STANDING COMMITTEE ON HUMAN SERVICES

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STANDING COMMITTEE ON HUMAN SERVICES

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[The committee met at 14:00.]

The Chair: — Good afternoon, ladies and gentlemen. Welcome to the Standing Committee on Human Services. The time now being 2 o'clock, we will begin. My name is Delbert Kirsch, and I am Chair of this committee.

With us today, we have Mr. Mark Docherty is here, yes. And we've got Mr. Warren Michelson and Mr. Glen Hart and Mr. Wayne Elhard. And also, Mr. David Forbes is Deputy Chair of this committee. And we've missed one here. I'm sorry, Moose Jaw Wakamow. Thank you.

So, Mr. Minister, if you have any opening remarks and comments.

Bill No. 85 — *The Saskatchewan Employment Act*

Hon. Mr. Morgan: — Thank you, Mr. Chair, and thank you to the committee members. Today I am joined by a number of officials: Mike Carr, deputy minister; Laurier Donais, executive director of central services; Greg Tuer, executive director of labour standards; Glen McRorie, director of compliance and investigation; Daniel Parrott, director of legal and education services; to my right, Pat Parenteau, director of policy. I also have Andrew Langgard, senior policy analyst; Will Sutherland, also a senior policy analyst; Rikki Bote, executive director of communications.

Mr. Chair, on December 4th, 2012, Bill 85, *The Saskatchewan Employment Act* was introduced. The bill was a result of consultations that commenced on May 2nd, 2012 with the release of a discussion paper. These consultations resulted in over 3,800 submissions from a wide spectrum of organizations and individuals. In addition the minister's advisory committee was appointed, comprised of representatives of organized labour, business, and the public from various sectors of the economy.

A review of the submissions as well as discussions with the advisory committee and an analysis by ministry officials resulted in the Act that is before us today. It is a consolidation of 12 Acts, many of which have not been comprehensively reviewed in decades. Old, outdated legislation does not assist anyone — workers, employers, or the public.

The bill being considered today has been drafted, firstly, to modernize the protections for workers and employers and, secondly, to arrange and update the language so that it is easier to read and understand.

The bill is arranged in 10 parts. The parts are arranged such that a person looking at the Act progresses from the parts that apply to the majority of workers — employment standards and occupational health and safety — to the parts that impact on those employees represented by a union and those employees that negotiate collectively and bargain with unions.

The parts that impact a discrete group or specific groups and situations are found at the end of the Act, such as public sector, and where's there is a labour dispute during an election. We have also included a placeholder for the essential services Act.

Following the introduction of the bill on December 4th of last year, a second round of consultations began to garner input on any issues or unintended consequences of Bill 85. As a result of these consultations, an additional 243 submissions were received by the March 1st deadline. In addition there have been many meetings of the advisory committee, which have been very helpful in identifying unintended consequences and additional issues that needed to be addressed or dealt with.

I would be remiss if I did not thank each member of the committee for the time that they have set aside to meet and review the bill, and while we did not always agree on everything that was before the committee, there was a surprising amount of consensus and very valuable input from everybody that was there. I also want to thank their employers, as this meant time away from their jobs.

As a result of these consultations, the government will be introducing a number of House amendments. These amendments clarify our intention when drafting the legislation. In some cases the legislation did not provide sufficient clarity with respect to our intentions. Some amendments address changes that have occurred with federal programs that we felt were important to include in the legislation so that workers are able to access unpaid leave while receiving federal benefits, while others are changes that have been recommended by stakeholders and interested parties to address unintended consequences.

I want to thank everyone that participated in this process. I believe that this legislation has struck a balance by providing increased protection for working people of Saskatchewan and promoting clear standards which support continued economic growth.

As I mentioned earlier, there was a placeholder for the essential services component. I want to put on record formally, Mr. Chair, that it is our intention to proceed with the substantive sections of Bill 85. And the issue around the placeholder, we received a decision from the Court of Appeals a week ago tomorrow, and it will take some time to do an analysis and review of that and make a good determination of what the legal parameters are. And we wish to do as well some significant consultation with stakeholders, and we'll be inviting further input with regard to developing and enacting of a part of the Act that will deal specifically with providing essential services.

We are committed to having essential services legislation in our province. We are the last province to indicate that we are going to be enacting essential services legislation. We think it's essential for the safety and well-being of the citizens of the province. And I think there is strong public support and it appears the Leader of the Opposition has, in the last day or so, has indicated his support for having essential services legislation. We want to have something that is not cumbersome and adequately reflects the needs of both the workers and the employers to ensure that we are protecting both our citizens and our workers.

Mr. Chair, I would also advise at this time that there will be a number of House amendments. I've had some discussion with the critic as to when they would like to receive advance notice

of those amendments, and I think the practice of the committees has been that the amendments are all voted at the end of the deliberations of the committee. In order to better facilitate the work being done by the critic, we will supply those to him at his request either the day of or the day before the matters have come up. We've broken the different areas of questioning down into different days, and so we will make sure that we comply with his request as to when he wanted the advance notice of the questions.

So anyway with that, Mr. Chair, we are certainly prepared to take questions.

The Chair: — Thank you, Mr. Minister. This afternoon we will be considering Bill No. 85, *The Saskatchewan Employment Act.* By practice, the committee normally holds a general debate on clause 1, short title. And Mr. Forbes has questions. The floor is yours, sir.

Clause 1

Mr. Forbes: — Thank you very much, and I appreciate the opportunity to have questions on this bill, Bill No. 85. And it's garnered a lot of attention since the announcement was made — essentially, I think, it was a year ago on May 2nd — that this would be happening. And so here we are. And so I do have lots of questions, and we do have a plan go forward for the next 12 or 13 hours for committee. And I do appreciate being able to see amendments.

Now I do have just a tactical question about the amendments just to be clear. When I receive them when we're in the committee, then is it public information, or is it not public information until they're voted on at the end?

Hon. Mr. Morgan: — I don't think it would be a breach of privilege. Once you have them and we're in committee, I think at that point, you know, they're not enacted but they're certainly part of the legislative process. So even though they may not be formally here, I think we certainly would expect that they would become public and you can ask questions about them.

Mr. Forbes: — I appreciate that because I appreciate the protocol that we don't want to breach anything. I do want to also thank the officials for being here. And I know that it's going to be an interesting task over the next week as we go through this, as we really try to reach clarity around the meaning of the bill. And so I do have some general questions to start out with, and then as we go through to break it down into specifics and drill down to each of the different parts.

But first of all I do have to ask, as the minister has alluded to, he wanted something easier to read, something easier to understand that the public and different stakeholders could use. And so the minister has put this all together, started out with 15 pieces of legislation, decided that it was appropriate to do 12. And while that is a laudable goal, I think that's a good idea. Legislation should always be improved, and if there's clarity or if there's a chance for us to use plain English so people can understand what we're reading, but with legislation that has taken many decades to arrive at, there is also the potential for unintended consequences. And also if people don't understand it, then there could be lack of support, and that's really critical for that.

You know, as I have been reading through many things, the idea of good faith is really important when we come to that really important relationship between employee and employer, that there's good faith that everybody will be treated fairly. And that's really, really critical. So there has been . . . First, I guess my first question is, it was a bit of a surprise on May 2nd that this was going to happen. There wasn't a lot of talk prior to that. I don't believe it was announced in the Throne Speech of the year prior. It was a bit of a surprise.

And other than the goals that you had enunciated earlier, what was the driving force, the driving reason for getting this out the gate? And it appeared relatively quickly. Why was the government so driven to do it?

Hon. Mr. Morgan: — You'll be aware in the months preceded, or shortly before that, we received the judgment from Dennis Ball, Justice Dennis Ball regarding essential services legislation. It had been argued previously, and when we received that judgment, it essentially struck our essential services legislation down, and it upheld the other bill that was passed at the same time regarding communication. But it was a triggering force that we should look at not just essential services but whether there was other things that need to be looked as well.

The recommendation from the ministry officials was that we do a consolidation rather than simply a rework of essential services, that the essential services piece should be rolled into it, but that we should do a consolidation on it. So that was a recommendation that came actually from the deputy minister, and I supported it on the basis that you had indicated or that we'd talked about before, that a simpler piece that would have a comprehensive index and make it easier for . . . [inaudible]. So that was what started the process, and when they got into the review of where we would go or what we would do, then it was felt it was there.

It's probably a little bit strange that now that we've got everything done, the one piece that's not there is the essential services piece, but we certainly know that we have to deal with it. We actually considered, for purposes of the bill as it goes forward, of taking Bill 5 and moving it into it. But we don't want to send the message that Bill 5 or the existing legislation will form part of it, so the placeholder is adequate for the time being. The existing legislation stays intact, so there's no point in re-enacting something that we're going to change. And we look forward to having some good discussion over the next few months as to how the essential services piece will work. Sorry, that's a long answer.

Mr. Forbes: — No, it's helpful to get that history. And it was helpful to understand that there were some lessons learned in terms of consultations, it sounds like, and that you struck the minister's advisory committee and that sounded like a good plan. I think that's always a good idea. How many times did the MAC or the minister's advisory committee, how many times has it met?

Hon. Mr. Morgan: — My officials think 10. And the meetings

usually run the better part of the day. We've had one or two that have been a little bit shorter. So they would have been roughly 10 all-day meetings, and in addition to that the officials held some technical briefings for those committee members.

I didn't attend the technical briefings. There would have been — what? — two or three of those? Four of those. And those would have run anywhere from six to eight hours And that was providing background information for the members, and it was probably better attended by the organized labour people than the other side. I think they were the ones that were more directly involved on a permanent basis, where the other members of the advisory committee, their exposure to human relations, is probably a lot less than it would be from the other side. So the labour representatives availed themselves of the opportunity a lot more.

[14:15]

Mr. Forbes: — And as you said that there was a surprising amount of consensus, and it seemed goodwill, and that's the kind of thing I've heard as well, that it was a productive use of their time to be part of the discussions. And again I guess it goes back to that good faith position.

Hon. Mr. Morgan: — You're right. There was things that were raised when the discussion paper was released. As I think I've indicated to you earlier, we tried to make the discussion paper very broad and maybe a bit provocative because we wanted to engage people and have them discuss things.

So we tried to make it clear at the time we put the discussion paper out, we weren't advocating those things. It was issues that we thought were worth raising that we had heard from one or more people. So we didn't attribute them to anybody. We just said okay, what about this, what about that? So we tried to be as broad reaching as we can. And some people said, oh you put these things out there as a red herring. Well we didn't. It was things that we wanted to ask. We wanted to know people's opinion.

But as we got into the process with the advisory committee, there was consensus on a lot of these, and I don't . . . The committee never speaks with one voice. It's the individual members do. But there was surprising amount of agreement, and I'll give you a quick example. We talked about the issue of dues checkoff and dues being paid at source. Regardless of the legal issues surrounding that, the employer representatives felt that they would rather give a union a spreadsheet and a cheque than have a union representative sort of going around and saying, well does so-and-so work here? Does so-and-so work here? Are they part of the bargaining unit or not? They would rather just say yes, this the nature of the relationship. Let's put it on a business point of view. There were certainly some people that said no, they should negotiate that. That should be something that should be, you know, negotiated as a part of the contract. But for the most of them that were there, they felt let's just give the spreadsheet. Let's give the cheque and be done with it. So that was one of the things there was a strong consensus on.

Mr. Forbes: — Now I guess the question I have for you . . . Obviously I'm the opposition. We both have a duty under the British parliamentary process to be the opposition, so we take a contrary position of the government to make sure we hold the government to account and that it's transparent. So it's our job to question. And we did have serious questions. We still do have serious questions about it, but many of the folks . . . And I think people have realized it's the government mandate to do this kind of work. But many of the MAC group or the minister's advisory committee just felt it was moving too fast, that they in fact said that we need more time to understand the implications of this.

It's not that . . . There are parts we are against. And you've said that, that things that people will disagree on, and that's the nature of this situation. But they just are wondering, you know, if we can understand this, maybe we can support this. And many groups are feeling like they just don't have the resources to fully understand the implications of this kind of change that's taken so long to arrive at.

And so there was this commentary, and you've heard me speak in the House about it. And it was written by Hugh Wagner, a well-respected labour representative, and he's worked on this kind of thing for many years. And so the question was, why the rush? Why not because . . . And I guess as we go through this . . . And I am only going to dwell on this for the introduction. I'm not going to go for 13 hours on the same line of questions. But I just want to make sure we understand right off the bat that, why the rush? Because we will have questions about how will this be implemented, and could we not use our time better to get people onside and supporting it, as opposed to pushing it through and then people feeling like they've been left behind.

Hon. Mr. Morgan: — A few comments. We've certainly heard . . . And I've enormous respect for Mr. Wagner, well regarded in the labour community and a gentleman. I disagree with him on the timeline. We went through an extensive process, and he attended the meetings. When he wrote the letter he didn't say, we have this issue that we don't know about or that issue. He said, we just want to take more time on it. If you looked at a specific issue, we could say, oh well, we'd like to look at this; we'd like to look at that.

But right now what we're hearing is, we don't want to go ahead with it. Nobody's saying, well we want to look at this; we want to look at that. And I think the reason for it is they've heard about it, they've discussed it. We're at a point to move forward with it and make decisions on it. And I think there is going to be people that will disagree with some aspects of it, and I don't think further discussion or debate is going to . . . It's no longer a matter of exploring issues or changing ideas. It's time to make the decision and move on.

The other side of the coin is, we had the occupational health and safety legislation. We spent I'm thinking in excess of two years doing consultation of that. And we had exactly the opposite problem we're having because we took so long. We sent out notices to people and advertised. Oh well that's next year, or that's next month. So there was no timeline, no crunch. People didn't get engaged. So as that bill started to be passed, then all of a sudden we were getting panicky phone calls: I didn't know about this, or I should get my people together, or I got the email but I didn't look at it.

Well we have had none of that with this bill. This bill has received a lot of publicity. We're receiving submissions literally by the box full. And I think people have been engaged. They're focused on it. And if there was part of it that we weren't comfortable with or weren't ready to make a decision on, I think then we would say, yes we need to hold that up.

And the one part that we aren't ready to make a decision with is what we want to do with essential services. We do want to hear from people. We want people to look at it in the context of the Court of Appeal decision, and also in the context of what works in their workplace.

So on the other matters, I think we've heard from people. We've had the dialogue. We've had the discussion. We've had the debate. Now it's time to make the decision and move on. In addition to that process where they've had participation, we've had as many technical briefings as the people have chosen to attend. We've indicated if you want more, we'll provide more, if they want more background.

So what I'd like to do is actually take it forward, move it out of tech briefings for the advisory committee, and start advising the public on it.

I'm also worried about misinformation. As time goes, there appears to be a growing amount of fear or growing amount of misinformation that's just based on things that aren't accurate. We changed some terminology. We changed the name of stat holiday to public holiday. It's just to a term that people will be more comfortable with. Well now there's going . . . You're taking away stat holidays. Well no, we relabelled them. There is no change to them. No change how they're laid out. No change how the process to move one of the days so that you can have it fall on a weekend or whatever else. Exactly the same as it was before. Not a speck of change. But yet there's a fear factor, and I've done half a dozen media requests on that specific issue alone.

And then we are now, as I'd indicated when we were doing estimates the other night, on the issue of weekends. We have a well-established . . . I think the legislation uses the term Sunday. Well human rights legislation is such that it's not appropriate to use Sunday as a prescribed day of rest. You can say a two-day weekend or whatever else. Stores and merchants aren't going to change that. So we no longer make reference to Sunday. A lot of our members of our community now regard Saturday as the Sabbath or alternatively another day or no day at all. So it's not going to change the practice. We just don't use the day Sunday. And that's something that probably should have been updated 15 or 20 years ago, around the time we started having Sunday shopping. So the fear factor that's being generated is, you're taking away weekends. Well no we're not.

So anyway that's . . . The goal is, once it's passed, people will see the sun will rise, the sun will set, the sky will not fall in, their paycheques will still come. So anyway, for what it's worth, that's . . .

Mr. Forbes: — Can you take that to the bank? Can you pay the rent with it? Well this is our debate that we have. And I do think that people, if they can understand that . . . And I don't agree totally on the Sunday, and when we get to that in employment standards discussion, I'll have more to say about that.

But just as a general introduction . . . And this letter was posted on your website, and it was addressed to Mr. Cheveldayoff. And it's in regard to, and I quote:

> The proposed new Labour Legislation is an absolute disaster for our firm. It will cause us to spend enormous amounts of money for no improvement in safety of our firm, because our firm's safety [record or] history is so good. The legislation will penalize the good firms in hopes of improving the bad ones. Our already precarious competitive position will be further damaged. Our immediate problem is no one is listening to us. The public consultations I have attended were conducted to advise us what the Government is going to do, Period!
>
> If you care to call me, I'll be happy to discuss this with you.

And he gives the phone number. It's Mr. Graves from Saskatoon Boiler Manufacturing, and it was received and posted, submission 341(0).

So now I'm not sure if he's actually talking about this bill or whether he was talking about occupational health and safety, whether somebody contacted him. But clearly he's one unhappy camper about what's happening in the world of change of the ministry, and he does talk about how this is a competitive world.

And I have both labour and employer sides who are asking about the issues around clarity. And so essentially when you talk about changing stat holiday to public holiday, statutory means related to statutes. Public is not as meaningful.

In the bill we see the definition of employee at least four times, if not five times. So how does that add to clarity? And then when we talk about actual occupational health and safety, employee is actually referred to as a worker, not as an employee. So I'm not sure that that adds to clarity, and in fact I can understand when people write letters like this. And it's hard to get through. They need more time when you have this big of a bill.

Hon. Mr. Morgan: — I appreciate the comments. The fact that the letter is there. . . I met with Mr. Graves. Actually I went to his work site twice. And as I'd indicated earlier, we will not have 100 per cent consensus on this. With regard to Mr. Graves, we, on some aspects of this issue we will agree to disagree. His concerns relate back to the original changes that were brought about in the occupational health and safety legislation, and that would be the increasing of the fines.

Well when I met with him and certainly no secret we've increased the fines. The maximum fine has gone from $400,000 to $1.5 million. Well it's not that we're targeting Mr. Graves, who by the way has an excellent safety record and is a superb employer, and I can understand how somebody feels apprehensive when the maximum fine is being raised. But our province is now a province that has businesses that are multinational players. We have had at one time the, the largest market cap firm in Canada was resident in our province. So the

maximum fines have to recognize the large amount of money and wealth that some of those firms have, and a fine has to reflect that.

So we've increased, we've increased the fines and that's a factor that a judge would take into place. And I would say that to any business, a judge will look at your ability to pay, the size of your firm, as well as that. But we do have publicly-traded, large, multinational firms, some of the largest in the world, carrying on business in our province, and we have to have the ability to levy a penalty that is appropriate.

If you're a small contractor, a welder, a painter, or something where you've got 2, 3, 5 or 10 employees, you're not even going to be looking at, for a significant violation, a fine of $400,000. But you may have a fine of something that's appropriate and proportionate.

So you know, the fact that Mr. Graves took the trouble to write the letter . . . We've met with him. I don't think I've changed his mind, but he certainly understands what the issues are, and it's something on which we have agreed to disagree.

Mr. Forbes: — I appreciate that. It didn't sound like . . . He sounded like he was very unhappy. But I appreciate that. And it really does speak to I think, one of, if not the most important challenges we have in our workplaces today is occupational health and safety.

And I know the minister takes that to heart, but it's one that . . . This is the other confusing message we have in terms of priorities: spending a lot of time on this when really we should be trying to figure out how to make our workplaces as safe as possible. So that's our challenge, and we have to make choices, have to decide where our priorities are. And clearly when we see that the province has had an injury rate that's way too high for way too many years, that's something we would have liked to have seen.

I just want to touch briefly too on, as a general way, and I've talked a little bit about this in terms of WCB [Workers' Compensation Board] and Labour, but the Saskatchewan Information and Privacy Commissioner, in terms of his input into this. And not only is this an opportunity to modernize the language but also to be much more innovative.

And you've done some things that are innovative, but he's made some general comments about that there's no privacy regulation of private sector employee information, and this is unusual, especially in the New West Partnership where they do have privacy laws that are part of the private sector. And that there is, what he calls asymmetrical privacy protection in Saskatchewan and how that seems to be off balance. And no whistle-blower protection for freedom of information, FOIP [*The Freedom of Information and Protection of Privacy Act*], LAFOIP [*The Local Authority and Freedom of Information and Protection of Privacy Act*], and HIPA [*The Health Information Protection Act*].

And he goes on, it says, ". . . is both too little, too much." And he gives, you know, I think some really specific concerns that I don't see addressed in the Act generally. And I will then also talk when we go through the specific sectors because he does a section analysis. I'm just curious about why, or am I incorrect in seeing that his recommendations or his thoughts weren't incorporated into this legislation?

[14:30]

Hon. Mr. Morgan: — We respect and value the Privacy Commissioner's commentary at all times. We feel that the privacy legislation is free-standing and is separate from this, and it goes across a broader issue than merely employment issues. It goes into areas of business and public access to information from government. And it has, in our province, been several pieces of separate legislation. And I think it's probably a question better put to the Justice minister. But it would likely be something that we support, keeping it as a separate piece so that it could be amended or updated as times or people's attitudes change.

I think you and I had a discussion the other night about people's changing expectations of privacy. It's much greater now than it was, and I think that's in an evolving area where workplaces are very much fully matured. And we look at updates because of the change of our business environment or our economy. But I think, as time goes on, we'll likely see more and more changes with privacy issues. So I don't think it would be productive to have the privacy legislation rolled into this. Having said that, I know the officials were mindful of it as they were drafting. And in some cases they agreed with the Privacy Commissioner, and in some cases they did not.

Mr. Forbes: — Now I'm interested in the implementation plan. So if this is passed before the end of the session, the nature . . . it will be proclaimed? When is the intention to proclaim it? Can the whole bill be proclaimed at one place? What's the implications for regulations?

Hon. Mr. Morgan: — That's a really, a really good question. The expectation would be the bill would pass this session, which would be later this month. And then we would over the summer and fall develop the regulations that are necessary for the proper functioning of it. And some of the comments that have been made at the advisory committee are, you know, all this, well that'll be in regs. Well we better make sure we look at this or look at that. So there's already been some discussion or people have started to put forward some preliminary positions. The rollout could come sometime in the fall and may well come out part by part as we got things ready.

I would like to have some of the things that provide some benefit to workers come into force earlier rather than later, you know — some of the additional leaves, the indexing of minimum wage. I can tell you, you know, we're at a point now in the calendar that if we were going to have indexed minimum wage, we should be announcing that about now so that it would come into place six months later. So we're not in the same position we were last year. So I've asked the officials to look at whether we need to do an interim step on minimum wage even now. So I think the sooner we get those type of things in place, the better for the workers, and then the sooner it eliminates some of the misinformation that's floating.

Mr. Forbes: — And of course, I mean, so you'll have a couple of consultation processes happening at the same time. You'll

have the essential services consultation process happening and you'll have several regulation groups probably, I would assume.

Hon. Mr. Morgan: — Yes. There is some of them where we require some technical expertise, so they'll deal with some smaller groups on there. The essential services, we have a MAC meeting tomorrow. So I'm going to ask people sort of for some preliminary comments as to, you know, what we might do for a bit of a process.

And I want to do some things specifically where we ask where people that work in health, that's one of the areas where we know we've got it. So we know there's been a partnership with nurses that was done by the Ministry of Health. So I think that may be one of the areas where we want to canvass some specific opinion earlier on it. But that's just . . .

In any event, yes, the simple answer to your question is that there may well be several processes or some significant consultation going on over the next few months.

Mr. Forbes: — Sounds like a good reason to take some time to get that done.

Hon. Mr. Morgan: — Well as much as I would like to have the bill in place, I want to spend the time that's necessary to get as productive a result as we can: you know, the timeline to go back in with the essential services one to meet the legislative calendar, which would be of course to have it introduced this fall of '13 and then voted in the spring of '14, unless of course there was support from the opposition to vote it off earlier. I'll just put that out there.

Mr. Forbes: — Well we could always talk about that. And I will get into this in a minute. I just want to finish up the general overview. So will you be then putting or publishing a schedule of how you see the different parts come into force? When will employment standards come into force, when will the labour relations?

Hon. Mr. Morgan: — We'll want to give as much notice as we can so that people . . . [inaudible]. And some of the things where there are penalty provisions, we know that there'll be a staged-in timeline on some of the ones. Those would be the pieces that may have come out of OHS [occupational health and safety].

I don't know whether Mr. Carr has got some sort of a better sense of the timeline. But I think what we're focussed on first was the passage of the bill. Secondly, development of the regulations. And as the regulations are being developed, that would dictate the rollout timeline. But I think we would want most of it in place this calendar year.

Mr. Carr: — Certainly our plan would be to engage in first dealing with the operational regs, that is, those regs that would be required to have the bill become operational at law. Then there are a number of technical regulations, both arising out of part III, the occupational health and safety part, as well as technical regs that arise out of part VI, dealing with labour relations. Those technical regulations already exist.

And you'll note that in part X, we've made provision to ensure that those regs remain operational until they've been reviewed and replaced. And so our view is that we will be in a position in the fall to proclaim the bill, subject to the approval of cabinet. And then we will have operational regs available at the time it's proclaimed.

Mr. Forbes: — So how many regulations are you foreseeing that need to go through work, or how many can be actually brought forward because they're good regulations right now and they just . . .

Hon. Mr. Morgan: — As ones that will be existing ones that we had brought forward?

Mr. Forbes: — Yes.

Hon. Mr. Morgan: — We want to go through each of them to determine whether there's language that's need to be updated. And then we'd look at, of course, penalty provisions and that type of thing. So even though there may be no policy changes in them, we'd want to review them all.

I think Pat was doing the drafting, so she may better be able to know how many of them that we would have in total. Our goal was to try and reduce paper, so the Act itself is down from almost a thousand pages to under 200. And the regulations will also compress, maybe not as much. But I don't know if you can . . .

Ms. Parenteau: — We have a number of regulations that we want to review under the old labour standards Act. The minimum wage regulations would be folded into those regulations as well. There are a lot of regulations under *The Trade Union Act* that are very old; some of them haven't been touched since 1972. And most of them are forms, and so we would be really looking at those. There would be a significant consolidation. As well under the 2005-06 amendments to *The Trade Union Act*, the board was given the authority to make regulations on its own, and those would be procedural regulations that the board would be working on as well which would be consolidated within and take away some of the Lieutenant Governor in Council regulations.

Mr. Forbes: — Now I've been hearing a number, 300. Is that a reasonable estimate?

Ms. Parenteau: — Three hundred might be a little large for everything other than occupational health and safety. Occupational health and safety is 500 and almost . . .

A Member: — By itself.

Ms. Parenteau: — Yes, by itself. So I wouldn't say that many, but it would be in the hundreds, I would think.

Mr. Forbes: — Well thank you very much. I want to shift gears here and talk a little bit about the essential services. So forgive while I get my papers together so I can.

Mr. Minister, when you've been . . . I mean things have really changed since the ruling last Friday. We were expecting a ruling, so in a sense it is anticipated. But you've been quoted in the media as saying that there were concerns or flaws in the bill,

in the legislation. What specifically?

Hon. Mr. Morgan: — I don't think I used the word flaws because I don't regard it as flawed. And I think the Court of Appeal decision was such that it wasn't flawed. It was absolutely legal. But I think whenever you have a piece of legislation that has been in place for awhile, it's healthy to look at it.

And we also know, and the Premier was quite candid on it, it was a piece of legislation that was introduced very early in our mandate. It did not receive the same level of consultation or committee scrutiny that it would right now. So I'll certainly tell you the things that we've heard and the, sort of the . . . [inaudible] . . . if that's helpful to you.

The ruling itself doesn't give us a lot by way of direction as to how this should work out. You know, I mean the Court of Appeal could have said, oh well if you're going to be legal, you have to do A, B, and C. As much as they said was there is no constitutional right to strike. The parameters of this bill fall within the scope of compliance with the Charter which, setting that aside, means we need to look at what we need to do from an operational point of view.

The example that I have used most frequently in the public is the conversation that I'd had with Mr. Hubich where he had suggested that the negotiation of essential services agreements should be done immediately prior to job action rather than prior to negotiating the main contract. And I certainly agree with that recommendation, and I've stated that that's the type of process we would want to have.

The issues that you need to address are identifying what services need to be provided during a labour disruption, where the existing legislation gives the ability to develop a process where you identify positions or people. And it would probably be more beneficial to identify the services that need to be provided rather than a specific position.

[14:45]

So you'd need to say roads, snow needs to be removed from major highways or whatever that is. And you know, then you would work towards saying, okay, who's going to do it? And then the issue that you would determine, who will provide those services or how you determine those.

And I don't have strong opinions, but I know there's some significant sensitivities around them. And we would want to, we would want to identify the services that are to be provided, the classifications of the people that would be necessary to perform those services, what the services are, and then, you know, a requirement as to identifying who within the workforce are going to do it.

And then there's also the broader issue of who might an employer be that would be providing the services. There's always the assumption that it's the Government of Saskatchewan. Well not necessarily. We have private ambulance operators in the province. We also have municipal fire departments that would be outside of any other method of having a resolution, ones that would be small fire departments. So there's a number of other . . . or regional health authorities that are contracting with somebody that provides a service.

And then I think an interesting or worthwhile discussion to have is it's easy to say yes, this operating room must continue to operate because there's patients that are there. Well what about people that are providing janitorial service for that room or ensuring that it's clean? What about people that are providing food for the patients or doing laundry or that, you know, how far do you take the definition of what is essential? And I don't have an answer for that. I think we all agree on the person with the scalpel and the person that's pushing the patient in. Yes that's essential. But at what point does, you know, how far down outside of the centre of the onion do you go on that? And I think that's a good discussion to have.

And then the final part of it is where you've taken away somebody's right to strike, how do you ultimately get a contract in place? What are the tools or mechanisms that you use to get a final resolution?

Mr. Forbes: — And I'm curious. I know that with the teachers, this government was able to use a special mediator to resolve that issue. And actually the special mediator clause was used two or three times I think, if I'm correct, in different work situations. So that's another tool that, as you said, a new government may not have been fully aware of. I don't know . . . of that tool anyways.

Hon. Mr. Morgan: — You're right. I think I've said it a number of times before. Well over 90 per cent of the workers in our province are working under an agreement that was collectively bargained without job action. And unfortunately we have . . . While we have a good record of having the contracts, we do a very poor job of getting there. Often they are negotiated and settled 18, 24, 30 months after the expiry of a contract. We think we need to use tools in the legislation to try and start the bargaining process earlier. So that's one of the things that you'll see in the Act, and also a better ability to have mediation directed or conciliation directed.

You made specific reference to the special mediators and that's a process that will be continued and probably somewhat expanded. We used the special mediator with regard to the STF [Saskatchewan Teachers' Federation] teachers and the mediator came, met with both sides. And they were a long ways away on a percentage basis. I think they were seven or eight points apart. The mediator sat down and said to both sides, I will be writing a report for the minister as I am required to do, but if I were writing this as if I was a binding arbitrator, this is likely where I would go. This is the comparators that I've used. And he worked with both sides to identify the comparators in different cities and in different provinces so that they had a realistic chance. So both sides went back to their stakeholders to be able to say, we want to reassess our position and determine whether we want to change our position. So once the comparators were in place and developed by the arbitrator, by the special mediator rather, it brought people together. So that worked well for the teachers.

It was used again for SIAST [Saskatchewan Institute of Applied Science and Technology] and there was . . . SIAST is somewhat more complex because there's two bargaining units, the

teaching and the non-teaching staff. So there was issues as to how one group was treated vis-à-vis the other, and then there was issues within the teaching staff as to which particular instructor should get a paid a stipend because they could earn more money in the private sector. So it became incredibly complex. But the mediator worked through that. They ended up getting a settlement there, but not without some significant hand-wringing. And you're aware that a number of the employees chose to break away from the union that had represented them.

We've also used it again, and I haven't received the report, but we've also used the same process again for Evraz.

Mr. Forbes: — Yes. Right. That's the one I was thinking of, yes.

Hon. Mr. Morgan: — Evraz Place rather, yes.

Mr. Forbes: — Right, yes. And I think that for people, they often . . . And it was frustrating when I heard about this in the media. They referred to the special mediator as a mediator and it's not as a good mediator or a . . . The term is special mediator, which means they have special powers. And doing the report that you are referring to and the fact, if I'm not mistaken, that report can actually be made public which adds a little bit more incentive to the whole process.

Hon. Mr. Morgan: — Yes. What's different about the special mediator is they're appointed by the minister rather than as agreed between the parties. So the parties know that a report is being delivered to a third party and the minister certainly has the ability to make the report public. Now if the parties settle on the eve of the report being made public or whatever, but that's . . . You're exactly right. The threat of it being made public, whether they had a totally unreasonable position, drives a lot of people to sit down and negotiate seriously.

They also, because it's directed by a third party and the third party can also direct who's paying for it, there's also a nudge to say, yes we better get serious on this.

Mr. Forbes: — So what's your timeline? You made mention that you'd like to see something back in the House for the fall session, whether that be November or December. And the appeal deadline, I understand, would be June 28th or something like that?

Hon. Mr. Morgan: — Yes, 60 days from last Friday. I'm not going to hold out any kind of a carrot to anybody in saying, we're planning to follow a specific process, therefore don't appeal. It's up to the parties to decide whether they want to appeal. We've indicated, you know, the general direction of where we wanted to go before the decision came down. Nothing was in the decision that would indicate we want to change direction on that. So that's the direction. So I think I'd encourage people to look at where we're going and make their decision accordingly. And that's certainly open to them to file their notice of appeal and abandon it later on.

But as you're aware, legal costs are not cheap. I sometimes wonder why I'm still here and not practising law in the Court of Appeal. But being serious, it is an expensive, time-consuming process, and the parties would be I think well served if they focused their resources on working with us to try and develop legislation that's workable. And once again I say, you know, at the end of the day, they may not agree with it but we're committed to having it.

Mr. Forbes: — So you're going to be talking with the advisory committee tomorrow? And then will you be announcing something publicly in the next short while about . . . Or how will that play out? How will that stream of . . .

Hon. Mr. Morgan: — We'll once again, as we've done on each of the steps, is we'll look for public input. So we'll post it on the website. We sometimes have taken out advertisements, but the opposition sometimes takes issue with when we advertise publicly. But we will make sure that we have as much public awareness as we can by way of the websites, and we'll probably do some advertising as well. And once again . . . [inaudible] . . . my humorous side.

Mr. Forbes: — No we're quite fine with the advertising. And I guess this is a unique situation because when we're talking about essential services, we're talking about public service, public unions, not private. It's a much more defined sector. But it's important for us all to be aware of what those processes are.

Hon. Mr. Morgan: — Yes. I'll give you sort of a related example. And I have had no discussion with them . . . Well you're a Saskatoon person; you'll know. In Saskatoon, ambulance service is not provided by the health authority. It's provided by MD Ambulance. It's a private entity. They are IAFF [International Association of Fire Fighters] members, and I know the last contract they negotiated was somewhat strained. And I know it's settled now, but they would certainly be somebody we would want to hear from or have some discussions both with IAFF and with the employer. Because it would be the expectation or at least my expectation that whatever we do with the essential services would apply to them as a private sector employer. I mean they're providing a public sector service but very much . . . You may or not be aware: they also do the 911 call centre for most of rural Saskatchewan or at least the northern part of it.

Mr. Forbes: — I guess the title of the bill or the legislation is public service essential services Act. Is that correct?

Hon. Mr. Morgan: — It will be a part of *The Saskatchewan Employment Act*, so it will cease to have its separate name at that time.

Mr. Forbes: — Okay. Well there is no . . . Will you be doing this all in-house, or will any of this be contracted out?

Hon. Mr. Morgan: — I don't know that. I know when they were preparing the bill they hired some private people on policy, so I would look to the officials to decide whether they had sufficient resources within or not. I know some of the officials have changed their schedules around to try and get everything pieced through the . . . [inaudible] . . . though so it may be that we've got to have . . . Those people may have vacation leaves coming. So I'll look to the deputy minister to decide whether he has Pat Parenteau burned out yet.

Mr. Forbes: — Now I just, I want to be clear. You can proceed with this dream of doing the consultations, developing the legislation that will go into the employment Act, and at the same time obviously there will be other folks out there who will be considering what to do in terms of the appeal, and how that process goes. And of course, you know, the speculation is that could take a year or two or several years. So what . . . The feeling right now is we all feel that we need to make sure that the public services that we take, that we think are important, such as health care and roads and that type of thing, will be in place. So those two things can happen at the same time obviously.

Hon. Mr. Morgan: — Yes, if an appeal is undertaken, of course the province will not be the appellant on it. We'll be the respondent, so we leave it to the other side to determine whether they wish to make the appeal. And the appeal would be conducted by likely in-house counsel, the Ministry of Justice, at both the two lower levels, Court of Appeal and Queen's Bench. Graeme Mitchell has been the lead counsel on it, and he's probably one of the leading constitutional lawyers in Canada. So he would, I suspect, would the one that would do it.

We're trying to focus on doing the right thing with the essential services legislation. There may be, for a lot of the other parties to it, a need or a desire to do the appeal because they want to deal with the constitutional right to strike or the broader impact of that. You know, we're setting that issue aside, and we're trying to develop a good, practical, workable piece. So that may be a driving force that would make somebody want to appeal rather than dealing specifically with what's in or not in the legislation.

Mr. Forbes: — Good, all right. I'm just going to take a moment and shift gears, so we can talk about the employment standards part.

[15:00]

Hon. Mr. Morgan: — We're joined by Greg Tuer.

Mr. Forbes: — Now one of the concerns . . . and we've talked about the regulations and whether they'd be ready to go. So would this be one of the . . . Before Pat, Ms. Parenteau left. My question is, is this one of the parts that has a lot of regulations, or will this be relatively straightforward? You've referenced minimum wage and that.

Ms. Parenteau: — We have the two regulations right now, the minimum wage regulations and the labour standards regulations themselves. They're old. I mean, they haven't been amended for a number of years, but I don't believe that it's onerous to undertake this.

Mr. Forbes: — So would this be one of the first parts that would come into force upon proclamation?

Ms. Parenteau: — Yes.

Mr. Forbes: — It would be, okay. Thank you for that. All right, then my question is around the definition of employee and the fact that there were changes to that definition. And why the changes?

Hon. Mr. Morgan: — You're talking the changes that are the House amendment?

Mr. Forbes: — Yes, part II, right. This is going to be a lot of paper here.

Hon. Mr. Morgan: — Sorry, I will let Mr. Tuer answer that.

Mr. Tuer: — I think the definition really has just been expanded to provide clarity, particularly in cases where an employee's status isn't clear, things like an employee in training or situations of that nature.

Mr. Forbes: — But just pardon me. You said in terms of clarity?

Mr. Tuer: — Yes.

Mr. Forbes: — Okay, because this is one where we have a problem, where you see four or five different definitions of employee through the Act. Why is it not consistent through the whole Act?

Mr. Carr: — I think the challenge that you face when you're drafting is you want the definitions that you use to be explicit in terms of the administration of the part that the definition refers to. And so in that circumstance you, from a legislative drafting perspective, want to make sure that you capture the full intention of the definition that you're using.

So when you look at the application of employment standards, the definition of employee is specifically designed to meet those standards that you're trying to address. When you look at the part III, which would be occupational health and safety, you're then looking at a definition — that's been in place for many, many decades — of worker. And we wanted to make sure that we maintained that meaning because it's well understood from the perspective of safety. And then when you look at the part VI provisions of the labour relations component, the definition of employee again had a specific and unique meaning to that section, and so we wanted to make sure that the definition that we used captured the meaning we intended.

Mr. Forbes: — But it's probably one that, you know, has been creating some confusion. I know that SEIU [Service Employees International Union] talks about the issue of the definition of employee as being problematic throughout. And I just want to read, there was a presentation at a lawyers' seminar about the implications of this, of the new bill. And they say, and I quote:

> The definition of "employee" in *The Labour Standards Act* has been significantly widened by Bill 85. The current definition of employee is limited to "a person entitled to any remuneration for labour or services performed for an employer". However, Bill 85 contemplates that an "employee" will include any person receiving or entitled to wages, any person whom employers permit to perform work or services normally performed by employees, and any person being trained by an employer for the employer's business. The ambiguity of this revised definition creates a risk that employers will be significantly impacted by this change. For example, does this broad definition now capture both contract workers

> and volunteers as employees? Further, because the "training" of persons is not qualified at all, it is unclear how broad the reach of this definition becomes — for example, would this definition now cover the training of owners of a franchise, thereby capturing these owners as employees? This expanded definition can also significantly impact established interpretations of "employees". This is of particular importance to employers, because the interpretation of who is classified as an "employee" impacts who is entitled to benefits and protection of employment standards legislation, obviously. As such, this wide definition can significantly impact employers.

So your thoughts on that?

Hon. Mr. Morgan: — The simple answer to that is the definition has been expanded to include things that are likely already included by practice within the ministry by their officials. So what this does is it adds the clarity of what is taking place. So it's not additional people being included.

I note that we've included deceased people — and I'm not saying that some of them aren't working very hard — but I think we wanted to make it clear that, you know, it covers, if somebody has died, the portion of work that they did prior to their death is covered. So all it does is it embodies what is taking place by the ministry officials.

Mr. Forbes: — So what do you say about owners when they are being trained?

Mr. Carr: — Owners are not employees ever.

Hon. Mr. Morgan: — They're not an employee. It uses the term, a person being trained by an employer for the employer's business. So you know, I'm not sure which lawyer prepared the commentary, but you know, if you look at the section, you used the example of somebody being trained for a franchise. Well they're not working for the franchising company. They're working for themselves. So the training period of time, they would be on their own nickel. Once they start working, then they are their own employer at that point.

Mr. Forbes: — And then the volunteer is also covered off as receiving or entitled to wages?

Hon. Mr. Morgan: — A volunteer would not be entitled to receive wages. The relationship between the volunteer and the entity would be that there would not be an employment relationship that's there.

Mr. Forbes: — So I guess, I mean this is just . . .

Hon. Mr. Morgan: — There would be some things that we would, you know, specifically exempt in regulation.

Yes, we have some that would specifically be exempt by regulation. It would be managers earning above a certain amount of money, amateur athletes that are being paid a stipend. You know, we would take the position that it's not an employment contract. But out of an abundance of clarity, we would put in the regulation that for example a Blades hockey team would be exempt.

Mr. Forbes: — Right, okay. Another one that came up right away, and it was in the definitions, and that was the issue around lay-off. And it was changed from the layoff means the temporary interruption of . . . The word, the phrase was "exceeding six consecutive days." In the new one, I mean there's actually two changes. Temporary termination, this is the . . . Sorry. In the old legislation, it read, '**"lay-off"** means the temporary termination by an employer of the services of an employee for a period exceeding six consecutive days." And the new Act on page 9, it reads, '**"layoff**" means the temporary interruption by an employer of the services of an employee for a period exceeding six consecutive work days." So the two different words, there's termination to interruption, and the elimination of the work day.

Hon. Mr. Morgan: — Once again it's a matter of trying to make it simply more understandable. No policy change in what's being contemplated by it, but easier to read it. And you know, you talk about an interruption or a layoff, when a worker can understand the term interruption easier than the term layoff because they may or may not have received a layoff notice or understand what layoff is. But everybody knows what an interruption is. So it's once again trying to add some clarity. So no policy change and no practice change.

I think, and I don't want to interrupt your questions at all, but I think that's the type of thing that when people see . . . in practice, there's no change and that the wording is there and people are looking at it and saying, well could this be? Well no it can't. And it's intended to make it easier. But anyway I'll let the officials . . .

Mr. Carr: — Perhaps I can I add one comment, and that is that the reference to the word termination tends to reflect a permanent discontinuance of the employment relationship. And so when you talk in terms of a termination, it's challenging to understand what a temporary termination is. When you look at a temporary interruption, the word interruption suggests that there's a continuing relationship and that the expectation is that when the issue that has caused the layoff is over, there'd be a return to work.

Mr. Forbes: — Okay. The group that brought this forward to me — and it was actually very quick; it was like on December 5th. It was a trades group who saw this. And it wasn't the word the termination or interruption. It was the elimination of the word work days. And it was because the nature of the work that they were doing and any seasonal . . . I guess it impacts seasonal people as well, especially over the Christmas holidays, that the difference between six consecutive days and six consecutive work days can be significant if you have several holidays in between. And so this was having some impact on this one particular group. And I don't know; has anybody contacted you about that?

Mr. Carr: — No.

Mr. Forbes: — Okay, so I probably should make sure. This was one of the very first notes I received on, as I said, the morning of December 5th about this and the impact it has on these trades.

Hon. Mr. Morgan: — I'm overhearing the legal opinion coming from behind me, and they're saying there's not a change in intent, but it's to clarify it based on some case law. I don't know if Daniel wants to give more specifics.

Mr. Forbes: — It would be good to have this on record because if it's not a change in intent, I think the folks would be very happy to hear that.

Hon. Mr. Morgan: — It is not. It is to clarify. And I think a number of the things they go through where they were updating languages, this was a case that had been determined or this had been . . . You know, rulings had been made but not an intended change.

Mr. Forbes: — So if there is still some concerns? And I'll get back to this group and say listen, I've raised it; this is what the ministry has replied.

Hon. Mr. Morgan: — If they want more particulars, would like to discuss it, we'll make an official available to them.

Mr. Forbes: — As quickly as possible because it would be good to have the language cleared up because, you know, it's interesting how quickly some people see this stuff. And this is the issue; it really is meaningful for these people because when you're working out of union halls, you're coming here from Ontario or whatever and you're looking forward to going home for Christmas. And for them the layoff, I understand, is more appropriate than just taking holidays to go back because they have to do the job.

Mr. Carr: — In terms of clarification, the interpretation that the labour standards division has given to the existing language is exactly the same as the new language. And we felt that by adding the workday, we were making it clear as to what had been the case forever. And so in our view we were adding clarity by making it clear that in (h) of the existing labour standards Act, the reference to a period exceeding six consecutive days was always applied as being six consecutive days of work.

Mr. Forbes: — I'll ask them to follow up with you and that would be good. Now I do want to talk about the minimum wage aspect of what the minister has said and what may happen there. So has the minister . . . The actual regulation or the actual part of the bill of minimum wages, what number? 2-16? That's what it is, 2-16, I think . . . [inaudible] . . . my question.

First of all around the minimum wage regulations, and I want to take a look at the questions around . . . Because what happens is there's several things that are eliminated from the new minimum wage. There's no longer a board. And some of the pretty critical pieces of the regulation — and what I had called the Act at one point — I just want to go through that and see if you're still considering that in your new regulations. So I'll go through that set of regulations because they are substantial.

[15:15]

Hon. Mr. Morgan: — The end result is, as you're aware, under the existing legislation, it's done through regulation as well. So the decision to keep it in regulation will continue forward. So the regulations will have a blend equally of the average hourly wage and the consumer price index, with one being a leading indicator, one being a lagging indicator. We would, in all likelihood, have the announcement made in May or something like that for a fall date. So it would be a six-month notice period. Given that it's an automatic process, the need for having a Minimum Wage Board would not be necessary any more. The recommendation would come forward and then it would be, unless otherwise ordered, an automatic process.

I think likely your next question will be, would we ever order anything different than what the process would do? I think we would always want to look at what's happening in other jurisdictions to make sure that we remain competitive. As you're aware, last year our province slipped behind. We thought we were wanting to be well above the mid-range and then, all of a sudden, turned out we were one of the lower ones. So we did something out of cycle, which was a good thing for the workers but not good for employers that have to, you know, do their planning around it.

So our goal is predictability and stability, but always with the ability to look at it and make sure that we're where we need to be within the market.

Mr. Forbes: — About how many people are on minimum wage right now?

Hon. Mr. Morgan: — We actually have that. We also have a guesstimate as to the number of people that are close enough to the minimum wage that if the minimum wage went up that they would receive a ripple benefit.

The officials think it's in the range of 4,000. And it would be roughly that many people again that would be close enough that they would receive a similar bump up. These are people that would be five, 10 or 20 cents above, so that they would receive a bump. But I think it's fair to say that whenever there's that kind of a bump, it is an inducement for employers to look at . . .

Mr. Forbes: — Is that number remaining the same as a percentage of the workforce or is it getting larger or smaller?

Hon. Mr. Morgan: — Smaller because of the labour shortage in the province. More and more employers have to pay somewhat over. I think maybe it's moderated a little bit. But I think you probably remember three or four years ago, if you tried to go to some of the fast-food restaurants, they were closed or had drive-in service only because they were unable to staff. So I think the workforce has grown and taken some of that pressure off.

But the effect of the labour shortage was that a lot of what you would think were entry-level positions were paying several dollars an hour above minimum wage to attract and retain people.

Mr. Forbes: — So when I'm looking at the regulations here, I want to go through a bit of a checklist to see if you're considering . . . or what will happen to these components of the minimum wage regulations pages. First, one is around the minimum wage rates or what we often call a call-out. Is that being considered or what will happen with that?

Hon. Mr. Morgan: — No change.

Mr. Forbes: — Okay, and I'm very glad to hear that because I know there were some advocates for that and I think that's a very fair way.

Rest periods. There is a line talking about when an employer grants a rest period that rest period is deemed to be worked. Any thoughts on that?

Hon. Mr. Morgan: — No change. There was the issue, and you'll probably get to it on what is an emergency circumstance, where you would have a . . . [inaudible] . . . but I'll let you . . .

Mr. Forbes: — Yes, we'll get to that. And then there were . . . the next section was really about statement of earnings but that may be . . . Is that incorporated into the Act?

Hon. Mr. Morgan: — Yes.

Mr. Forbes: — And the next one is applications of six to nine where it talks about working shifts, and that this is applying to employees employed in hotels, restaurants, educational institutions, hospitals, nursing homes, that type of thing. What will happen with that?

Hon. Mr. Morgan: — I'll let the officials answer, but no policy change there.

Mr. Forbes: — Right. And I guess the big one of that . . . Well they're all relatively big because I know that one deals with . . . an employee or an employer shall provide each employee who is required or permitted to finish work between the hours of 12:30 a.m. and 7 a.m. local time with free transportation to the employee's place of residence.

Hon. Mr. Morgan: — Continue.

Mr. Forbes: — Continue? Okay. And then the other one is in regards to uniforms. Other than registered nurses, that if you're required to have a uniform that that will be provided.

Hon. Mr. Morgan: — Yes. Actually there's something that was in the regs that we're bringing into the Act with respect to uniforms. But continue.

Mr. Forbes: — Right. Now this one is relatively important and I think this is something that . . .

Hon. Mr. Morgan: — The uniform piece is slightly expanded as well but I'll let Greg . . .

Mr. Forbes: — Uniforms are important as well, but this is dealing with youth employment and parental consent required, and it also then goes into restriction on hours of employment for youth and then the youth must complete work readiness programs and the minimum age of employment. Will any of that be changed?

Hon. Mr. Morgan: — No, the analysis that was done was that the program — the youth readiness program — worked well. It provided an opportunity for the young person to understand what their rights and what their obligations were, and as it turned out, the parents participated in the program because it was an online service that there was a greater understanding and awareness on the part of the parents as well, so it was a success.

Having said that, you know, we always worry about workplace safety — even more so when it's a young person that's involved. So there was not a change in this, but I think it's one of the areas that we want to make sure that we do everything we possibly . . . Oh hang on . . . The 4,000 figure that I gave you was apparently 22,000 minimum wage earners in the province.

Mr. Forbes: — Oh, okay. Thanks for the correction. Now with this youth and age, because it was a relatively new initiative — I think it's about five years old — that it was reduced to 14, if certain requirements, including the labour standards and the work safety was in place. And I know at the time, I felt it was an interesting project. Have you done any follow-up in terms of the finishing school . . . you know, how is it impacting on youth? Here we have a unique situation where we could actually look back and say, was this a good idea or not a good idea . . .

Hon. Mr. Morgan: — We have some stats, but the general sense was, it wasn't a matter of lowering the age; it just didn't exist before at all. So it was a matter of setting up a framework where young people did work. I think a lot of them worked outside of compliance with the Act. You know, there was a ton of kids, myself included, that had fairly regular jobs at probably before the age of 14, but I don't . . . if you got . . .

Mr. Tuer: — I guess to answer your earlier question, we haven't done the evaluation to determine if there's been any impact on graduation rates or anything like that, but what we actually have seen with the program itself is it's being increasingly used. We've had over 21,000 youth complete the course, or at least we've issued over 21,000 certificates since the course was brought in.

What we're hearing is, while not part of the official curriculum, that an increasing number of schools are starting to use this in their business courses or in their sort of life preparation courses in grade 10. So we really are seeing an increasing use in the program and, in fact, we're right now going through a program to renew the information that we have on the Internet to make it more user-friendly, because we're seeing more and more people start to access it.

Mr. Forbes: — So prior to this, it was a program where the youth had to know about it and would go to the computer and do that. But now you're telling me that schools are using this as part of their curriculum? Yes, okay.

Mr. Carr: — In fact we've had some very positive comments from the school boards and school trustees and a number of teachers talking about the value that this brings to their conversation about ready for work. And of course, as you know, ready for work has been a program in place in the province for many years, and it does provide good value I think in preparing people for that transition.

Mr. Forbes: — So I would really encourage the ministry to take a look at the impact because I do think . . . And that's why I felt that there was some value to this, with some caveats. But I

do feel that students working is a good thing, from my own kids' point of view. It was a learning experience and they learned a lot at work. But it's also important that we have that balance in terms of graduation. And we also make sure when they do the computer program . . . It's the old teacher in me that I think, are they actually learning or is this just a really good tool? But I think they do actually learn, so I would really encourage this.

I was talking to the Minister of Education. He really didn't have a comment about this. I'm not sure . . . I'm sort of in a unique position of being critic both of Labour and Education. And I can see the connections, that if there was some follow-up . . . Because I know this is an initiative of the government in terms of improving graduation rates, and it would be really of interest to see what's happening here.

Hon. Mr. Morgan: — The point you make is a valid one. We'll raise it with Minister Marchuk, and it's probably a sound idea to do some looking at it to see whether there's an impact one way or the other. Because I know when the program was brought in that that was the nature of the discussion — well if you're enabling these young people to work, to have jobs, what will the effect be on their ability to be awake during school, to study, to do whatever else? So it's probably healthy to do that.

The program was brought in before Minister Marchuk assumed responsibility for the portfolio. So given that it's a Labour initiative, he wouldn't know about it. But I think it's (a) right that he knows about it, and (b) probably worthwhile that we should see what kind of follow-up, even if it's anecdotal, to determine whether there's the parental satisfaction and the schools are indicating that it's working.

Mr. Forbes: — I think it would be really worthwhile to evaluate it in so many different ways in terms of, as you say, parents. And it's one of those things, as time goes by, but it was only five years ago that it was introduced.

And the other interesting side effect of this I think is the students now are getting social insurance numbers, I assume, because they have to have one to work. And this is one of my pet projects, and I know if . . . the minister would remind me, talking about ID [identification] in low-income workers and making sure they have ID, which can be a significant barrier for a lot of things, and whether it's a bank account or getting other ID. And the implication too, you know, the idea that young people are not getting driver's licences to the same extent that other generations have, and so they don't have ID. And then when they come to do things, that's a barrier. So I think there's value here.

Hon. Mr. Morgan: — I would concur. The joint task force released its report recently. One of the recommendations was that there should be driver training made available for young people on-reserve or in the northern areas. And I think that was a good recommendation. And the driver training was (a) the ability to drive for purposes of the job, but also to get the identification so that they would be able to travel, do whatever else, open a bank account. So it's worthwhile to have it.

I had some casual conversation regarding, as they're going around doing the training, those that choose not to drive or don't complete . . . [inaudible] . . . you could make the identification available to them at the same time because, as you're aware, SGI [Saskatchewan Government Insurance] will introduce, will issue ID that isn't suitable for driving but does identify the person with a photo.

[15:30]

Mr. Forbes: — So it's an important thing. And if there are other venues where people who are vulnerable, workers who find themselves . . .

Hon. Mr. Morgan: — I'm going to let Greg comment on the usage of certificates.

Mr. Tuer: — You were asking about effectiveness of the program, and actually we have just recently done some research with CRA [Canada Revenue Agency]. And what we determined is actually over 2010-2011 years, there was more YWRCC [young worker readiness certificate course] certificates issued than 14- and 15-year-olds filing income tax returns.

Mr. Forbes: — You're just losing me with the acronyms. CRA? The revenue agency . . .

Mr. Tuer: — Canada Revenue Agency. Sorry. Now I don't want to get anyone in trouble and leave the impression that people aren't filing their taxes.

Mr. Forbes: — So there are more . . . Sorry, say it again.

Hon. Mr. Morgan: — So there's more students getting the young worker readiness certificate than were filing income tax.

Mr. Tuer: — And so we're collaborating with WorkSafe Saskatchewan as part of their youth at work campaign. So if we think of, you know . . . The certificate is just one measure of what we're accomplishing. But the fact that these youth are learning more about safety in the workplace, learning more about their rights and responsibilities in the workplace, I guess that's just another way that we're looking at the effectiveness of the program.

Mr. Forbes: — Now and that reminds me, and just getting back to the part that you were talking about driver education and how important it is to have that skill in terms of work, has . . . In thinking of the recent stats on workplace deaths, the significant number of young people who died in a car, vehicle accident, any kind of thoughts in terms of this online program and the effectiveness around safety?

Hon. Mr. Morgan: — For purposes of workers' compensation and our fatality records, it's not the people that would be eligible for, just the people that would be eligible for the young worker certificate. It goes up to age 24. So when you see the stats for the fatalities we could be able to track down, I think fairly readily, the number of people that would be young workers that are under . . . They're telling me that 85,000 were killed, I suspect.

A Member: — Killed? There was five.

Hon. Mr. Morgan: — Five young people. So those people

would have been in that . . . [inaudible interjection] . . . Yes, in that cohort, so I'm not sure how many of them would be . . .

Mr. Forbes: — Yes. And I'm not . . . You know, I'm using the deaths as a quick stat. But I, unfortunately, but I'm thinking more in a general way if the youth that are taking this program, if you're seeing a correlation with WCB stats in terms of . . . Or if they've pulled that together at all?

Hon. Mr. Morgan: — We could provide you with . . . I'll show you on the fatalities because it's a low number. We could certainly give you the ages of the workers if you like.

Where I would have particular concern, if I thought there was people that were part of the young worker readiness that were killed or injured on the job to any degree, I would be certainly be troubled by that. I mean the purpose of the program is that they understand their rights, their obligations, and how to work safe. There's also the expectation on the employer that these are young people and that they do not have the life experience nor do they have the training from elsewhere. And we have a higher expectation from the employers to deal with them.

The nature of most of the jobs are that they would be lower risk occupations, but nonetheless, we should have, quite rightly, a very high expectation of those people. And I don't know that Greg you want to add . . .

Mr. Forbes: — All right. Then I want to . . . there is some specific . . . Well I want to specifically ask about the Sunday one because I thought that was . . . And I appreciate your comments about the religious aspect of it. But it wasn't so much that, that component — but it is an important component — but the fact that so much is based around, in our society, around what the weekend is.

The phrase was that Sunday wherever possible should be used. I'm just looking to see where that . . . I want to make sure I read that correctly. Yes:

> Notwithstanding subsection (1), where there are more than 10 employees in any establishment, the employer shall grant to every employee who is usually employed for 20 hours or more in a week a rest period of two consecutive days in every seven days, and one of those is to be a Sunday wherever possible.

And that's been used as a bit of an anchor to what the weekend means. And was there external or were there groups asking for that to be removed from . . .

Hon. Mr. Morgan: — It was part of the legislative drafting process that we would no longer recognize Sunday as being a Sabbath day, that we don't recognize that. I don't think, in a practical point of view, it will change it. Businesses will continue to operate as they do. The expectation is where practically, you know, they have the two days consecutive and, you know, Sunday is a day where a lot of businesses, office, etc., are closed, so then Sunday would logically follow that it's there. But for us to mandate it by statute would leave us potentially exposed to a human rights complaint or a charter complaint.

Mr. Forbes: — So did you check with the Human Rights Commissioner? Did he advise you to that effect?

Hon. Mr. Morgan: — I think the opinion would've come from the Justice lawyers.

Mr. Forbes: — Okay. Now but I've been . . . When this has come up, people are concerned because some of their contracts that are negotiated refer to Sunday . . . Actually they refer to the weekend differential as something that starts on Saturday morning, at midnight.

Hon. Mr. Morgan: — If they've chosen to, in a contract, use a specific day of the week, whether it be Sunday or Tuesday, that's a contractual choice that they've made. And it would be up to the parties to that contract to determine whether there's anything that offends the Human Rights Code.

But from a statutory perspective for how we've done it in the Act, we do not believe that it's appropriate to include reference to Sunday as a preferred day off any more than it would be appropriate to refer to Saturday as a preferred day off. You have a large number of other faiths that use Saturday as the Sabbath. And you could for those people make an equally strong argument that it should be Saturday.

I think the reality and the practice will be that as this carries on, there will in practice be very little difference just because of the nature of how things are done. But as you're aware, the issue of Sunday shopping and the large number of businesses that continue to be open, the erosion of Sunday as being a specific statutory day of rest is diminishing. This section deals with retail.

Mr. Forbes: — Is this only retail? Sorry, I missed that. And that's good, good to know. Now what number are we dealing with?

Mr. Tuer: — So if you were to use the existing labour standards Act, it was section 13(2), and we're talking about an establishment, a class of establishments, that are exempted from any part of these provisions by the regulations. And so in the regulations, we were talking about retail there, and so that's where the language appears with Sunday wherever possible. So again, I think the minister's made mention of Sunday shopping, but this is the retail section that this applies to.

Mr. Forbes: — In terms of the rest of the work world, there is no reference to Sunday?

Mr. Tuer: — No, and there was . . . [inaudible].

Mr. Forbes: — Okay. So very interesting. I mean, I find that as we learn more about this, this is a good thing. But this is probably why we need more work on this because, you know, when we have questions like this . . . I appreciate that answer.

Mr. Tuer: — Actually I was just informed that this stems from an old piece of legislation called the one day in seven Act that applied to everyone. We have our historian here behind us.

Hon. Mr. Morgan: — We have people in our research that are incredibly old.

Mr. Forbes: — So what was that legislation, one day in seven? What was this all about?

Mr. Parrott: — This is Daniel Parrott, labour standards. The name of the legislation was the one day in seven days of rest Act, and it just guaranteed that employees would get one day off to rest every seven-day period. And that has been incorporated and kept . . . was imported into *The Labour Standards Act* in 1969 and it sort of continued on. And the latest iteration is section 13(1). It's an ancient rule.

Mr. Forbes: — But then they went and . . .

Hon. Mr. Morgan: — They went all out, whatever the government was, and went from one to two.

Mr. Forbes: — We should stop talking about this then, eh? Well I appreciate the history of these things and where they come from. And so when was . . . I mean it is interesting, the history. Do you know when it was one day in seven?

Mr. Parrott: — I've seen references to it in the 1930s, and it might be older than that.

Mr. Forbes: — Very good. Well thank you. That's interesting but thank you. Okay.

Mr. Parrott: — If I may, the general rule for the population is one day off in seven. And that's what exists today and that reflects the ancient rule. 13(2) deals with retail and introduces the idea of an extra day off, but it only applies to retail. Okay, and my colleagues here are nodding, yes, so I think I got it.

Mr. Forbes: — So is there anywhere in regulation or legislation that talks about the one day or is that the other part . . .

Hon. Mr. Morgan: — The one day in seven is long gone. It would have been superseded at some point in the time when we went to a two-day weekend. So I don't have the legislative history when it was there. But I think Mr. Parrott was referencing the one day of rest, so that was back to . . .

Mr. Forbes: — Well I'm wondering about, 13.1 actually references the one day, doesn't it?

Mr. Parrott: — That's correct.

Mr. Forbes: — Right. So if you work for more than 20 hours, you get your one day?

Mr. Parrott: — Correct.

Mr. Forbes: — And then the two days that people have now have come by . . .

Mr. Parrott: — Usually collective bargaining.

Mr. Forbes: — Collective bargaining.

Mr. Parrott: — So you can do better than what we have. Or convention.

Mr. Forbes: — Or convention. But the 40-hour workweek . . .

Mr. Parrott: — Right.

Mr. Forbes: — Allows that because obviously . . . Good. Okay. Thanks for the clarity.

Mr. Parrott: — Thank you.

Mr. Forbes: — And thanks for the history lesson too. Appreciate it. So yes. So now I've asked some folks to send me in some questions and if we can go through some of these. And they may refer to, I don't believe, the amendments, but when we come across those amendments . . . But in section two point six of the Act . . .

Hon. Mr. Morgan: — Two hyphen six?

Mr. Forbes: — Two point six. They talk about it provides that no agreement may deprive any employee of any right under part II dealing with labour standards. And it does not include a statement in the current labour standards that this Act applies to agreements made in or out of Saskatchewan with respect to service or labour provided or performed in Saskatchewan. Now they reference 75.2. And I don't . . . Maybe that's the old Act.

[15:45]

Hon. Mr. Morgan: — Once again, no policy change.

Mr. Forbes: — Okay.

Hon. Mr. Morgan: — You know, to say either inside or outside of, it just says no agreement shall abrogate or reduce the workers' rights, period. You can't contract out of the Act, in simple terms.

Mr. Forbes: — Okay. And then section 2-10. The new section 2-10 significantly alters existing provisions deeming the employment of a worker to be continuous and to survive the sale, lease, or transfer or disposition of a business, by inserting the phrase ". . . and an employee continues to be employed at the business after the sale, lease, transfer or disposition . . ."

So what effect will this have on the entitlements of workers under part II, and who requested this change? And what's the rationale behind the change?

Hon. Mr. Morgan: — None. Modernizing the language only.

Mr. Forbes: — Okay. And then section 11 deals with work schedules and that type of thing. And it talks about a provision in the existing legislation requiring employers provide workers with at least one week's notice of change in the work schedule. And it's the old section 13.1 is not continued. And the new one says that the employer may provide less than one week's notice of a change in the employee's schedule if unexpected, unusual, or emergency circumstances arise. Was there a specific request to change this, and what was the rationale behind the change?

Mr. Tuer: — No. In fact the intent was actually to clarify the language. And so in effect actually now, and as a result of the definition of a week, employees are given more notice than they

had under *The Labour Standards Act*.

Mr. Forbes: — And this is where we have a definition change, or is this . . .

Hon. Mr. Morgan: — Are you referring to emergency circumstances?

Mr. Forbes: — Emergency circumstance. Yes.

Hon. Mr. Morgan: — Yes. The initial definition was intended to reflect what was taking place, but there was concerns expressed that it might be interpreted to mean an emergency as determined by the employer without any sense of practicality. So we've added the language in about reasonably foreseeable and that type of thing. And that was directly in response to considerations that came from the advisory committee. It wasn't, as drafted initially, it wasn't intended to reduce. But certainly on the face of it, one could advance the argument. So we thought some better specificity would enhance or give people a level of comfort.

Mr. Forbes: — So you've provided, through amendment, an overall definition of emergency circumstance that applies to the whole part.

Hon. Mr. Morgan: — Correct.

Mr. Forbes: — Section 12, 2-12 talks about the overtime aspect of it. And the right to refuse overtime is limited, and again the whole phrase unexpected, unusual, or emergency circumstances — so pretty much the same. Is this again clarification, or was this requested from someone? What was the process behind this?

Mr. Tuer: — Again it' s clarification. I think the one piece that is a change is in cases of modified work arrangements that are in existence and that the employee then would be able to refuse overtime after working the number of weekly hours outlined in that modified work arrangement.

Mr. Forbes: — Thanks. So overtime pay, section 2-17. And there were some concerns around . . . Or actually 18. New section, Bill 85, 2-18 allows for employers and employees to agree in the prescribed circumstances, subject to prescribed conditions, to bank overtime hours. What's intended by this? Or what was the drive behind this?

Mr. Carr: — It's really a recognized practice in many workplaces where workers and their employer enter into an agreement to bank overtime hours worked to be taken off at a later time. We wanted to recognize that in the statute because often when our officers are trying to resolve issues in dispute within the workplace, where we've got a complaint from a worker who's making the complaint that they didn't receive an entitlement to overtime, you find that there's some type of arrangement in place that was agreed to at one point but suddenly is a challenge because the worker has either left the employ of that employer and things are not properly documented.

So from our perspective, we felt that we would look at this as an opportunity to recognize what in many respects is a practice and to put some rules around it that would help us provide the assurance that individuals working under such an arrangement are in fact entitled to receive the benefit of the arrangement. And if there's a problem that we're called in to address, we have a requirement in the statute that sets out that these arrangements must be in writing and that they must follow certain attributes by regulation.

Mr. Forbes: — Now is there one sector of employment that tends to use this more than another?

Mr. Carr: — We've seen them in a number of different segments of the economy, and so I don't know that we could make that general observation. Anecdotally we've seen it in a number of different . . .

Hon. Mr. Morgan: — Construction seasonal work where there's a lot of seasonal work at a particular time would be one of them. At the present time under our present law, such arrangements don't exist in law; they're done informally between the employer and the employee. And it's when the relationship breaks down that there's a problem arises.

We would not want to see any of these arrangements used to preclude a worker from getting overtime that they're otherwise entitled to or use it for a practice where an employer could avoid paying overtime. But there are situations that exist where work wouldn't be done, or would be done by other people. And workers and employers choose to do that. And it's done in most other jurisdictions. I think, before we would go ahead, before prescribing regulations in this area, we would want to have some fairly significant consultation and a good cross-jurisdictional review.

Mr. Forbes: — Okay. And of course the new section . . . But there's an amendment and we can talk a bit about this — but section 2-18, the overtime, where we talk about the overtime after eight hours and 40 hours.

Hon. Mr. Morgan: — This was one of the situations when we created the Act that there was a potential for a consequence that we did not intend to have happen. If you had a situation where there was a 4-10 agreement, and you had most of the workers working full-time with 10-hour days and you had a part-time worker coming on that worked 10 hours one day, 10 hours the next day, and had been, prior to the passage of this, getting paid the overtime for it, we wanted to take them to the situation where anything beyond eight hours were getting paid unless they were working the full 40 hours before they would be able to avail themselves of the benefit of the 10-hour day.

So what this will do will ensure that a worker working less than a 40-hour week would not have to work a day in excess of . . . work hours in excess of eight hours a day without getting paid overtime.

Mr. Forbes: — Okay. So that's often used as the example, like when somebody works 20 hours or, you know, two 10, or has asked . . . They usually work eight and they're staying at 10.

Hon. Mr. Morgan: — They work the 10, and then if it's a workplace that's got paying for four 10's, then do they or should they get paid eight plus two at overtime, or should they

get paid . . . And most of the workers that were part-time would be restaurant workers or somebody that was retail. So we feel that this was a good response to ensuring that those workers were paid overtime beyond the eight.

Mr. Forbes: — So now the idea of changing the shifts from eight to 10, does there have to be an initial agreement that the workplace is going to go to shifts of 10-hour days? Or is it just a matter of notice?

Hon. Mr. Morgan: — It's a matter of notice. Right now we have in excess of 1,000 workplaces that have applied for and received the permits. I'm told by the ministry they can find no circumstances where it was ever turned down.

So what this does is it takes the status quo and says, yes this is what's taking place; we're no longer going to require you to do that piece of paperwork.

I'm not wanting to be combative. I find it sort of strange that you can have firefighters working 24-hour shifts; you can have nurses working 12-hour shifts. But for some reason, because somebody doesn't belong to a union, they can't decide they want to work at a place that's got 10-hour days. To me it's one of the things when you are looking for a job, oh yes I'd really like to have a place that would let me work four 10's. I think that's a great idea.

And if that's what's set up in the workplace, you know, why wouldn't we want to give people that flexibility in the same manner that we have northern mine sites where people have got three days on, four days off, and you work the extended hours there? So I think it's a straight matter of flexibility.

Now having said that, I certainly understand the sensitivity around a 40-hour workweek and the five 8's as being something that was negotiated and fought for for years. But I think, given what's taken place within the union environment and within what our marketplace is, the four 10's is not something anybody should feel threatened by or troubled by. It's just an alternate work arrangement and . . . I don't know.

We shifted as MLAs [Member of the Legislative Assembly] not to sit on Thursdays. I somehow don't think I'm doing four 10's but, you know, we make changes all the time to reflect the need to spend time with our families and to spend time in our own city. So to be candid, to me this is just a no-brainer.

Mr. Forbes: — And I would argue the other side. I think that this was the one that really shows where there should be more consultation. I mean I think that, you know, the . . . And I don't think it's as simple as whether you belong to a union or not because you demonstrate, you've shown how it talks about the northern mines. And I think about the providers of services to mines. Some belongs to unions; some don't. And it's a matter of reasonableness.

It would be interesting to know where those 1,000 permits, where they are and whether there's been any research. Are most of them . . . Where are most of them? I mean are they retail? Are they restaurants? Are they . . . I guess I would ask that question, if you see any trends in where those permits are.

Mr. Tuer: — Yes. A lot would be construction. We would see retail as well. Really I think the permits go across just about every sector. As the minister said, we actually did some analysis just over a year ago as part of a lean process to take a look at our permits. And so that really started us digging into this piece. And so as the minister said, we issue anywhere between 900 and 1,000 of these permits every year. The vast majority, 70 per cent or more would be standard arrangements of this nature. And so I think part of the thinking here is that's what we're seeing officially coming in.

The other piece is our officers, again when they're out there and they're investigating complaints or concerns that have been raised, they're running into these sorts of arrangements that are going on without our blessing as it is right now.

And so I think we're seeing it more and more as a workplace norm, people working extended hours during the week so that they can have a longer weekend or varying those hours over periods of time. I know when we did the analysis that this was part of just bringing into existence something that we're seeing a trend in the workplace.

Mr. Forbes: — So how many workplaces are there in Saskatchewan?

Mr. Carr: — There's something upwards of 40,000.

Mr. Forbes: — So this would be about two and a half per cent?

Mr. Carr: — It's two and a half per cent that are applying for a permit.

Mr. Forbes: — Right.

Hon. Mr. Morgan: — I suspect that for — and I'm taking the figure out of the air — but my guess, for every one that's formally applied, I bet you there's 10 that are doing it that have not applied. And it has worked relatively well until the relationship breaks down for something else. So we're really reflecting what is taking place both with the consent of the employer and the employee. It also is done in virtually every other province in Canada. If you'd allow me to go back, my very old people here have provided me with some background.

If you go to the 1930 *Revised Statutes of Saskatchewan*, chapter 255 is *The One Day's Rest in Seven Act*. And it's a relatively short Act, but the relevant section of it . . . So this goes back to the issue of the Sunday break. It is one of the sections in there that the employees shall wherever possible . . . And that's where it goes back to the original language of one day in seven. It's only a nine-page Act. So it goes, ". . . nothing in this Act shall authorise any work on Sunday now prohibited by law." Because you know, it would have been at that point in time lots of workplaces that had it prohibited. Anyway, for our history lesson of the day.

Mr. Forbes: — Well you know, it is always interesting to reflect back on that because again it's that whole balance of where did these things come from. What is it . . . You know, why did retail workers . . . It was that whole thing about the fact is that they would be probably working Saturdays. And I remember just until recently seeing in Saskatoon parking signs

that said free parking on Wednesday afternoon, you know, because they just hadn't taken that sign down.

Hon. Mr. Morgan: — I think those of us . . . Probably you and I would remember when Thursday shopping came in, when Wednesday afternoons were closed for the businesses that were open on a Saturday. And I can remember the debate about Thursday shopping. I can remember the debate about how we would never, ever, in a temperance colony city like Saskatoon, should ever allow for Sunday shopping. People were, you know, leaving the province in droves to go to other jurisdictions that had Sunday shopping. And we have it now. So it is toothpaste that is now out of the tube.

Mr. Forbes: — Well yes and no. I mean this gets back to this thing about the 10-hour day because . . . And I have not thought about this. You talk about firefighters. When we've accepted firefighters and their shifts of 12-hour shifts I think is what they do, and they sleep at their work.

Hon. Mr. Morgan: — I think our firefighters are doing 24's.

Mr. Forbes: — 24's. And they get . . .

Mr. Carr: — They are allowed to do . . . Most shift configurations in firefighting are 14 and 10.

Mr. Forbes: — 14 and 10. And the 14 is probably overnight?

Mr. Carr: — Yes.

Hon. Mr. Morgan: — And the nurses . . .

Mr. Forbes: — So are they allowed to rest at their . . .

Hon. Mr. Morgan: — The nurses are routinely doing 12's. And that's something that was negotiated several decades ago, and they value it because it gives them time with their family. So you know, if you asked . . . If we were to change this Act and say, no everybody's going to go back to 8's, you can imagine how much your phone would light up from people that are working 12's or working something where they . . .

Mr. Forbes: — But I'm not, you know . . . We have, and the government's pointed out that our side in fact approved these as, you know, as part of our duties as government when we looked at them. So clearly we can see a rationale for 10-hour shifts that makes sense.

But the point that we're trying to make is on this slippery slope of where do you have work-life balance, and where does it stop? Because now people don't have the choice, but you say we can choose to work at this place where you have 10-hour shifts or this place that has eight-hour shifts. At some point . . .

Hon. Mr. Morgan: — Or this place or this nursing profession or this wherever that has 12's and 24's, or that you work in a northern area where you're working whatever the configuration is there. And I think where the employee has a choice of where they work, they'll do it. And I appreciate the arguments that were made by people that had child care issues or something life that. Those people clearly will want to work in a workplace that's got a five-day workweek because if that's what works for their child care arrangements, then that's the arrangement that those parents need to make. But you know, a lot of other people don't have those time constraints of those other ones and prefer to work four days and have a three-day weekend.

Mr. Forbes: — But the point being is that it's not only the worker who has . . . And it is a significant issue for the worker who's trying to find child care, all the other different things that you have during the work day that you must deal with. But then the child care provider says, you know, I used to have to provide . . . or my day was an eight-hour day. Now do I start looking at providing child care for 10 hours because that seems to be the time frame, the shifts that people are getting now? And so those are some of the consequences of getting into this kind of slope.

And I think it would be interesting though, the debate around the nurses. I'm not saying that they, a majority would want to go back to eight-hour shifts. I don't know that. But we do hear every once in a while comments made about how long are shifts, how long are shifts for doctors. Doctors is a really good example. How long should a doctor work? And we know that sometimes you wonder is it a good idea for a doctor to work as many hours as they do just because how important it is that they be well rested. Now this is a debate that is ongoing.

Hon. Mr. Morgan: — We've made the statute . . . a determination a long time ago that it's a 40-hour workweek. We're not changing the 40-hour workweek. We're giving two options, five 8's or four 10's, as is done in the practice now, where now we're bringing it into mainstream.

You know it would be, as you say, an interesting debate to ask how many nurses would like to go back to the 8's. My guess is if you were to poll them — and I think we all have nurses in our families somewhere — just ask how many of them would like to go to 8's, I'll bet you it would be 80 or 90 per cent of them don't. And I'm not advocating one position or the other.

What I think we want to do from a legislative perspective is protect workers to ensure that they get paid for work in excess of 40 hours per week, that we want to reflect what's taking place in the marketplace that we've got. So you know, it's we think something that most workers, most employers will do it.

When you've got a situation where the permits now have been granted routinely, over 1,000 permits without a wrinkle, without a hiccup, without anybody making a complaint, you know, refusing or raising the issue, never having one of the permits refused, all we're doing is saying let's save a few pieces of paper. Let's save somebody sending it in, if this is what they were doing with the permit.

You know, to sort of raise the further issue, if somebody chooses to do something different than that, they still have the ability to ask for a permit. And the ministry has worked with employers for a variety of different ones, northern mine sites, and whatever else.

You know, you have two methods of varying from the five 8's right now. One is by way of a collective agreement, and the other one is by way of a permit. So this isn't a big change. This is simply reflecting current practice. You know, I appreciate the

questions. And you know, I don't have a desire to go back and revisit what's in the nurses' contract, but anecdotally I'll bet you, if you asked a handful of nurses, you're there.

Mr. Forbes: — Well and I'm not going to debate, you know, the pros and cons of the nurses' collective agreement. I'm sure they can do that. And they've got a good handle on what their membership wants.

Hon. Mr. Morgan: — They're very capable of it. Interestingly . . .

Mr. Forbes: — But my point . . .

Hon. Mr. Morgan: — Yes, interestingly their initial contract — whatever time it was where they went to that — has always been renewed. It was never an issue that they were taking that out. It's continued renewal after renewal after renewal and, you know, if that is an endorsement of that status quo, it's pretty ringing.

Mr. Forbes: — But my point is, just as firefighters, police officers, and nurses, and I would throw in teachers . . . I would not want to put teachers into 10-hour days. There would be huge consequences of that. I got people's attention with that. But we all have unique work circumstances, and that's really critical. So you cannot take what applies in one circumstance and say because it is successful there, it must be successful over there. And I think that's the concern we have.

It seems that eight hours was a very good arrangement for the majority of the workplaces. And of course 1,000-place work sites that have permits, clearly it's working. Clearly it's working and it's reasonable. And the nurses must feel it works for them, and firefighters, it's working for them.

But I just think that we should be careful with this. And I guess my point is what will you do in terms of monitoring this because now with just the notice, does the ministry, are you folks required to receive notice that they're on a changed hour? And how will that be or how will you keep track of that or what will be the . . . Because the minister is saying that he feels . . . Now I don't want to misquote you here, but what was your guess of how many workplaces have this?

Hon. Mr. Morgan: — You know there's in excess of 1,000 are doing it with a permit, and I'm guessing there would be, for every one doing it with a permit, there's probably 5 or 10 doing it without. Now that's a guess on my part, but I'm guessing it would be accurate because often, you know, when there's another breakdown in the relationship between the employer and the employee, the employee quits as an issue of notice on termination or something such as that. Then the labour standards officer goes in, does a review, and finds out that there was an unsanctioned work arrangement that was there. And I don't know whether Mr. Tuer can comment on the number that he's come across. And then they're obliged to make an assessment against the employer for something that had been negotiated but not compliant. And what we're saying is we could do it.

Another option that you could do that I wouldn't entertain, was you could advertise and say, if you're doing this, come and get a permit. They don't cost anything and it'll put you in compliance with the law. So we could do a big education, but you tell me what benefit that would do. If we did a bunch of stuff online, sent notices out, and sent the forms out, then we get the forms in. We fill up a few filing cabinets. We don't do any more scrutiny on them. Where have we benefited a single worker by doing that? You know, so this to me is reducing red tape, reducing paperwork, and reflecting what's taking place.

Now having said that, you and I can debate this for a very long time, but I'll let Mr. Tuer give you an answer as to what he's finding and his particulars.

Mr. Tuer: — A couple of comments. The first, I'll share with you a story.

When we were doing our lean review of our permit process, one of our more senior officers or a director who had been with the organization for over 20 years, shared there was a time not so long ago when the ministry made a determination they were going to go out and check all of the workplaces that had permits. And as most of the permits are actually come forward as a result of the employees requesting them of their employer, in some of those workplaces there was the perception that we were coming to take away their permit. And the one individual shared, he was actually afraid for his own safety a couple of times because the workers thought he was going to take away this permit that was allowing them to work longer hours and have more days off. So that's sort of an anecdotal thing to share.

Your question was around what will happen if a workplace changes their work arrangement. And what will happen now under the new Act will be, they'll have to give the employees a week's notice of the change in arrangement, and then the 4-10 will be a legal work arrangement. So that's would what would be, come into effect.

[16:15]

Mr. Forbes: — Thank you. And the ministry will not know that.

Mr. Tuer: — No.

Mr. Forbes: — You know, I appreciate the story . . .

Hon. Mr. Morgan: — They're obliged to maintain records of it. And if the labour standards workers goes there, and they don't have the records of it, they're not in compliance. But that's one of the statute provisions, is they maintain the recordkeeping. That's one of the amendments to the Act, is that they maintain records of any modified work arrangement.

Mr. Tuer: — And actually to that point, they would have to provide that notice in writing or, you know, post it wherever they have their scheduling to the employees. So it's not a matter of an employee getting or employer getting to decide next week we're going to flip to 10's.

Mr. Forbes: — Now is it permissible to have a hybrid, some of the employees will be on 8's and some will be on 10's? Certain positions will be that way?

Mr. Tuer: — Yes. And we see that today, different . . .

Mr. Forbes: — Like part-time.

Mr. Tuer: — Yes. Again when we receive permits, we'll get permits related to a certain category of employees or a certain occupation of employees. We've seen them come in, and one example that's just in my head is a permit. Where we say we've never turned down a permit, often we negotiate the permit with the employer, so what we'll see is — and not related to these situations — but we've had permits come in where, for example, the business development officers in a certain organization need to work longer hours just because of, you know, they need to be talking to people outside of that typical work arrangement.

Sometimes the receptionist, who works office hours, will be listed on that permit. We'll have that discussion with the organizations. They know this one works; that one doesn't. But so, yes, absolutely there's employers who have multiple different work arrangements based on the business of that employee.

Mr. Forbes: — But you know, your comment though, when labour standards show up at the door, I mean I don't think they're always happy to see you. Are they? Are they?

Mr. Tuer: — No. I'd like to think so, but no.

Mr. Forbes: — I could tell right away there's a sort of a thing that . . . And so that's the same apprehension that people have about this Act. Whenever they see a change, they are apprehensive. Whether it's employer or employee, they go, this can't be good news.

Hon. Mr. Morgan: — You know, I think you're right. I think any time there's a change, even when it's simple as modifying language, there's always a concern. Is this going to affect me in any kind of an adverse way? Do I have the ability to do this?

And so that's the reason why I made the commitment that we were going to pass the legislation in this session and have as much of it operational as soon as we can because I think we're past the point of wanting to have the debate and dialogue. We're wanting to get to the point where it's operational so that people can realize the things that are . . . You know, you asked a series of questions. What does this mean? What does that mean? And we're saying, modernizing the language, modernizing the language, no policy change, no policy change.

So when people see that the practice doesn't change, and where the practice does change, it's not in an adverse way, you know, assuming you accept my argument that four 10's is not an adverse thing. And I don't believe that for the vast workers in the province it is, and if somebody chooses to work elsewhere, I suspect there'll be businesses that will carry on with five 8's.

Mr. Forbes: — You know, I just have deep concerns about the reason why we are moving from a system that seems to work, that's not broken, to one that is, you know, laissez-faire, whatever. And now the ministry will lose complete touch with the workplace and will not know who's doing eight 10's. And now, will we see now three 12's?

Hon. Mr. Morgan: — Three 12's is not something that can be negotiated without a permit.

Mr. Forbes: — But you're saying 5 per cent of the workplaces right now are outside permits right now.

Hon. Mr. Morgan: — What I'm saying is that they're doing four 10's without having a permit, and that's outside of the purview of what it is now. So if that's what over 1,000, I think it is — what? — 1,200 or so permits that exist, the vast majority of them are four 10's. So all we're doing is recognizing a huge number of people that have had to get a permit, and then probably a significant number of those that should have a permit that don't. We're just recognizing what is taking place.

And it's not a matter that we should stand back and do it and be judgmental of it. If it's what's taking place, it's what they want to have happen. And, as Mr. Tuer indicated, that's what the employees want to have happen. Why should we have a process that's there? They must maintain the record of doing it for . . . you know, they don't do anything with the records that sit at the office other than, you know, if somebody makes a complaint they check it.

Well if somebody makes a complaint under the new regime, the first thing they do is they ask the employer, you got an agreement, show it to me. No agreement, you're offside. They reassess. You know, under the old regime . . . [inaudible] . . . gets a complaint, they check the records at the ministry. Well if the employer doesn't have the records, they're in trouble. If the ministry's records are lost, then who, you know, who . . . So it puts the onus back where it should be on the employer to maintain the record. If the employer doesn't have it, then it's not there.

So you know, I appreciate you may have a philosophical disagreement with it, but to me it's reflective of what's taking place in the marketplace and the work environment. And we literally have thousands of workers in the province that are doing it now because we have over a thousand workplaces that have applied for the permits.

Mr. Forbes: — I'm not saying there is no place for it. I'm not saying there is no place for it. I'm just saying the system today — now you're saying there's many outside. I don't know, you know, what you base that on. But I would ask then, I have two questions; I don't want to lose track of them both.

So what my deep concern here is what's happening to work/life balance and family balance. And so are there any changes in this that you can say, listen, you know, on this hand we've cut red tape. We're making it easy for the employer because you don't have to file for permits. So maybe there's a win for employers over there. And the employees like it, so maybe it's a win-win. But is there one where you can point to, and here's one — this is a real win for families?

Hon. Mr. Morgan: — Yes, in exactly this situation, the one we're talking about. Some families want to have long weekends. Some families want to be able to, during the summer, go to the lake. They've got a cottage, so they have three, they have a long weekend every weekend. So to me, the four 10's allows as good or better work/life balance because it

allows people to have the additional day off with their families.

So I can't ask every family in the province, would you prefer to have a long weekend or not. But my guess is if you did, most of them would say I want to have the long weekend. And if that's the trade-off for it, they can choose to make it. But to me the change doesn't adversely affect work/life balance at all and, in my view, would likely enhance it.

I don't know how old, you know . . . what your hours were when your family was young. But if you think back to what you might have wanted to have happen for some additional time off, for Fridays off, whatever — I don't think your principal may have allowed it — but if you think about the times that you spent with your family, the travel you took, you know, I think it's . . .

Mr. Forbes: — Well I had a particularly tough school board chairman. I was lucky to get any time off, even over the summer.

Hon. Mr. Morgan: — I always thought you had one of the most gifted board Chairs ever. There was a series of at least two that I can think of, but point taken.

Mr. Tuer: — If I may, we've actually had a situation where the courts have seen four 10's as more favourable than working five 8's. Labour standards complaint, Caxton Printing is the case, where we have section 72 of the existing labour standards Act deemed favourable. The court actually saw that these workers had been working four 10's, it was the practice in the workplace. There ended up being a complaint, but at the end of the day the court said, no, actually the four 10's was actually more favourable than working the five 8's. And so it was overturned.

Mr. Forbes: — More favourable in what way?

Mr. Tuer: — For the employees.

Mr. Forbes: — How? In what ways for the employees? What were the measures?

Mr. Carr: — This is Glen McRorie. He's the director of compliance.

Mr. Forbes: — Thanks.

Mr. McRorie: — Yes, the Caxton case is actually . . . It's been around for a little while, but the essence of it is that the employees wanted to work four 10-hour shifts, but they were doing so without a director's permit. And so when that case went to court, the judge said, no, that's more beneficial to the employee. And there was a provision, as Greg was saying, under section 72 that allows a modification, provided it's deemed to be more beneficial. And so that's what the court said.

So in that particular case, the employees really liked their four 10-hour shifts and their three-day weekends. So the courts recognized that, even though it wasn't unionized so there wasn't a negotiated permit, and there wasn't a permit from the director of labour standards at that point in time. So we run into that . . .

Mr. Forbes: — I'm not arguing that, you know, I'm not arguing that four 10's has no place. And I can understand how some may feel it fits their lifestyle. And I think that when you have two per cent or two and a half per cent . . . Now it would be interesting to know what percentage of the workforce that is, as opposed . . . When I'm saying two and a half per cent, I'm saying two per cent or whatever — and the minister would say it's as high as 20 or 25 per cent — but that's the work sites, that's not workplaces. Yes.

Mr. Carr: — Perhaps I could speak to that. One of the challenges always, in operating a business, is to operate the business as efficiently and effectively as possible. And the view of the regulator is, we want to ensure that people are being employed in a way that fairly represents their interest, in a way that creates this opportunity for them to earn a living, and recognizes that there are times when they may be asked to work or be available to work with their employer where they are entitled to overtime.

So all of the provisions that we have continued in part II of this bill ensure that we are protecting the interest of the worker to have that opportunity for overtime in situations where they are entitled to it. So we maintain, for example, the basic principle is overtime after 8 hours and after 40 hours in a week. Then we maintain the principle that overtime after 10 hours and 40 hours in a week. And so the idea here again is trying to understand the dynamic that goes on in workplaces.

The other piece that I'd offer is that when businesses are operating and employing a workforce, they automatically have to engage in a conversation with that workforce about hours of work and about creating the opportunity as to what the deal or arrangement is that they're going to live by.

A significant number of workplaces solve these problems on their own without regard to the government or without regard to a third party as a bargaining agent. And they do that in a multitude of different ways. Often they'll have staff meetings and they'll work out an arrangement. They'll talk about the demands of the business. They'll talk about how those demands can be accommodated.

But in my experience, again when I look at alternative work arrangements, it's often been the workers that have brought forth a proposition to the employer saying, look, rather than the standard hours that we're presently working, what about this, boss? We'd like to try to work something different that allows us to have different time off. We'd like to work a little longer in the day.

I can speak to personal experience in the steel industry where we adopted a 12-hour shift arrangement on a cycle either of 4 on, 4 off, or 3, 2, 2, 3. And the employees had a sit-down to arrange a commitment from the employer that those shift schedules would be maintained when there was a conversation going on about moving back to 8-hour shifts.

So when you think about this very important issue around balancing work and your home life, often employees will make suggestions to employers as to how they can better accommodate their particular situation — whether that's child care or whether that's elder care or whether it's simply wanting

to have more time off to go to the beach. And so I think the fundamentals here are that from the regulator's perspective, we don't care about that conversation. We think it's best left between the employees and the employer.

Where we have a concern is where there is an abuse. And the abuse would be denial of overtime entitled, denial of time off entitled, a failure to communicate shift requirements, a failure to keep records. And so all of those things start to be a concern to us from a regulatory perspective.

Mr. Forbes: — If I can say this yet again, I'm not opposed fundamentally to the idea of 10 hours or if a staff does that kind of thing that the deputy minister . . .

Hon. Mr. Morgan: — Does that mean you're going to be voting in favour of this?

Mr. Forbes: — No. I'm not finished yet. But I am worried about those who find themselves in workplaces that are more vulnerable, that are not organized. You know, we've raised the issue on firefighters and nurses. And I think as part of their compensation . . . It is recognized that they're working longer shifts, is that not correct? Or would you say that there's no . . .

[16:30]

Hon. Mr. Morgan: — I don't think so. I think they're working different shifts that they've negotiated. I don't see that that's, you know . . . You have a shift differential when you work a weekend or you work a late night shift. But I think the fact they've negotiated those 12's over several terms, I don't see that as being something that they're earning extra money for . . . and wouldn't want to, as part of this process, say that people who've gone to four 10's, should be entitled to anymore accommodation. I think this is a matter of simply reflecting that those people that are participating in it have chosen to do that because that's how they want to organize their life, that it works for the employer. It works for the employee.

And I know it's an argument that I won't convince you on, but my guess is most of the employees that are doing it, it's their preference to do it. And if you went out and you were trying to take it away, the vast majority of them would say I want this; don't mess with it.

Mr. Forbes: — So do you think that if we did a poll today of the five hundred and some thousand workers in Saskatchewan, and they said if you had a choice between working a 10-hour day and an 8-hour day, they would say give me the 10-hour day?

Hon. Mr. Morgan: — I can't speak to what I think the majority of them that are already doing the 8's are, but I would — and once again, you know, we don't have any data — but my guess is those that are on the modified, that are on the 10's now, I will bet you that that would be supported. And feel free to ask Mr. Tuer his opinion on it as well.

Mr. Forbes: — Sure. I think he stated it already.

Hon. Mr. Morgan: — But my guess is 80 or 90 per cent of them would do it. One of my brothers is doing it and has done it for years. And his employer wanted to go back to the 8's and he was going to quit. He just said no, I'm doing this; these are my hours. If you want me to do the 8's again, I'm going to look for a job somewhere else — adamant. It worked for him. He spent his time at the lake on the weekend in the summer. During the winter, he used it as his time to do odd jobs and chores around. And that has become the norm in that household.

You know, Mr. Tuer goes on to the job, on to work sites more than I do. And once again, mine is anecdotal and my family might be different.

Mr. Forbes: — I do know this, and as we talk further about this, and I have talked about this because we've recognized international shift workers day and the fact that I think it's something like — and you folks know this number better than me — I think it's about a third of Canadians work shifts. So that would be, you know, fire fighters, police, and nurses. And of course, there are significant challenges with that. That's not quite as straightforward as, you know, 10-hour shifts.

So I'm not sure. The more we talk about this, I've got to say, Mr. Minister, you're losing my vote on this. It just doesn't make sense because, you know, we see what happens and we think about shift work . . . [inaudible interjection] . . . When we see this, you know, when we see this happening, we know that there's problems with increased long shifts over periods of time. Now I don't know if the 10 hour crosses that threshold. And I do think that people who are in those thousands of workplaces right now probably really like it because it fits that workplace, whether it's construction or in northern Saskatchewan or, you know, a retail or a service, a small restaurant where really it does cover the whole gamut of the hours. I could see it fitting people's lifestyles.

But I do think and my question is: will there be any evaluation of this because going from a non-permitted situation to one where you won't know what's happening out there, I think that we need to keep track of this because I do think family-work-life balance is critical. It's critical, and I think that we all know, I mean . . . You know, as you've said, the toothpaste is out of the tube, but we all regret what's happening in too many families. And you've asked about, you know, whether you'd rather have a long weekend. In many situations when we have especially vulnerable or low paying wages, there's not a question of them going to the beach at the weekend. I mean, dad or mom will be around on Friday where they're at school. And they would rather have mom or dad home for supper than coming at 8 o'clock at night.

Hon. Mr. Morgan: — Or mom and dad being able to go to school and participate in a parent-teacher activity, spend time taking the children to the doctor, which is why they might need the four 10's rather than the five 8's. I mean it's an argument we can make both ways.

I'm anticipating — I have been for some time — that this might come up in question period, and my answer to you was going to be and still will, if you raise it, is if you do not support the five 10's, will you take the position . . . four 10's, will you take the position that the nurses should go back to 8-hour days? If you think that 8 hours is so important to have without any kind of a formal process, will you say that? You know, will the argument

that you are advancing on behalf of those workers, do you want to apply it to nurses? Will you, have you consulted with nurses to find out whether they want to go back to 8-hour days or not? And if you can stand up in the House and say yes, the nurses are willing to go back to 8's, then I'm willing to revisit this.

Mr. Forbes: — I do have to say . . .

Hon. Mr. Morgan: — But I think when you talk to the nurses, you're going to find 95 per cent or more are liking the status quo of the 12's. So we haven't chosen to go to 12's. We've said 10's are what exists all over in the workplace now. So the morning after this comes into place, there will be no difference in this province.

Mr. Forbes: — You know, it'll be interesting because I hope . . . And I will be contacting SUN [Saskatchewan Union of Nurses] to see if they have any opinion about this because they've come up an awful lot in this discussion.

Hon. Mr. Morgan: — I have to be honest with you, I haven't. You know, we've had the discussion at the advisory committee as to whether, what you need to do to protect workers. And what we felt was necessary was to ensure that it was not done on an ad hoc or an informal basis.

So (a) it must be in writing and must be retained by the employer so that when the labour standards officer has a complaint or comes there, the onus is on the employer to prove what the arrangement was. So you know, the only difference is that instead of them having to apply to labour standards, they do it themselves. But maintaining the record, doing everything else is the same.

Mr. Forbes: — I want to make two points here.

Hon. Mr. Morgan: — Sure.

Mr. Forbes: — And the first point around the nurses is that I've always appreciated . . . And I'm assuming that they have with you, in fact . . . When we come back next week we'll be talking about some of their submissions. But I've always appreciated their thoughts around the vulnerable workers, those who are less fortunate. And I think they do that because too often they see the negative effects of poverty in their workplace. So it will be interesting to see what they think.

I have, over the course of this discussion . . . I'm not sure whether their situation is relevant because they are dealing with a unique situation of shift work where we expect many nurses, not all nurses because some nurses work regular shifts . . . But it's keeping our hospitals and our medical centres going, that it's a 24-hour job. And so how do you arrive at 24 hour, dividing up that 24 hour, whether it's better 8's or 12's? It'd be interesting to see what their conversation is about that. But that's not what we're here about now. But I will be asking them, sending them a quick note. What do you think of this conversation we've had here this afternoon and do they have any input? As you and I have speculated on what they might be thinking, we should actually hear what they are thinking.

But my other point is I would really urge you and the ministry to think about how are you going to evaluate this over the short term and long term. Are you going to see some unintended consequences? Or is it going to be, as you say, the sun will come up the next day, and you were right. Or this no-brainer actually should have had more thought put into it.

Hon. Mr. Morgan: — You know, what I can tell you is whenever there's a law changed, we expect the ministry officials to look at it, to monitor whether it's effective, whether there's anything that's there. And I would expect the officials to come back to us and say there's problems with this or there's problems with that. And then we'd certainly look at changing it.

We've not been afraid in the past to admit when something hasn't worked out that we've wanted to make changes on it. And if this doesn't, if we hear complaints where there's issues that are there, I'm sure that the labour standards officers will be on our doorsteps telling us what the problems are and what we might need to do to fix it or monitor.

Mr. Forbes: — And I would think that, you know, through your labour standards, the investigations and complaints and that type of thing and other stuff that has been in place . . . I want to . . .

Hon. Mr. Morgan: — My guess would be is, as they're doing the inspections and that, they'll come across, you know, issues of compliance, non-compliance, or whatever the situation might be. So they'll have some indication of both the popularity and the success of the program. So I will ask them to be vigilant and that as we next go through budget estimates after this year, will be an opportunity for you to inquire of them as to what they have seen or not seen as they've been monitoring workplaces. So we can regard them as having been put on notice for that. I see pens working furiously even from the very elderly ones in the back.

Mr. Forbes: — Okay, I just want to do a quick check, as we're getting close to the time at hand. This one I found interesting, and it's section 2-41. And it's essentially what's often referred to as duty to accommodate, I think, or modify employees duties or reassign the employee to other duties. And it goes through 2-41. 2-41(a) talks about the employee, if:

> the employee becomes disabled and the disability would unreasonably interfere with the performance of the employee's duties; and
>
> it is reasonably practicable to do so.

I guess I should have read the introduction, "An employer shall modify an employee's duties or reassign the employee to other duties if," and then they list the two circumstances. So this is a change.

Hon. Mr. Morgan: — I'm sorry?

Mr. Forbes: — 2-41.

Hon. Mr. Morgan: — Yes, I've got the section.

Mr. Forbes: — Okay. And so what I'm . . .

Hon. Mr. Morgan: — But your question was . . .

Mr. Forbes: — My concern was about the language around "it is reasonably practicable to do so." In the old, it was:

> In any prosecution alleging a contravention of this section, the onus is on the employer to prove that it is not reasonably practicable to modify the employee's duties or reassign the employee to another job.

And I'm just concerned about the . . . It seems that it's not as robust or rigorous as I think in this day and age we expect.

Hon. Mr. Morgan: — The policy intent was the same, that there's a duty on the employer to accommodate. And I think it's reflecting modern language. And I think what you're referencing is the specific statement of a reverse onus, but I think the reverse onus continues to exist. I'm just going to check with . . .

Mr. Tuer: — Actually the reverse onus appears in section 2-8(2); 2-8(2).

Mr. Forbes: — Sorry, 2-8(2)?

Mr. Tuer: — Yes, two dash eight, sub two. I can read it to you if you like.

Mr. Forbes: — Sure, but I'm just . . . So that's earlier on in the Act, then?

Mr. Tuer: — Yes. Yes.

Mr. Forbes: — Okay. Let me see. Where's my . . .

Mr. Tuer: — Yes, so it's under the discriminatory action section. So the section is titled, prohibition on discriminatory action. 2-8(2) is:

> In any prosecution alleging a contravention of subsection (1), the onus is on the employer to prove that any discriminatory action taken against the employee was taken for good and sufficient cause.

So it's actually just . . . It's been moved up in the Act to be connected to the discriminatory action language.

Mr. Forbes: — Sorry, I'm looking at 2-8, and what was . . . 2-8(2)?

Mr. Tuer: —Yes, 2-8(2).

Mr. Forbes: — Oh, okay.

Mr. Tuer: — Yes, which is the same as the old 27(2).

Mr. Forbes: — And then the other relevant part would be 2-8(1) the (e) above, just above? When a modification of employee's duties?

Mr. Tuer: — Yes.

Mr. Forbes: — Okay. All right. Then I am concerned that, how will . . . You know, when you're moving these things around and you're saying this is for clearer language and yet you have to know sort of how to navigate this Act, how is that easier?

[16:45]

Hon. Mr. Morgan: — The purpose of it was it goes at the beginning where it sort of, as you're going through the various sections, it applies to a number of different sections. So I think there's a number of places where there's a piece at the beginning that's an interpretive type of direction that's given at the beginning of a section or a subsection that applies to several different sections. The rationale being, by the drafters, that that's an easier way than having the specifics repeated several times over.

Mr. Forbes: — Okay. All right. And I'm just going to check my notes here to see if there's . . . And while I'm going through my notes, did you want time to talk about the amendments because I hadn't . . . to highlight some of the changes with the amendments? Because we could do that as well. Because the ones that I was concerned about we've already touched on and . . .

Hon. Mr. Morgan: — I provided you with the amendments so that you had them, so that if you wanted to ask questions about them as you're going through. And I think you've done an . . . I don't have anything specific that I wanted to, for the committee. I will when, around the time we make the motion, I may make a brief comment on the intent of some of them. But the intent would be, we would introduce them the final day of dealing with this bill.

Mr. Forbes: — Well maybe what I'll do is, I'll take a quick . . . The emergency one was, the definition of emergency and the overtime.

Hon. Mr. Morgan: — The emergency one, I'll just speak to very briefly. The concern that emerged was that it talked about something that was unforeseen, and the way it was originally worded, there was an argument made that the person that would determine that would be the employer in their absolute discretion may just say, no I didn't know how many people were coming in for lunch today; therefore you have to stay.

So what this does is it talks about the foreseeability and it adds an objective standard to it, not a subjective standard. So the employer must, you know, have something there that would be provable. And failing that, you know, it would certainly be a contravention that could lead to either the labour standards officer issuing a certificate, or possibly even laying a charge if they felt it was consciously being abusive.

So I think by adding those additional words, we've added some clarity and made it . . . and added people with a comfort that this is not a section that there was intended to be a policy change or intended to give somebody the ability to take advantage of a worker. And a lot of times, the situations that would arise would be lower income or entry level workers that otherwise could well be taken advantage of, you know, by the employer just saying, oh I didn't bother to phone in another shift. I didn't know so-and-so wasn't coming in. Well, therefore you have to stay.

You know, it could be disruptive. And I think the idea is . . .

Yes if the stove breaks down and they have to do something in the kitchen, well fine then. That's the unforeseen emergency. But you know, extra customers or a little busier than usual doesn't count. So that's the example that I've used. And you know, there probably is better ones than that.

Mr. Forbes: — Right. I wouldn't mind if the minister or the officials quickly, if you know . . . There's quite a few amendments here. Some would be . . . if they're housekeeping, or if there's some that are flagged. And I know we've just got about 10 minutes, and if you want to go a couple of minutes over, but if there's ones here that we should be aware of that are significant.

Hon. Mr. Morgan: — Okay . . . [inaudible] . . . is the one that we've talked about already on emergency circumstances. 2-3(3) is enabling the ministry to collect wages for agricultural workers.

As you're aware, agricultural workers are not included. They're one of the excluded industries. Under the previous legislation, we had the capacity to collect unpaid wages on their behalf even though we don't regulate them under this. If there is unpaid wages, we have the ability to issue a certificate to collect on behalf of the worker. So the ministry officials identified that we hadn't carried that forward, so we've added that in so that we're consistent with what was there before.

The next one is 2-18, and that's one where we've dealt with the issue of a part-time worker that is working more than eight hours in a day. You know, if you're a 10-hour-a-week worker, you work it all at once, you're going to get eight hours of straight time and two hours of overtime. So that was that change that was identified by the officials. And then also we've included in there a daily maximum on the number of hours where the schedules go back to back.

The next one is 2-20 where we've added a provision that this came as a result of the advisory committee. Where there's been an overtime authorization permit or a variation, that the employer must inform the employees when the permit has — this is one where there's a permit from the ministry — that they advise the employees when it's been acquired or revoked. The bill initially only talked about it when it was revoked but we feel it should go both ways. So that was something that came out of the committee.

And then we identified . . . It was a decision . . . I think it was an error in when they were putting it together. We wanted to ensure that employees continue to have the rights to common law as provided for by the Human Rights Code. We included the discriminatory provisions, but we wanted to make sure that any rights that they had were not taken away as a result of this, that the rights that they had were there. And that was a conscious decision because some people felt that you should either have your rights under this Act or under the Human Rights Code, and we don't feel that we want to legislate out of the Human Rights Code. We feel that the two remedies should work together. One might be considered as in there, but you have your rights under the code, and they ought not be abrogated or reduced by this.

2-46 is addition of three new leaves, and this is an interesting one. And today, this right now is the first time we've talked about this one. It will be, if you have a critically ill child, you would be entitled to have unpaid leave . . . or a crime-related child death or disappearance. We would require an amendment to allow for the waiving of the four-week notice period to include these new leaves. And these new leaves are done and they're included in the federal Labour Code and they're new there as well. And we thought it was, as we're doing the cross-jurisdictional comparison, it's here. We haven't done consultation on them but because it's an additional add-on, it's not a cost to employer. It's an obligation to give them and it was just the right thing to do and, if we didn't do it, we would opening up the Act to do it later on because it's certainly something that I think nobody will take any issue with.

For ease of use, we've added . . . We've made a change in 2-55. Bereavement leave and compassionate care leave are divided into two separate sections of the Act just done for ease of use. That was something the officials identified just for ease of drafting. Compassionate care leave is just, 2-56 is a leave that's been amended to clarify who can access the leave in the bill. The leave could be taken by an employee for illness of an immediate family member, which restricted the leave from who could access federal benefits. So we've tried to bring our legislation in line with the federal legislation.

2-57, 58 are the critically ill child care leave. That leave is up to 37 weeks in length. They take unpaid leave and they may get a federal benefit during that period of time, but I can't speak to that. The 2-58 is the crime-related child death or disappearance leave: unpaid leave of 104 weeks if the child has died or is presumed dead as a result of a crime; 52 weeks if the child is missing or presumed dead as a result of a crime. So those are an add-on.

The 2-58 in consultation with representatives of CEP [Communications, Energy and Paperworkers Union of Canada] union, on layoff or termination there's two . . . there's actually three different things that you could arguably be entitled to for pay in lieu of notice. One is the statutory benefit under the legislation. The second benefit is what is paid under the union contract. And the third is what you're entitled to under common law which is often greater than any of them.

And there was an issue of whether we want to clarify that even though a contract may have ended, you're still entitled to the benefits that you would be entitled to under the Act. There was some argument that you may not be entitled to any benefit at all . . . [inaudible interjection] . . . It is. Yes. It does not address everything that that union would like to see happen, but it clarifies that at a bare minimum, you are entitled to the benefits under labour standards, because some of their workers received nothing.

The next one is 2-60, and it is an addition requested by employers. And it requires an employee that is quitting or resigning to give two weeks notice in writing. The rationale for not including it was that, why would you go after an employee that's quit or walked off of a job site? Would you ever have an employer go after them? And you could arguably say, you should have a contractual obligation with them or a contractual relationship with them . . . [inaudible] . . . would have or what the expectations of that might be.

The employers tell us, and I think quite rightly, that you could have a situation where an employer has rented a piece of equipment, road moving equipment, earth moving equipment, and then the employee comes to work and says, well I'm not, I'm not working or I want to get a huge raise because I know you've spent a bunch of money doing it. So they feel that at a bare minimum if it is included in the statute, even though no remedy is specified, that they can say to the employee, you must, you must give us notice if you're going to quit or you're to leave, and that it does . . . And that puts us in compliance with the other Western provinces. So anyway, at their . . .

Mr. Forbes: — But this is new?

Hon. Mr. Morgan: — Yes. This is an add-on that was not in the bill as it received second reading.

Mr. Forbes: — And I assume that that's generated conversation at . . . Or has it or will you be bringing it to the ministry advisory committee?

Hon. Mr. Morgan: — Tomorrow.

Mr. Forbes: — We'll have further conversations about this one, I think.

Hon. Mr. Morgan: — We had some discussions about it initially, and it was sort of felt that the employers that were there felt it didn't give them a lot. But when you consider the investment that employees, employers have to make . . . Anyway, I understand the clock is ticking so I'll go through the rest.

Mr. Forbes: — We have 30 seconds, I think.

Hon. Mr. Morgan: — The Ministry of Justice identified an issue with time limits for claims, so they want to clarify when an employee can file a complaint within 12 months of the last day that they worked or within 12 months from the last day the employee should have received payment. So it is a clarification of that 12-month period.

2-93 is one that the ministry identified that the court can . . . There was an oversight. And they can reinstate and order payment of wages when an employer is found to have discriminated against an employee. So it should have been included. It was an oversight when it was there.

And then when board and room is — it's 2-95 — when board and room is provided, we want to ensure that we have the ability to make regulations regarding the value of that, because that's something that's a direct debit from the employee's paycheque. In any event, those are all the changes that deal with this section of the Act.

Mr. Forbes: — Thank you very much. I don't have any further questions at this point. I'll take this and read further and we'll talk more next week. Thank you.

Hon. Mr. Morgan: — Thank you very much. And I think we'll probably end up doing it again. But I want to thank you, Mr. Forbes, for your professionalism, all the committee members for their attendance, and all the officials who have regarded this as an enlightening and valuable experience. Thank you.

The Chair: — Thank you all very much. We played well together today. So I would ask a member for a motion of adjournment.

Mr. Hart: — So moved.

The Chair: — Mr. Hart. The time is now being 5 o'clock and this committee stands adjourned until May 6th at 7 p.m.

An Hon. Member: — What day is that?

The Chair: — That's all day Monday. Thank you one and all, and good night.

[The committee adjourned at 17:00.]