out the window.

So most strikes—and I would assume that any strike that has been in place and FOS is because parties cannot be reasonable for one reason or another. There is industrial unrest.

Anytime you have found good industrial relations, unless it is a big major issue of safety and health or a moral principle will there ever be a strike if industrial relations are carried out. If reasonableness is going on there will never be a strike, only on moral issues.

Mr. Edwards: Just picking up on that, it is interesting that the pictures you paint are of really harsh and distraught relationships between the parties.

I wonder if you are aware and have had a chance to peruse the comments of Mr. Chapman in the decision he wrote on the Unicity Taxi case. It was one of the few that actually went to a decision in which he was dealing with a very hostile relationship and some of the comments he made, and specifically that he concluded that in fact final offer selection had been a very poor device in this case, simply because the parties were at each other's throats, so to speak, and both submitted what, in his view, were unreasonable contracts in their entirety. In fact it is precisely the scenario you paint where that is likely to happen, that is where the parties are truly antagonistic towards each other.

Mr. Trigwell: Yes, well I will tell you—I guess you asked me a good question because quite frankly I tried to organize the taxicabs. I know the problems that are going on at Unicity and it is deplorable.

That is what we are talking about. That is why we are—whether it is right or whether it is wrong. You gave me one scenario, okay, of a decision. Well, is that not what this process is all about, that in five years we are going to evaluate the whole situation and talk about pros and cons. I would like to be a party to that. I think

there are some pros and cons. I would like to make some recommendations. I would like to be a part of that, when we get an evaluation done of all the issues that have taken place.

I can only tell you that FOS has saved our local and Manitobans 400 jobs. I can speak on that on our local's concern. I am sure there are other locals that will probably say the same thing as I do. I do not know. I am pretty busy so I get wrapped up in my own world and it gets pretty hectic, but I do not know what is happening.

Yes, you may have one, and yes, I know what Unicity was like and I know because I tried to organize the taxicab drivers, I know them. We got right out of it quickly because it was just horrendous, the problems.

That may be a great thing to evaluate as one, but I have six here that to me FOS was the answer to keeping three companies in business.

Mr. Chairman: Thank you. Before we go any further with questions I want to make known to the committee that we have a person here, Dennis Fitzpatrick, who cannot be back at another day. He would like to present his brief today. So if we could wrap up here if you would. Mr. Ashton.

Mr. Ashton: I just have one or two questions. I am sure we can accommodate Mr. Fitzpatrick. Just briefly, I find it interesting that you are saying that in your experience it saved jobs, because one of the big arguments the Chamber of Commerce uses on this, and I guess they have used it on every single change to The Labour Relations Act that has ever been brought in, that has ever benefited working people, is it, quote, costs jobs, but your are saying, and I just want to make this clear on the record, you are saying that you can point to at least 400 jobs where FOS had a part in saving those jobs, 400 jobs.

Mr. Trigwell: Yes, that is correct. That is Fison's, East West Packers, Jack Forgan. Unfortunately because of that strike that took place, Best Brand Meats went down the tubes.

* (1630)

Mr. Ashton: Just one other point I want to raise. I was struck by your comments on what happens in a strike situation and the whole question of reasonableness. I still remember in 1981 the strike that I went through, you could never get one person to agree with another person why they were going on strike. There were 1,001 reasons. Some of them were to do with the contract. There were different parts of the contract. In some cases, people were just sick and tired of the way they were being treated, the way they had been treated in the workplace. We had people that had been demoted from staff to hourly. There were 1,001 reasons. I found it interesting that you try to give an idea to this committee of what happens, because I found it very frustrating sometimes that people do not think of what people actually go through. It is very easy to sit there and say that someone is going to use the 60-day window

and sit out there for 60 days, but people do not think that way.

I also found it interesting, and I want to ask you on this, because this just echoed something that came up yesterday from the presenter from the Winnipeg Chamber of Commerce. He said that the question of reasonableness in terms of final offer selection was not the question. He said that it did not really matter if final offer selection led to reasonable solutions, because they were not the solutions that were adopted by both parties. You, however, are saying that you believe that that is important, that when you have reasonableness you have settlements, and that final offer selection, in the cases that you have seen, has not only been reasonable in and of itself, it has contributed to taking a situation, and I am using the term you said, industrial unrest, and working it toward a situation of reasonableness.

In other words, not only is FOS a mechanism that can do in and of itself in terms of a particular settlement, that the whole process is positive. You are saying that it has been positive in Fison's and a number of other cases, that it has contributed toward reasonableness and relative harmony, as much harmony as you can get following the bitterness that occurred in the initial situation.

Mr. Trigwell: Mr. Ashton, I guess with my colleagues I have been known to be a bulldog. One thing I do not like to do is admit that I am wrong. That takes a lot for me to do, but I will do it. The fact of the matter is, I stand here before you today to say, if it was not for FOS, and it was not used by us, it was used to save jobs, it was used to stop a nonsense strike that we had no control over, neither the company nor the staff, it has just worked great. It is absolutely excellent. I have to eat crow. I spent many days down at the Union Centre arguing, and I still think there are things that have to be changed, but in five years I will be here to make suggestions, but I do not think that in the 90s, God damn it, we are sending people to the Moon, and we do not have a way of stopping strikes or bitterness and getting people back to reasonableness. Damn, it is a hell of a thing, that we cannot do that.

Mr. Chairman: Thank you, Mr. Trigwell. Mr. Neufeld, did you have a question?

Mr. Neufeld: I just find that it is difficult for me to understand how imposing from one side an order can lead to reasonableness and how that can lead—in the first instance, I have been led to believe here that the labour disputes are all one-sided, that the union is right and management is wrong. I have heard you talk about burning the ground. I have heard you talk about destroying buildings. This is not the way to enter into any negotiations, I should think, and that has nothing to do with final offer selection. Final offer selection to me should be something that either side can impose. If you talk about reasonableness, then reasonableness should dictate that either side could ask for it and this is not the case. I do not expect an answer to that.

Mr. Trigwell: No, I will give you an answer.

Mr. Chairman: Mr. Trigwell, just a short answer. We will allow you just a short answer here because time is running out.

Mr. Trigwell: I am sorry if I did not speak up because I think I have answered that question for you, but let me tell you, the issue is simple. If you want unrest and you have no reasonableness, the FOS in Fison's situation, which would have been there would be no company today if it was not for FOS.

An Honourable Member: Well, we do not know that.

Mr. Trigwell: Well, there would not have been; they told us so. All right. The fact of the matter is they have applied for federal grants to have an industrial committee struck to talk about industrial relations and asked our co-operation and our participation in this committee. That is what has happened because of FOS; that has never been there for 10 years. So I do not know how you can say that.

The situation at East-West Packers, we have been thanked by the company for bringing both sides to being reasonable so that we could get a collective agreement and save those jobs and save the company. We have been thanked by the company and you can bring one of the lawyers; Mr. Gardner will back me up because we were thanked because we brought both sides to reasonableness.

Mr. Neufeld: Why can we not be doubly reasonable and let both sides have the same opportunity to make things equitable? -(interjection)- Bring it in.

Mr. Trigwell: Again, I think I answered that question as well. The fact of the matter is, I think quite frankly it would create unrest. If management would have applied in the first window and automatically gotten final offer selection at Fison's, there would have been unrest to the point where you would not have been able to control, I would not have been able to control it.

The second point, at East-West Packers, if East-West Packers were to apply for final offer selection and automatically get it, again we would have had destruction, and membership that would never produce harmonious relations—never. And that is a fact. I cannot change that. You are asking my opinion; that is the way it is. That is why it is one sided. But let me tell you, Mr. Neufeld, I do not know if you have been in industrial relations before or not, it is a rough world out there and you talk about fairness. When a person has been employed for 20 years and takes on an unreasonable employer and he sees a scab taking his job away from him, you tell me where it is fair, where we can stop that from happening. We have police taking law-abiding citizens who are good community people and some of them voted for the Tories, take them in paddy-wagons and throw them in jail. These are law-abiding citizens; where is the fairness there? That is the issue.

Mr. Chairman: Thank you very much, Mr. Trigwell.

Mr. Trigwell: I thank the board. Thank you.

Mr. Chairman: Our next presenter is Dennis Fitzpatrick, who cannot come back on another day, so we will allow Mr. Fitzpatrick to make his presentation this afternoon. Do you have a written presentation, Mr. Fitzpatrick?

Mr. Dennis Fitzpatrick (Private Citizen): Yes, I do.

Mr. Chairman: Okay, we will allow you to start while it is being distributed.

Mr. Fitzpatrick: Mr. Chairman, committee, thank you for allowing me the opportunity to appear before you and to express my views on final offer selection.

I wish to preface my remarks with the statement that I believe that most of the opposition to FOS has been based on fear; fear that there would be a shift in power in the bargaining process from the employer to the employees and the unions. I believe this here is unfounded and that FOS should be given a chance to be proven as, I believe, it already has, to lessen the burden of strike on workers, their families, and also the additional costs to employers associated with having to contend with a strike.

I first learned of the system of final offer selection about 11 years ago from a professor from a university in the United States. He addressed the annual meeting of a professional association to which I belong and talked about a new system of avoiding confrontations between employers and workers. The system was called final position arbitration. The idea was novel, and I attempted to learn as much as I could about it. His talks centered around the simple fact that negotiations had become a joke for both management and labour. Both parties established ridiculous positions at the outset of bargaining with no prospect of retaining a realistic goal.

* (1640)

If negotiations broke down and a strike was called, eventually an arbitrator or a conciliator would be called who would pick a little from one side and a little from the other, thereby obtaining a solution which neither side wanted but could live with. In other words, there was no incentive for either side to act responsibly during bargaining because they would not lose everything and they could save face. It made a complete farce of the collective bargaining process. However, if one side or the other had to live by their final position, full well knowing the arbitrator selected would choose either one or the other, it forced them to negotiate an agreement because they would have too much to lose.

I was pleased to discover several years later in January, 1988, that a system of final offer selection was passed by the Legislature of the Province of Manitoba. After the legislation passed, I made an effort to follow disputes which involved the application of final offer selection. The figures which I quote come from the Manitoba Federation of Labour. Seventy-two applications have been made to the Labour Board, and of that total, 58 have been disposed of. Of the 58, 49 or 85 percent were settled by the parties prior to a selection decision. Five cases resulted in selector decisions, three of which went in favour of the employees and two in favour of the employers.

It would seem to me that if you take these figures into their proper context, FOS, rather than fueling confrontation and inciting strikes, does exactly the opposite. The same reasoning explained to me 11 years ago still applies. Both sides in a dispute tend to negotiate more reasonably when they realize they have everything to lose and everything to gain by acting rationally and reasonably when confronted with a dispute.

One of the biggest arguments against FOS is that it makes the collective bargaining system into winners and losers, depending on the arbitration decision. Most collective bargaining agreements already have grievance procedures in place which can eventually end in arbitration if agreement cannot be reached. This sets up a system of winners and losers built in to collective agreements. This is not a new or devastating part of labour relations in Manitoba. What it does do is identify areas which need addressing through the collective bargaining. FOS works in a similar way, because rather than relying on one winner and one loser, both parties are forced to come to an understanding, resulting in resolution of a dispute because both sides have too much to lose by leaving the decision with a third party.

I do not believe that FOS gives too much power to the unions or workers, as both sides in a dispute can access FOS. The employees simply have the say as to whether the application should be carried forward by ratification. The majority of decisions affecting workers are still made by the employers. All that FOS does is allow workers another option in helping alleviate the possibility of having a prolonged strike with the associated hardships on employees and their families.

I would like to comment on a subject with which I opened my remarks, and that is fear. There is a fear in the business community of FOS, which has little basis in fact. Why would we be afraid of a system which could possibly avoid the prolongation of an unnecessary strike? I cite a long strike which the employees of SuperValu and Westfair Foods experienced before FOS came into being. Why should we return to that type of uncivilized climate of collective bargaining which feeds on fear and contempt when both sides would have been forced to negotiate responsibly because they would have had to face the prospect of having one side or the other selected?

I also wish to remind you of what fear of something unknown or new can do if not controlled. Do not forget the witch trials of Salem or the McCarthy era in the United States. These are of course extreme examples, but it shows you how fear of something can cloud the realities of the situation at hand.

In conclusion, I firmly believe that FOS can work. It has only been in place for a short time, deserves the chance to be fully proven over a period of time. I remind you that there is a clause within the legislation which allows FOS to cease after five years. In January of 1993 the performance of FOS must be reviewed by the Legislature in order to continue. It must be re-enacted by the Legislature. Repeal of FOS is simply not necessary, as it can simply be allowed to die if it does not in fact work. In my opinion, the true facts have

shown that it does work, not just to the benefit of employees but to employers, who with less tension in the collective bargaining process and without the adverse publicity of strikes or lockouts, can direct their energies into more productive areas which would benefit both the companies and their employees. Why take something which fosters co-operation and consultation in the collective bargaining process and go back to the old ways of confrontation and humiliation? If, and I sincerely hope that "if" never occurs, I hope to have the option of FOS available to me should I need it. And I thank you again for hearing me today.

Mr. Chairman: Thank you, Mr. Fitzpatrick. Mr. Ashton, you have a question?

Mr. Ashton: Thank you for your presentation, and I just want to pick up on your comments in terms of fears because I sat on the committee that introduced final offer selection a couple of years ago, and I would really say that that was the word that could be described to the opposition that was expressed, and I believe it was legitimately intended at the time. There were a lot of fears about what might happen. We have heard two in the debate, some of the fears as well, that somehow it extends strikes or that you would end up with collective bargaining not continuing, and I find your perspective to be very interesting. I think we must have both had our first exposure to final offer selection around the same time, because I remember about 10 years ago learning of the experience elsewhere and being very interested in it at the time.

You are essentially telling this committee that in your opinion those fears were not properly founded. In fact you are suggesting, as I understand it, that there has been enough positive evidence with final offer selection, that at the very least it should be allowed to be continued until the end of the sunset period, that you do not feel there are any grounds for totally repealing the Act, final offer selection Act at this time.

Mr. Fitzpatrick: Yes, I agree.

Mr. Ashton: One thing that has also been expressed as a concern as well is in terms of people being opposed to it, and I make reference to the situation at the time in 1987 when we went through the committee hearings, and we have heard even today of people who at the time had real reservations who now support final offer selection. I am just wondering if—I know that you are from Selkirk, and I asked the same question to the representative of the Brandon District Labour Council just yesterday—in terms of what the opinion of people you have talked to in Selkirk is, whether they feel that FOS should be thrown out, should be taken out; or do you feel that people would rather see it stay in place for the next period of time?

Mr. Fitzpatrick: The people I have talked to firmly believe that it should at least be given a chance, to see whether it does in fact work. I belong to a union and in my local we have discussed this numerous times, and the data to this date shows that it does work. I think that if we let it go through to the end of the sunset clause that we will in fact realize that it does work and it can work.

Mr. Ashton: Just one final question, obviously you feel there are some very positive aspects to final offer selection. Has—and this is the same question that I am asking a lot of people coming before this committee—the Minister of Labour (Mrs. Hammond), the Department of Labour, the Government in any way, shape or form ever asked you for your opinion, the kind of opinions you expressed today in regard to final offer selection, what your feeling is on the first two years of it you have experienced, and whether you feel it should remain in place? Has anybody ever bothered to ask in terms of the Government or the Minister of the Department of Labour?

Mr. Fitzpatrick: No, they have not and to my knowledge they have not asked our union.

Mr. Chairman: Thank you. Do you have any further questions? Mr. Patterson.

Mr. Patterson: Arbitration is available at any time for the settlement of what are known as “interest disputes,” that is to settle impasses during negotiations. When final offer selection arose, as you found out in the United States, it was arose out of a situation of mandatory arbitration and largely in the public service were the right to strike did not exist. The problem is, what do you substitute for it, and arbitration is it. So there was this compulsory arbitration where the parties knew they were going to go to it. What you lay out here is the fact that they will start from extreme positions and stay there, known as the chilling effect.

It was an incentive for them not to negotiate and leave it up to the arbitrator. So the final offer was a mechanism to try to get away from that and to get to some bargaining during the course of the negotiations. However, here we have it—it always has been available. At any time, the two parties, in collective bargaining, are free to do anything they want so long as they stay in the framework of our various laws. It has always been there for parties themselves who wanted to use it, as was the case at the University of Manitoba with the faculty association some roughly eight to 10, 11 years ago.

So here it is, this particular mechanism now is more or less taken from the public sector experience and made available here in the private sector. But if this were not available, had it never been brought in in the first place, what if any serious harm do you think would have resulted in labour relations in Manitoba, if this had not been in for the past two years? It does not exist in other jurisdictions in Canada.

* (1650)

Mr. Fitzpatrick: I can only cite from limited experience. It has been my experience through family involvement in two strikes in Manitoba in the past 10 years that the parties never really got down to talk until after a strike went on for a long period of time. Then a conciliator was called in who talked to both sides and whittled everything down. As I outlined in my brief, an agreement was reached that neither side was comfortable with but could take to their people and

not lose face, so to speak. Nobody was really happy with it. The outcome of that was, well, next time around, we are going to be out to get the guy because we lost out this time.

That fostered both sides of the thing. There was not real incentive for both of them to get together and talk and resolve problems that were arising. If they had the position forced on them that they had everything to lose, that forces them to talk, that forces them to compromise and come to an amicable agreement, rather an agreement they felt was forced on them, and they wanted to get back at somebody.

Mr. Patterson: I am not quite clear—I think I hear you saying that this forced settlement through final offer would be better than one reached during the course of a work stoppage. The whole concept behind the work stoppage, the economic sanctions, is that the parties are suffering economically, and this is a spur for them to get down to being reasonable and coming to an agreement. Any agreement reached is an agreement that two parties have come to, and that, by that very fact, is better than anything that can be imposed by some outside third party.

Mr. Fitzpatrick: I think the key there is the fact that they never get to the point where they have to go on strike. They are in a position of realizing that they might lose everything, so they sit down and negotiate beforehand. They do not get to that point where they are locked into a long dispute, and then having to contend with taking a little bit from each side so that neither one is happy with it, if you understand what I am getting at. The probability of going on strike is lessened because they are forced into collective bargaining reasonably, rather than in a confrontational attitude which would eventually lead to a strike.

Mr. Patterson: Yes, but when a work stoppage takes place, and it has gone on for whatever length of time, a couple of days or a couple of months, and the parties finally come to an agreement, they have not been forced into anything. They have hammered it out themselves, and it is an agreement.

Mr. Fitzpatrick: Yes, that is true.

Mr. Patterson: Thank you, Mr. Fitzpatrick.

Mr. Chairman: If there are no further questions, I want to thank you very much, Mr. Fitzpatrick, for your presentation.

Mr. Fitzpatrick: Thank you.

Mr. Chairman: The hour being five to 5, do we want to hear another presenter or—committee rise? Just a minute, just prior to rising for the day, I would like to remind committee Members and members of the public, that the committee will also be meeting on the following days to hear public presentations: Saturday, tomorrow, February 24, at 10 a.m. and then again at 2 p.m.; Monday, February 26, at 10 a.m.; Tuesday, February 27, at 10 a.m. and 8 p.m.; Wednesday, February 28,

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at 8 p.m.; Thursday, March 1, at 10 a.m. and 8 p.m., if necessary; and Friday, March 2, at 2 p.m.; and Saturday, March 3, at 10 a.m. and 2 p.m., if necessary.

Time is now 4:55; what is the will of the committee?
Committee rise.

COMMITTEE ROSE AT: 4:55 p.m.