



# **STANDING COMMITTEE ON HUMAN SERVICES**

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**STANDING COMMITTEE ON HUMAN SERVICES  
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Ms. Judy Junor, Chair  
Saskatoon Eastview

Mr. Wayne Elhard, Deputy Chair  
Cypress Hills

Mr. Lon Borgerson  
Saskatchewan Rivers

Ms. Joanne Crofford  
Regina Rosemont

Mr. Peter Prebble  
Saskatoon Greystone

Mr. Don Toth  
Moosomin

Mr. Milton Wakefield  
Lloydminster

[The committee met at 13:32.]

**The Chair:** — Good afternoon everyone. We'll call the meeting of the Human Services Committee to order. Today we are discussing Bill 40, An Act to amend the Status of the Artist Act which has been referred to the committee after first reading.

I'm Judy Junor. I'm the member from Saskatoon Eastview, and I chair the Human Services Committee. We'll introduce ourselves starting from the right, my right, sorry.

**Mr. Kaczowski:** — Viktor Kaczowski, committee Clerk.

**Mr. Elhard:** — Good afternoon. My name is Wayne Elhard. I'm the MLA [Member of the Legislative Assembly] for Cypress Hills.

**Ms. Draude:** — Hi. I'm June Draude. I'm the MLA from Kelvington-Wadena.

**Mr. Toth:** — Don Toth, MLA, Moosomin.

**Ms. Crofford:** — Joanne Crofford, MLA for Regina Rosemont and Legislative Secretary for the music industry review, so I'm interested because there's some crosswalk questions here.

**Mr. Iwanchuk:** — Andy Iwanchuk, MLA for Saskatoon Fairview.

**Ms. Morin:** — I'm Sandra Morin. I'm the MLA for Regina Walsh Acres.

**Mr. Carpentier:** — And Michel Carpentier, the committee researcher.

#### **Bill 40 — The Status of the Artist Amendment Act, 2006**

**The Chair:** — Thank you. And today our first presenters are from the Canadian Artists and Producers Professional Relations Tribunal. Welcome. You can introduce yourselves and then tell me — we have your brief — so tell me how you want to present. Do you want to go over the brief with us, or do you have something different? So go ahead and introduce yourself.

**Mr. Moreau:** — I thought what I'd try to do, Madam Chair, was to sort of crypt up the brief a little bit and make an oral submission to you for about 10 or 15 minutes and then take questions, if that works within the half an hour that we've got allotted.

**The Chair:** — Okay.

**Mr. Moreau:** — Summarize there what we have.

**The Chair:** — And you are?

**Mr. Moreau:** — Okay, thank you, I was going to read the first line from my brief which has my name on it. Madam Chair, hon. members, my name is John Moreau. I am the Acting Chair of the Canadian Artists and Producers Professional Relations Tribunal, and I've been a member of the tribunal since March 2001.

I'm accompanied today by Diane Chartrand who is the acting executive director and general counsel for the tribunal. She is going to help me with some questions that if they go beyond my reach on the legislative side and make sure I don't fall off my chair this afternoon.

I'm here to talk to you about the importance of a statutory regime of collective bargaining for those working in the artistic community. I also want to talk about the value of a specialist tribunal for the administration of a collective bargaining system.

So the first question is, why a statutory regime? Collective bargaining for artists is not new. Artists' associations such as ACTRA [Alliance of Canadian Cinema, Television and Radio Artists], the American Federation of Musicians, and the Writers Guild of Canada have a long history of bargaining collectively with producers, which in your Bill the word engagers is used, and sometimes we see employers in the usual industrial relations field. I'll be referring to the word producers to indicate the employers in this case. So they negotiate for wages, benefits, and working conditions — classic labour relations stuff.

What the legislation does is recognize the legitimacy of this kind of collective bargaining; that's The Status of the Artist Act. Without statutory recognition, associations of self-employed independent artists are really in a legal grey zone.

Most labour legislation covers employees, but they don't cover independent contractors. An association of independent contractors without the status of a union could be considered to be conspiring to control the supply of their services contrary to the Competition Act. Legislation like The Status of the Artist Act secures the right of artists to form associations and bargain collectively. It makes arrangements with producers, provides orderly mechanisms for dispute resolution and sets rules for pressure tactics in bargaining — again classic labour stuff. Overall it contributes to the stable and predictable professional relations between artists and producers and gives them an organized forum in which to address work-related issues and build effective relationships.

So why a specialist tribunal like ours? In addition to my appointment as a part-time Chair of this tribunal, I've been a labour arbitrator for some 20 years. I've seen how collective bargaining works in the arts and culture sector, and in the traditional labour field. I strongly believe that a specialist tribunal should oversee and administer a collective bargaining regime for artists.

And there are similarities between collective bargaining in the arts and culture field, and those as you know, Madam Chair, in a labour relations area.

There are also a lot of differences, and they call for a particular kind of expertise. For example, artists often engage in several different arts and are represented by a different association for each one. A producer in one situation can be an artist in another. That makes for different professional relations that you find in traditional labour situations. So I'm a firm advocate of a specialist tribunal administering a statutorily protected

collective bargaining system for independent, self-employed artists.

I'd like to describe now how that works within the federal jurisdiction. Again all these things are in the brief, but I just want to pass over them quickly if I can. The federal Status of the Artist Act was passed in 1992 and became fully effective in 1995. So we've got over 10 years of experience with it. The collective bargaining system in part II of the Act is administered by our tribunal.

Artists covered by the Act include authors of artistic, dramatic, literary, or musical works; actors, singers, dancers, and other performers; and professionals who contribute to production in the arts such as directors, performers, and designers. Producers, the engagers in your Bill, include broadcasters, federal government departments, and most federal agencies and Crown corporations such as the National Film Board and national museums. In all there are some 100,000 Canadian artists, 165 federal government institutions, and 1,200 broadcasters under the jurisdiction of our legislation.

Now the Act gives artists' associations the same legitimacy as trade unions have. That's important as we saw recently when ACTRA, after more than 50 years as a bargaining agent, saw its status and right to strike called into question. That was just last week's news. I'll leave that for a later discussion.

Returning to the work that we do as a tribunal, the work falls into two principal areas. First, the tribunal defines sectors of cultural activity that are suitable for collective bargaining and certifies artists' associations to represent independent entrepreneurs working in these sectors. Second, it deals with complaints of unfair practices and other matters brought forward by artists, artists' associations, and producers.

Now here's how the first part works, that is, the definition of sectors and the certification of artists' associations. An artists' association will apply to the tribunal to be certified to represent artists working in a particular sector. This is analogous to a union applying to a labour board to be certified to represent a bargaining unit which is typically a single workplace or organization. The difference — and this is important — is in the sectoral approach. An artists' organization applies for certification to represent artists, not in a particular contract with a particular producer, but in any of their contracts with all producers in that sector.

Say, for an example, an association applies to the tribunal for certification to represent authors of literary or dramatic works in English for radio, television, or film. The tribunal in that case would first determine whether this is a sector suitable for bargaining. The Act sets out criteria just to do that. These include the common interests of the artists in the sector, the history of relations among them, and any geographic or linguistic considerations that the tribunal considers relevant.

If the tribunal finds that the sector is suitable for bargaining, it will determine if the association that's applied is the most representative of artists working in that sector. Now in a traditional labour relations situation, that's usually determined by a representation vote. Our Act doesn't specify how it is to be done, and the practice varies depending on the specifics of the

sector. There can be a representative vote but only if needed.

Now if after review the tribunal determines that an appropriate sector for bargaining exists and that an artists' association is the most representative of artists in that sector, it will issue an order certifying the association as the bargaining agent just like in the labour relations field. Once an association is certified to represent artists working in a particular sector, the Act gives it the exclusive authority to bargain on its behalf.

Bargaining is for a particular form of collective agreement, which no one has a scale agreement in our legislation. This sets out the minimum terms and conditions under which a producer may engage a self-employed artist in the sector. Nothing in this Act prevents individual artists from negotiating terms and conditions that are better than those in the scale agreement, so it's a minimum floor for these individual artists. It's protection at that level, but it doesn't prevent the artist, the superstars, or whoever it is that might be in the business to go out and negotiate better terms. So it doesn't stifle that kind of achievement in their sector.

The Act also requires as a condition of certification that the bylaws of the artists' association provide for ratification votes for scale agreements. So how does the system work for us? Since 1995 the tribunal has issued over 50 decisions. It has defined 26 artistic sectors for collective bargaining and has certified artists' associations for those sectors. There are now over 87 scale agreements negotiated under our legislation. Over 32 of those are new since the Act came into effect. As well, associations and producers are currently negotiating for scale agreements that didn't exist before.

As prescribed under the Act, the Department of Canadian Heritage reviewed our legislation in 2003. The review confirmed the value and ongoing relevance of the Act in its collective bargaining regime. It pointed out however that the Act's ability to remove the circumstances of self-employed artists is limited by its restriction to federal producers. The vast majority of artistic and cultural work takes place in provincial jurisdictions. As you are aware, Quebec is the only province where a similar regime to ours exists.

As I said at the outset, I firmly believe that a specialist tribunal should administer the collective bargaining regime for artists and producers. This doesn't have to be financially burdensome. The tribunal has shown that it can be done economically and simply. We're a small organization; we get the job done with very limited resources. One way is to process matters informally. Our proceedings are generally informal and expeditious. And we emphasize helping parties to resolve issues themselves to avoid the necessity of hearings.

Now my wish to you this afternoon is to consider the advantages of calling on the tribunal to assist Saskatchewan, this great province — I'm an Albertan, but I've got to say that — in the implementation administration of this legislation. If the Saskatchewan legislation is substantively consistent with the federal Status of the Artist Act, it may be possible, through administrative agreement, for the tribunal to provide services under the legislation. This would be an economical way to address the need for a specialist board and would allow Saskatchewan to take advantage of the resources and expertise

of our tribunal.

The goal of the federal Status of the Artist Act is to promote a lively and healthy artistic and cultural sector in Canada. Collective bargaining is an effective way to support arts and culture. Similar legislation in provincial jurisdictions, where the bulk of artistic and cultural work takes place, will contribute to the goals we share. We're proud to be able to help in whatever way we can. And on that, Madam Chair, I thank you very much and we're certainly open to questions.

**The Chair:** — Thank you. Questions? Ms. Crofford.

**Ms. Crofford:** — Yes, I'm going to, in the interest of good government and the taxpayers, going to ask the question about . . . You say you have a cost-effective body. Would your body have to be replicated in total to achieve the same effect at a provincial level, or is there any other way that that could be achieved without necessarily putting a whole duplicate process in place?

**Mr. Moreau:** — Yes, this is what I alluded to in the last part of my remarks is that what we would like to do is to help give you a helping hand. We have a whole administrative infrastructure in place, including an adjudicative infrastructure. We have members of our tribunal that can go in right away and help on the hearing side.

So certainly at the initial stages, while you've got your feet wet as it were, we'd be able to come in and give you a hand on the administrative side. Now if that wasn't possible, certainly we would be there to assist you in whatever way we could to just to show you how to get things going because it doesn't take a lot of manpower, relatively speaking, to other departments.

**Ms. Crofford:** — My second question is, what would you say are the material benefits to artists of having such a structure in place? Because of course again the whole purpose is to raise the well-being of artists.

**Mr. Moreau:** — I'd say there's two of them. One of them is that . . . Well first of all there's recognition of the artist in a sector approach. In other words they are part of the apparatus of working people that contribute to the society. And I think that's very important in terms of some public recognition.

Secondly, I think the importance of having people do this kind of work in that area is really critical. Diane, was there something on that?

**Ms. Chartrand:** — Well for example our members are representative of both the labour side and the artistic side. So when they hear the matter brought before by artists, they have the particular expertise of understanding the milieu, if you want, and how the situation may be different from regular employee-employer relationship and understanding better how the issue fills in the labour . . . [inaudible] . . . context.

**Mr. Moreau:** — What's the second part of your question then?

**Ms. Crofford:** — Well it was really whether in fact it contributes materially to the well-being of artists.

**Mr. Moreau:** — Okay. Yes, the other thing, the artist also has the advantage to have an assured recognition of minimum income levels through the scale agreements. So at least the artist knows going in that they're going to get paid at a certain level, and I think that's fundamental.

The other thing is that they've got a place to go if there's a problem. There's an administrative set-up. If they're having trouble with their employer, they can go to and file an application to the tribunal and say look, these guys just aren't bargaining in . . . or they're bargaining in bad faith; we want some of the remedies that people usually get in a collective bargaining situation. So there's that advantage as well.

**Ms. Crofford:** — Now the last question I had was about the impact on copyright issues. Is it expected that these agreements would provide recognition or a requirement that copyright issues be addressed?

**Mr. Moreau:** — Our legislation doesn't touch the issue of copyright, and Diane can add to that. But that is left to the provisions of the Copyright Act and the mechanisms that are available under that legislation. So we don't get into copyright issues at all.

**Ms. Chartrand:** — It's a matter that's been brought up often in front of the tribunal. And basically what the tribunal has said is that artists' associations and the producers are free to negotiate. And you know, if you look at collective agreements, the scale agreements, lots of them deal with copyright but it does not override the copyright or replace it in any way, but it can be part of the scale agreement so . . .

**Ms. Crofford:** — Thank you.

**The Chair:** — Mr. Iwanchuk.

**Mr. Iwanchuk:** — You were speaking about voting on collective agreements, but who would vote? How do you determine the list of voters?

**Mr. Moreau:** — What you would do, what we're talking about is a sector approach to this. For example if you had a group of musicians together who had, say, a pre-existing agreement — like the American Federation of Musicians or something comparable to that — if there's an existing document together, we would probably use whatever way they'd been using to vote on it before. In other words, if there's been a majority vote or a meeting or something that we know is representative.

I think what's important in this sector is flexibility. Artists work in different geographic areas, and they're regrouped in different ways. So what we would do, we would advertise in the newspapers. We would get on the Internet. We would make sure that the word is out that there's an application for a sector representation and try to bring out as much, flush out as much as we can in terms of publicity that way.

Certainly if there's concerns, we would visit those concerns, and we would have an opportunity to address them. But it's not quite the vote — show up on this day, and here's your ratification vote — as you do in classic labour relations. I think you have to be a little more flexible than that.

You know, we've certified just about every area that we can imagine now. We've used different mechanisms in each case, but there certainly hasn't been a lot of dissent in this area on that.

**Mr. Iwanchuk:** — Okay. And I don't disagree with your approach. I'm just trying to understand it a bit because in terms of the sectoral that you would say you would certify . . . So there's no way of gauging the support of those folks that are in that sector initially?

**Mr. Moreau:** — Well what often happens if there's been established relationships initially, they might even have an agreement in place already, an informal agreement.

**Mr. Iwanchuk:** — But I guess what I was trying to get at because you said new, you know, new sectors; we have all this expertise in new sectors.

**Mr. Moreau:** — Okay. Well let's take your example in a brand new sector where there is not an agreement in place.

**Mr. Iwanchuk:** — Okay.

**Mr. Moreau:** — You have to . . . and Diane can help me here because she creates my involvement in some of these things. But I think in the certification side of things, you do whatever you can to try to make sure that you've got the pulse of the group, as it were.

**Ms. Chartrand:** — Whenever there's been application for certification, there's a wide publicity in the tribunal, make sure that every possible sector that may be affected is aware through communicating directly with them, advertising it on a website and trade publication and *Globe and Mail*, whatever publication that we feel is appropriate.

If you look at the history of the tribunal and its earlier decisions, you'll see that just first certification application there were lots of intervenors to make sure that their sectors were covered, were protected and there was no overlap.

So what the tribunal has done, it has a test to determine if the association is the most representative. And in some cases where it's not clear, the tribunal has ordered a representation vote to take place. But that only happened once in the history of the tribunal. Most times, you know, there's enough evidence brought before the tribunal by the different artists that are members or want to be members of that association to meet the test that the tribunal has set up to determine that.

**Mr. Iwanchuk:** — I may have further questions but just on the associations or the people that make the application, can two associations make applications or how does that . . . once you start?

**Ms. Chartrand:** — It happens that there's competing applications or that seem to be competing, and usually the tribunal will try to get the associations themselves to try to come in agreement. And the tribunal will take notice of the agreement and recognize if the association has agreed. There's often, you know, the French artists in one sector versus the English. There's geographical divisions and language divisions

of them that happen in the sector.

**Mr. Iwanchuk:** — Okay. I'll let some other members maybe ask some questions, but I do have a couple more yet. Okay, thank you.

**The Chair:** — Ms. Morin.

**Ms. Morin:** — Yes. I'm curious. You were speaking of the depth of experience and knowledge that's available at the national tribunal level. In other words you have obviously some labour relations expertise. You have representatives of the arts community. Can you just elaborate on some of that depth of knowledge.

**Mr. Moreau:** — Just to give you an idea, I mean, what we're seeing in your legislation, for example, there's an opportunity to contract with the artists. But where the void is, I guess, and where we would step in is that there's a mechanism to assist in the settlement of disputes. In other words there's an apparatus in place.

And our apparatus is pretty simple. There's three members that are appointed to the tribunal. I have some labour relations background, typically would sit as a Chair. We have two people that are appointed now that are both from the artistic community. So what we are able to blend is basically sort of the legal and the cultural, as it were. Not to say that lawyers don't have any culture, but we're a little more specialized in what we try to do. And also there's expertise in terms of research. Diane here is a lawyer by training as well.

So what we do have is we have the opportunity to be able to deal with a case, just like a labour board would in normal circumstances. Diane.

**Ms. Chartrand:** — And also we have an arrangement with the federal mediation service that have experts on their midst on the Status of the Artist Act. So we make sure that when we provide, we recommend to the people applying to the tribunal that if they get mediation that it's someone with the knowledge of the status of the artist legislation. And mediation is provided for free to the party from the tribunal as well, under the federal mediation service. We have an agreement with them.

**Ms. Morin:** — And what's the uptake on the mediation services? Do we know?

**Ms. Chartrand:** — It varies because some people that when they make a complaint, usually they'll agree to go to mediation. And we've had some very successful mediation recently, actually. It's not always obvious like with some . . . [inaudible] . . . legislation it's more obvious and there's a long history. But with others, like the museum for example, it's not always as obvious to negotiate the agreement on each side and they're not always aware of their obligation to respond as well. So usually when we know that an association has served notice to bargain and, you know, we'll make sure that the parties are aware of their obligations under the legislation. And we'll, you know, inform them about the possibility of getting mediation.

And usually when they can come to — especially for a first agreement — they can come to an agreement, it's quite high I

would say, you know, and usually has been satisfactory to the parties.

**Ms. Morin:** — And with respect to the tribunal itself, are you kept fairly busy in terms of the amount of adjudications that . . .

**Mr. Moreau:** — You know, that's a good question because we're busy doing different things. I've been on the tribunal for six years. The thing is, what's missing in our legislation is first-contract legislation. In other words we don't have that similar to what you have in the provincial code. So we get some bad-faith bargaining claims and so forth, those kinds of things. But it's funny because we had . . . We were very, very busy for say the first five years out of there and the last year it's been a bit quiet. But that's the nature of the community that we're dealing with. Some of them don't have the resources to come forward as they were and so we're looking at encouraging the federal government to look at first-contract legislation. We think it would be of assistance to us and to the community.

**Ms. Chartrand:** — And also what we do, not every matter actually goes in front of the panel. We provide lots of information to parties during negotiation when they have questions and informing as they need as well. So many times it doesn't actually come to a complaint. They decide to go to mediation before.

**Mr. Moreau:** — We can appoint, the Chair can appoint an individual panel member to go out and do that as well, work with the parties.

**Ms. Morin:** — My last question for this turn too as well then would be, so how are you then advising people? Because I mean obviously a complaint would come to you and then you would be aware that there is a conflict. So how is it that you're finding out that you can use the alternate resources before the complaint ends up going through?

**Mr. Moreau:** — Let me just try and then I'll let Diane fill one in. I think there would be an assessment made as to what the nature of the problem is. Certainly we would try to do whatever we could in terms of an alternate dispute resolution method if it was available to start with and as a last resort we would go to here.

**Ms. Chartrand:** — People serve, under the legislation they serve a notice to bargain so that's when we know that, you know, negotiation has started. And we get a copy. And often we'll make sure that the producer that received the notice of bargain — if it's someone that has no collective, no skill agreement in place — is aware of what's involved. And then often that will generate further questions and that's how we usually keep aware of what's going on as much as the parties are willing to involve us.

**Ms. Morin:** — Okay. Thank you very much.

**The Chair:** — Ms. Draude.

**Ms. Draude:** — Thank you. Mr. Moreau, I think the only thing that Alberta has that we don't have is three times as many people. And so when you broke down the sectors — at the beginning you talked about the number of people that were

represented — can you break it down for Saskatchewan as well?

**Mr. Moreau:** — Well you know what? And I'd like to be able to do that for you, but you know, as I've said in my brief, the bulk of this work in this area is done within the provincial jurisdiction. In other words you would be busier than we would be, I think, just dealing with your own artists and producers because this is where most of the work is being done.

We could certainly get those figures for you but I think it would be a difficult exercise for us initially because what we're looking at is what we have to deal with in terms of federal institutions and those that are under the Broadcasting Act, and that's as far as we go. So what's going on here in Saskatchewan or in Alberta individually is tough for us to figure out. Sorry.

**Ms. Draude:** — And has the tribunal worked in jurisdictions where they're basically just getting started? Like is your expertise and advice available for developing the infrastructure?

**Mr. Moreau:** — See here's the deal, is that we're . . . Quebec has, as Quebec does, they have their own apparatus in place with the powers that are very similar to ours. Now that's something you might want to consider is that they have a lot of the same and these are the same building blocks that you often see in any labour tribunal. Ours is in the cultural sector but you know the same mechanisms are there in terms of certification and enforcement and so forth.

So what we're looking for is we're looking to give a helping hand to provinces like Saskatchewan or Newfoundland or anybody else who's interested because really you're to be complimented. You're at the beginning of this process on the provincial side outside of Quebec. So whatever we can do, you'd be the first persons, as it were, that we would be trying to help get going.

**The Chair:** — Thanks. Mr. Elhard.

**Mr. Elhard:** — You may be aware that there were a couple of different proposals suggested in some of the materials sent to the committee on how this type of tribunal or adjudicative process might be structured in Saskatchewan. So I guess I'm interested for you to define a little more in detail what expertise you could bring to us. What assistance, what insight, what are you prepared to do on behalf of this process in Saskatchewan?

**Mr. Moreau:** — Well I'm going to speak for . . . I don't want to double the work of our office but I can tell you I think we would be prepared to help you on just about any aspect of the area you'd need help on. You know, for example if something came up with respect to how do you reach out in terms of recognition of these sectors to start with, we can show you the exercise that we've gone through. You know, how sectors are recognized and our experience when they've come in for certification. If you needed somebody to come out to sit through the first certification hearing for you, we'd be glad to do that as well. And then going right on through the adjudicative side if that's of any help.

**Mr. Elhard:** — Would there be a possibility of the province of Saskatchewan contracting with your office to actually undertake

the adjudicative process on our behalf?

**Mr. Moreau:** — Absolutely. I mean to me that would make eminent sense because, you know, we're an impartial, arm's length quasi-judicial tribunal that's in place waiting for cases to come up. And whether you come to us or you go to your own Saskatchewan labour board or you go somewhere else, it's the same kind of thing. The only thing you're going to get with us is that we're going to know what we're doing in this sector. We've got the expertise. We're dealing with these kinds of issues all the time.

**Mr. Elhard:** — Thank you.

**The Chair:** — Thank you. Then no further questions? We actually just about finished on time and I really thank you very much and thank you for your brief, which was very good as well. It's quite clear.

I had one question myself and the Chair doesn't often do this but I don't think Ms. Crofford's question quite got to what I wanted to hear: was, has the tribunal raised the minimum scale over its lifetime? So have you seen an actual increase in the minimum scale?

**Mr. Moreau:** — Diane.

**Ms. Chartrand:** — I cannot really speak to that. What we can say is that there's been more scale agreements. The parties negotiate unless . . . We don't arbitrate the scale agreement actually, what they negotiate. The parties are free to negotiate what they want, basically. But since the . . . [inaudible] . . . has come in place, there's been, as we said in the brief, there's been over 30 new agreements that did not exist before. There's been sectors that have been certified that are still negotiating their first agreement, but overall it's allowed associations to negotiate and to have some fallback mechanism when the producer does not respond or does not understand that there's a legal obligation to respond to a notice to bargain . . .

**The Chair:** — I think my question goes more to the monetary benefit.

**Ms. Chartrand:** — Yes.

**The Chair:** — Like have you actually seen, has there actually been a marked difference in sort of the wage or the earnings that the artist had before the tribunal came in and now?

**Mr. Moreau:** — You know what? Frankly I don't think we have that information for you. We could make some inquiries and go to StatsCan and so forth, and that might be of benefit. And we could get that for you if you like.

But you know those are, you know, what we're hoping for is that people that are producers that are faced with a minimum-scale agreement know that the . . . at least people going in know that they're going to get this kind of money. They're going to be assured this kind of money and producers are going to say, well at least there's a floor there somewhere that's going to improve the lifestyle and the livelihood hopefully of the artist. That's the hope.

**The Chair:** — Thank you. I think the information is interesting to people who don't particularly believe we should do this.

**Mr. Moreau:** — Right. Can I just maybe add one thing is that, you know, I'm a labour arbitrator, and this is a little more heartfelt. You know, one of the thoughts that you see is why don't you just throw this thing onto the back of a local labour board or a provincial labour board and they can do the work? These are good people that are educated.

But, you know, I sat as an arbitrator with people that are from the cultural sector. I thought I knew a little bit about it, but I found I didn't know a heck of a lot about it. There's sensitive issues that are around the lifestyles of an artist that I don't think, with all respect, that the people who are sitting interpreting labour relations problems get at the first round. I really think you need that expertise. And hopefully the livelihoods of the artist would benefit from having a tribunal like this. So I'll leave that with you.

**The Chair:** — Thank you very much. I appreciate your presentation.

**Mr. Moreau:** — All right.

**The Chair:** — And we may be contacting you again. I think there's still people that have questions, that we may need to reach out to you when we're done our deliberations.

**Mr. Moreau:** — Thanks for your time.

**The Chair:** — So thank you. Our next group up is the Saskatchewan Craft Council.

Welcome to the committee. I think you missed the introductions but we all have name tags here. I'm Judy Junor. I'm Chair of the committee. And if you could introduce yourself. And we've got your brief but I'm looking forward to you walking us through it.

**Mr. Wilkinson:**— My name is Ken Wilkinson, and I'm chairman of the board for the Saskatchewan Craft Council.

**Mr. Stobbe:**— My name is Mark Stobbe. I'm the executive director of the council.

**The Chair:** — Go ahead.

**Mr. Wilkinson:** — The membership of the Saskatchewan Craft Council would like to thank the Standing Committee on Human Services for the opportunity to present our views on the amendments to the status of the artist legislation. And we would also like to thank you for your efforts on behalf of artists.

The Saskatchewan Craft Council is a group representing professional craft artists and artisans in the province, and this includes long-term and new craft artists and artisans. We have approximately 300 members. In addition to that, a number of specific craft guilds are represented as associate members of the SCC [Saskatchewan Craft Council], and these groups have an approximate membership of about 1,700 which includes both professionals and hobbyists.



The cornerstone of the SCC's financial viability is the provincial cultural organization grant administered by SaskCulture and the Saskatchewan Arts Board and funded by Saskatchewan Lotteries. In addition the SCC earns revenue from our marketing activity and a variety of other sources.

In addition to educational and outreach work, the SCC operates Saskatchewan's only public exhibition gallery devoted to craft art, a number of touring shows and exhibitions, three craft markets, and a biennial Emma Collaboration which brings to Saskatchewan over 100 fine craft artists from around the world. And this particular show has a international reputation. As a result the SCC is a relatively unique organization in that it represents artists, but it also serves as an engager.

Most craft artists make the majority of their income by producing works for sale. In this activity, the artist functions as an independent entrepreneur producing for the market. In many cases these sales transactions are between the artist-seller and the purchaser with little or no involvement of another party. Craftspeople are probably the most independent bunch you're ever going to bump into. In these cases the scope for collective bargaining is limited. However there are activities where groups of artists deal with engagers, and I'll cite four examples.

Public exhibition galleries. Some craft artists have individual or group exhibitions in public exhibition galleries such as the ones operated by the Saskatchewan Craft Council, the Mendel, the MacKenzie, and the civic galleries in Prince Albert, Swift Current, and North Battleford. At the present time the CARFAC [Canadian Artists Representation/Le front des artistes canadiens] issues suggested fee guidelines to many public galleries, and many public galleries attempt to adhere to these guidelines. The fee structure is not negotiated and voluntary.

In a collective bargaining regime, an organization representing artists could negotiate with an association of public exhibition galleries for issues such as exhibition fees and adjudication procedures. It's important to note however that if a collective bargaining system results in higher fees in the absence of increased public funding, the likely result is that there just may be fewer exhibitions. Collective bargaining in this context would change the distribution of artists' income and perhaps not the aggregate amount.

Craft markets is the other venue that many craft artists deal with. Sales at craft markets remain the most important source of income for craft artists and artisans. Typically the artist pays rental fees for a booth to a market organizer. He uses this money plus an admission fee to pay for the venue rental charges, promotion, and other expenses. The market organizers include non-profit artists' organizations such as the SCC and the Sundog Arts Society in Saskatoon; sort of co-operatives, artists' co-operatives, mainly the artisans' craft festival in Saskatoon; art galleries who run shows such as Bazaar here in Regina, and private entrepreneurs, for profit. Our Best To You is one of the names of the markets.

For these markets collective bargaining would have to be between the bargaining agent for the artist and the organizers of the markets, either individually or on a sector basis. However we're unsure as to the issues that could be effectively bargained in this situation.

Another venue for craft artists is commercial galleries. Many of our members have work for sale in commercial galleries, usually on a commission basis. There is scope for collective agreement between the artists' bargaining agent and the galleries represented by the Saskatchewan Professional Art Galleries Association. Such an agreement would cover maximum commission rates, timeliness of payment, and responsibility for the physical integrity of the work.

A great number of craftspeople eke out their incomes teaching. Many of our members derive a portion of their work from teaching crafts. Sometimes they do this as an independent entrepreneur. In other instances they are contracted by school boards, public galleries, post-secondary education institutions, or civic governments.

Collective bargaining on a sector basis could establish uniform rates of remuneration. However, defining an appropriate employer group could be a challenge so I'll come to our kind of thoughts on the issue.

SCC believes that the collective bargaining for craft artists and artisans could potentially be of some modest benefit to our membership for their work in public exhibition galleries, commercial galleries, and in teaching opportunities. As such we support the establishment of a regime of collective bargaining provided that any organization, including the SCC, wanting to represent craft artists for the purpose of collective bargaining be required to demonstrate a majority support of artists that it's negotiating for.

For craft artists this would involve identifying which craft artists meet the definition of a professional artist as outlined in the Act, and then seeking majority support from this group for collective bargaining rights.

Secondly, that any collective bargaining be conducted on the basis of sectors of engagers rather than individual institutions and the organization representing a particular group. As outlined earlier, this would entail a series of collective agreements with different groups of engagers.

At present there doesn't seem to be a national collective agreement bargained through a voluntary collective bargaining process. It is unlikely that a voluntary national agreement will be bargained in our sector, but should that occur we would suggest provision be made for its recognition in Saskatchewan through an application by either artists or the engagers' groups.

And fourth, if a collective bargaining regime is established for public exhibition galleries, governmental support of these galleries be adjusted to deal with any resulting increase in artists' fees.

Finally, as part of our process, we requested input from our members. And one long-term, active member, Charley Farrero, requested that we convey his views directly to the members of the legislative committee, and his letter is appended. Thank you very much.

**The Chair:** — Thank you. Actually the committee did get a copy of Mr. Farrero's letter directly, so thank you. Questions then. Mr. Toth.

**Mr. Toth:** — Yes. Thank you, Madam Chair. In regards to the proposals for an artists Act and some of the comments you just made, you're probably aware as well of the fact that we have many small arts councils throughout the province, and on an ongoing basis artists have the opportunity of having their works displayed to the general public by these arts councils. If there was a move forward, how do you think that would impact the ability of these arts councils to continue to present artists' works throughout the province, and based on the fact that there may be additional fees charged which may make it difficult for local councils to continue to promote this activity?

**Mr. Wilkinson:** — It's my belief that these small arts organizations are kind of the lifeblood of art in Saskatchewan. And the concern is that they bring beginning artists to the provincial and national scene, and the worry is that if their financial conditions . . . If it becomes more expensive for them to present work to the public, the worry is that they won't survive. So the concern is that if the only thing changes is the fees that these galleries must and organizations must pay to exhibit work, then that will be a huge concern for us.

**Mr. Stobbe:** — If I could add, many of these local groups first of all are dealing with local craftspeople and local artists who are either life-long hobbyists . . . and I use that not as a description of the quality of the work but as in terms of how they have chosen to earn their income. Many of them are not professional but are seeking display or some modest sales opportunities. And many of the people that exhibit in those shows would not meet the criteria to be considered a professional artist that is proposed under the amendments to the Act.

The second piece is, these shows vary from type to type, and some have got a component of essentially a public exhibition gallery component and would need to be negotiated on that basis. And others are basically sales when you either . . . sort of conceptually market for the artists. And so it's something that would have to be looked at very closely to sort out, to make sure that we're only impacting the artists who desire to be professional and are being represented on that basis, and exactly what the nature of the show is — whether it's fundamentally a craft market, whether it's fundamentally a long- or short-term public exhibition.

You know, as Mr. Wilkinson indicated, this is the beginning venue for many people, and so we'd have to take a great deal of care that we don't become exclusionary or prohibitively expensive in the operation of these. But at the same time, those that are attempting to make their living by being professional artists need fair remuneration for their work, and sort of some standardization of that through collective bargaining may well be of assistance.

**Mr. Toth:** — Thank you. I guess that certainly has been the issue that's been raised in my office over the years by the local arts boards is the fact that throughout the past number of years, they have given artists — some of them local, some of them national — and they've given the opportunity for exposure. But also they've created an avenue where people, more specifically in rural Saskatchewan, have had the opportunity of having the ability to attend either an arts display, whether it's visual or through the performances of different groups . . . an avenue for

people in areas of the province to attend a formal presentation that I think . . .

You know, just from my own observation, people who would not normally go to hear a group of fiddlers, if you will, or a vocal group make a presentation, have gone and have actually been quite pleasantly impressed and have decided to participate or take part and go to another arts performance. And I think those are some of the concerns that my local arts councils have raised, some of the concerns that I would raise in regards to where we may be heading with this specific piece of legislation. So I thank you for your comments.

**The Chair:** — Further questions? Ms. Crofford.

**Ms. Crofford:** — Yes. I was trying to ferret out the differences between, for example, someone who might participate in a craft council for the purpose of sale as opposed to someone who is for the purpose of a show. Because of course if it's a show where the works aren't being sold, then there's no other way to get revenue other than through an artist fee. And can you just talk a little bit more about whether you see that differentiation being meaningful or not.

**Mr. Wilkinson:** — I'm a professional craftsman myself, and I don't miss an opportunity. And very often opportunities are a mixed bag. And for instance an exhibition in the Saskatchewan Craft Council Gallery ties sales, exhibition opportunity where artists' fees are paid, and teaching opportunities all in the same venue. And so I think as an artist in the province, there isn't a lot of differentiation.

**Ms. Crofford:** — So you'd look at it more as connected to marketing, as well, of your artistic services.

**Mr. Wilkinson:** — Yes. I don't think there's an artist who would miss an opportunity for income. Opportunities as in the craft world at least aren't as extensive, and so the difficulty is trying to get enough coming in to keep your practice alive. And very often many craftspeople have jobs to support their art. And so, you know, each person is kind of an individual in that respect.

**Ms. Crofford:** — Do you think there would be any change in perception of the artist if there was an expectation of a certain level of pay? You know, having participated myself in operating art auctions for example, it's how you create the notion that this is in fact an art auction, not a yard sale.

**Mr. Wilkinson:** — Yes. Exactly.

**Ms. Crofford:** — And so I don't know whether in fact any of the things we're talking about are useful from the point of view of perception change about the value of the work.

**Mr. Wilkinson:** — I agree with you in that every time a craftsman goes to a school situation, one of the first questions after they're done with the entertainment aspect of whatever craft you're doing is how much money can you make? How can I make a living doing this? And there isn't a really good answer to that one . . .

**Ms. Crofford:** — Yes.

**Mr. Wilkinson:** — Because it's very dependent on the individual and the opportunities that come their way. So a guaranteed income thing would be very useful.

**Ms. Crofford:** — Thanks.

**The Chair:** — Thank you. Ms. Morin.

**Ms. Morin:** — Yes. I'm just wondering if . . . Do you have a breakdown of percentage of the craft artists that we considered as using crafts, the craft artistry as primary income?

**Mr. Stobbe:** — Yes. I can speak to that. Last fall we did a major survey of our membership. About 60 per cent of the members of the craft council, of the close to 300 individual members, make their living exclusively or primarily through the production of craft and craft art. The rest make a portion of their income and have got other jobs or a tolerant spouse. Or a number of members have retired and have got pension income from their first career, so to speak, and are working as professional craft artists and artisans in their retirement from their original job.

So again, as Ken said, there's a mixed bag in terms of the personal situations of each and every artist. Some, their only source of income is through the production of art either for sale or for exhibition; and others have got other sources of income as well.

**Ms. Morin:** — So is it your opinion then that approximately 60 per cent of your membership would then qualify for this legislation in terms of meeting the provisions necessary?

**Mr. Stobbe:** — No. Almost all of our members would qualify for the definition in the Act, that in terms of . . . sort of as laid out. You know, just for example the fact that somebody's got retirement income as well as their craft and art income would not rule them out in terms of that definition. It just makes life a little bit easier for them to get by.

**Ms. Morin:** — Okay.

**Mr. Wilkinson:** — One point I would make is that there's a great number of crafts people, both professional and part-time crafts people in the province, that we don't have contact with. And I think we'd have to go to Stats Canada for that or something. So I suspect there's a large percentage of the craft world that we don't hear from.

**Ms. Morin:** — Right. So with your membership of 300 though, you feel it's pretty close to 100 per cent that would meet the definition of primary source of income.

**Mr. Wilkinson:** — Yes.

**The Chair:** — Mr. Elhard.

**Mr. Elhard:** — Gentlemen, thank you for your presentation here today. I think you've probably touched on the issues about this whole concept that trouble me the most.

Now you've indicated of the 300 members that are participants in the Saskatchewan Craft Council virtually all of them would

meet the criteria as professional artists. How many of those . . . Let me ask you more specifically. What kind of split would there be in your organization as to whether or not this initiative ought to be supported?

**Mr. Wilkinson:** — That's a good question. I don't know. I suspect a great number of them are out there with their noses to the grindstone trying to survive day by day. And I suspect they would support anything that would be of benefit to them, anything that would help.

And in terms of actual response to our query for response, we've gotten very little. Basically that's the answer.

**Mr. Elhard:** — The reason I ask that is I read Charley Ferraro's letter here, and I had the opportunity a couple of days ago to go visit an artist in my own community, a very well-known potter. And I asked him; I said, what do you think about this? And he said . . . I was really surprised at how blunt he was. He said well I do this because I don't want a job, and I don't want the attendant responsibilities of a job. I love this. I do this because nobody can tell me when I can work or how much I can work or how much I can charge or anything else. And I thought, you know, his response probably was pretty representative of what I hear from most of the artists I know in my rural setting.

And I'm wondering whether in many respects this is more of an urban-rural problem as opposed to an artistic problem generally. I'm just speculating a little bit, but I'm wondering about that as a possibility.

**Mr. Stobbe:** — I guess my basic response to that is, to pick up to Ken's, we don't know. The question hasn't been posed in a concrete, hard, tangible sense certainly to our membership. And that is why, when the board of the SCC was considering it, one of the principles that we articulated was that if a collective bargaining regime is established, then for a group — be it us as a craft council or be it somebody else — would have to demonstrate majority support in exactly the same way that a union going into a workplace in a different type of setting would have to demonstrate majority support. And it's a question that's very hard to answer in the abstract and in advance because you don't know at this point what the proposal would be, what the relationship would be, what the reputation of the group going to seek a certification would be. The craftspeople and the artists would have to evaluate each and every one of those.

And so that's why our board felt that the principle of establishing a framework rather than some . . . to seek a sounding as to whether there was support for it, in a very hard and concrete sense, was the number one principle that we articulated. So that we don't have a situation where if artists don't want to be represented by somebody, that somebody is acting in a legal sense on their behalf, you know. And that's why a framework for that is quite important.

**Mr. Elhard:** — One of the things I appreciate about your presentation is that you, I think you're pretty candid about it, having pros and cons. It's not all upside. There might be some downside issues that would affect the members of your craft council. And I think that that's something the committee is

going to have to grapple with as a result of this whole process. Like is it all going to be positive or will there be new impediments created to new and young artists starting up because of some of the implementation of this type of regime?

And I think the, you know, the fact that nobody else seems to have gone this route yet is a pretty good indication that this is not a clear-cut or easy area of endeavour to undertake. So, you know, I do appreciate the fact that you've pointed out that there may not all be benefits associated; there might be some downside as well.

There is some indication that you felt that your membership of 300 maybe was not representative of the full complement of artists, craft artists in the province. Have you any idea how many others might be out there that do that type of work that don't even belong to your organization?

**Mr. Stobbe:** — Well it all depends on how you cut it and the relationship between somebody doing it as a hobby, as a part-time pastime, as a relaxation type of activity versus somebody that's attempting to achieve some significant portion of their income as a result of that activity.

So if you look at, for example, the associate members that we've got in the form of guilds, there's about 1,700 people in those guilds. Now we don't know each and every individual in those guilds; some we know the membership more well than others. The majority of those members of those guilds see themselves as recreational craftspeople primarily. They don't have the aspiration to become professionals. Many of them are good enough to become if they wanted to be, but that's not how they choose to make their living.

That being said, they do make stuff and it sort of clutters up the house until they start to look for ways to dispose of it and start to sell it. And that's actually the process by which many people become professionals over time.

If you look at the craft sales, that there's a range of people that operate. There's people who will make one or two little things and get a booth at a sale, and with varying degrees attempt to clear out their merchandise. But again many, many of those people are giving it a try. They don't see themselves as yet as professionals. And some end up becoming professionals and some end up not. And some just have fun doing what they're doing because a lot of the activity is quite fun.

You know for example at the Western Development Museum in Saskatoon, they do a craft sale every year that has about 80 people exhibiting. Very, very few of those are our members. And going around and talking to them, most of them see themselves primarily as people doing something simply because they love it and the sales is basically trying to clear out the house and the accidental by-product of their hobby.

**Mr. Wilkinson:** — I want to point out I think it's not an either/or, professional or non. There's a transition from student to full-time professional and there's levels of commitment all the way through there. The old joke is that a professional craftsman is just an amateur who ran out of money for materials or the house got too full.

**The Chair:** — Thank you. Mr. Iwanchuk.

**Mr. Iwanchuk:** — Yes, just on point 2. Maybe a more specific question, but I see you addressed the collective bargaining based on where we're talking about sectors or the entire sector. You've got sectors of engagers in one point you speak of, and then you seem to think that there might be a series of collective agreements with different groups of engagers. And I was just wondering if you could just briefly expand on that.

**Mr. Stobbe:** — In our discussion earlier on in the paper about sort of looking for scope for collective agreements, the sectors of engagers would be . . . You know, you would have one organization representing the craft people from traditionally known as the union side, and then there's different clusters of engagers that have got different commercial relationships with the artists. For example the operators of craft markets would be one group of engagers that we would see as entering into an agreement with the artists. The public exhibition galleries would be another. The commercial galleries would be a third. Each of those has got a very different relationship.

In the case of the market operators, they essentially rent the person space. In the case of the exhibition, public exhibition galleries, they pay an exhibition fee. And in the case of the commercial gallery, they sell the person's work on consignment. So there's a very different form of financial relationship in each of those instances. You know, sometimes they're a little bit blurry.

For example, some but not all of our shows in our public exhibition gallery, the work is for sale. It's not the primary purpose of the show, but if somebody wants to buy it, the artist is happy to sell it to them. When the show is over or when the touring show reaches the end of its life, the person can take possession of it. So in cases like that we pay the exhibition fee, and if a piece sells while it's in our gallery, then we collect a commission.

I mean, speaking as an engager, a decision would have to be made as to what the proportion of that activity would be as to which hat we would put on for that particular collective agreement or whether we would just sort of merge the two of them together.

**The Chair:** — Ms. Crofford, do you have a question?

**Ms. Crofford:** — I think I'll just get our researcher to follow up on Charley Farrero's comment about being in favour of clarification and amendments because he doesn't say which ones he's in favour of. So we'll need to send him an inquiry.

**The Chair:** — All right. Seeing so further questions then, thank you very much for your presentation, and if we do have any further questions, we know where you are.

**Mr. Stobbe:** — Thank you.

**The Chair:** — The next group before the committee is the Saskatchewan Arts Alliance.

Welcome to the committee. If you could introduce yourselves and begin your presentation. You didn't give us anything, did

you . . . [inaudible interjection] . . . You did. Oh, sorry. Okay.

**Mr. Kutz:** — Thank you very much, Madam Chairperson, and members of the committee. My name is Skip Kutz and I'm the president of the Saskatchewan Arts Alliance. And I'm happy to introduce our executive director, Marnie Gladwell; our researcher and consultant on status of the artist legislation, Sheila Roberts; and a presenter that we brought with us, Guy Vanderhaeghe, who's going to try to personalize this and give a little bit of a personal story about what the pending legislation may mean.

The Saskatchewan Arts Alliance represents 65 arts organizations in the province. I think it's no secret to some of you, we've been one of the driving forces behind the implementation of status of the artist legislation. Part of our job as an advocate for the art, perhaps we do some of the dirty work that some of our organizations can't do. And that involves meeting with many of you on occasion to support funding for the Saskatchewan Arts Board, reasonable fees for SaskCulture and to try to encourage the province to have legislation that would allow people to choose careers in the arts, as well as having favourable legislation that would allow our arts organizations to thrive and add to kind of the value of our family life and community life in our provinces.

This year we're making a special effort to move our annual arts congress to five or six rural areas. Many of you have seen the articles that we've written in local newspapers about artists in your community. And it's our intention to try to incorporate more involvement in the North, as well as rural communities, to try to address some of the issues that people in those areas have.

I should say that the arts alliance primarily has been . . . People on the board of the arts alliance, people elected to serve are people primarily from the management side of the arts. But the arts is unique in one sense; that many of us . . . I'm from an association side. Many of us have worked very co-operatively with people in the management of our arts group, with the Saskatchewan government and federal government, Canada Council, Arts Board, SaskCulture to try to set the playing field so that arts organizations can thrive and that artists have a fair chance at making a living.

You have our brief in front of you. I'm going to just, rather than go through it point by point I want to just highlight perhaps a few areas that might be different from some others and explain why. And I think perhaps maybe questions might be the best way if you need more information.

Certainly let me just say a few words on what we've put in our particular brief, and they're in response to Minister Hagel's question. We believe that our Act should reflect the federal Act, and we're a supporter of sector bargaining that provides for minimum-scale agreements.

One area that I think is extremely important is that there needs to be recognition and affirmation of national agreements. In many cases, I know you'll be meeting with representatives from some of the national unions I think on Wednesday. We call them unions. But for the most part they're not unions; they're associations.

And the first speaker from CAPPRT [Canadian Artists and Producers Professional Relations Tribunal] made the point that we don't really have any legal status whether it's on the provincial scene or certainly in some cases on the national scene as well. Although they're national organizations, they're not strong organizations. We're not talking about organizations that are like the CAW [Canadian Auto Workers Union] or the United Steelworkers. These are very small organizations that represent a very small group of professional artists. In fact they also reflect the fact that many people have difficulty in making a living in arts in this country.

So the national agreements that already exist with theatre companies like Globe Theatre, Persephone Theatre, the symphony orchestras, and other groups, somehow we need to have the importance of those agreements that have laid a platform of fairness and equity that has been agreed to by employers and purchasers such as the symphony and theatre companies. This is one of the small advances we've made on a voluntary basis.

We differ somewhat in some of the previous presentations in that we support the Saskatchewan Labour Relations Board as the arbiter of these particular certifications and disputes. I should also footnote that we don't imagine that there's going to be a lot of them, and that's one of the reasons that we're supportive of using existing mechanisms.

We're in the unfortunate position every year. Whether it's been with this government or the previous government, we've come and with cap in hand and begged for money for the Arts Board for example. We've asked for fair licence fees for SaskCulture and so on and so forth. And every year it's a difficult sell because many times in the polling the arts doesn't finish very high. We certainly don't want very scarce funds spent on new entities that may take money away from the cultural industries, from the arts board, that I think are, to be fair, modestly funded and actually translate into multiplier dollars that employ many people and also afford people in smaller cities — and some of our cities are small — the chance to have fully professional arts organizations and to support at least some artists in our province. So we're a supporter of the Saskatchewan Labour Relations Board.

There's a few of other kind of highlights of our brief I would say that have to do with kind of the notion of whether the government should have the right to opt out of this clause. We don't support that. We certainly are in support of the professional artist and engager. I think there's been lots of good work done by our colleagues on the MACSA [minister's advisory committee on status of the artist] committee, and I think the framework is there.

We have a few different opinions. Once again the importance of national agreements and perhaps a consideration if there was a lot of money available, we'd say we'd love to have the people from Toronto and Ottawa assist, in that CAPPRT, assist us because, yes, they do have experience and expertise that we don't have.

But to be fair about it, if there's only a finite amount of dollars, we'd rather use some of the personalities and have them work with the Labour Relations Board in those cases. And I'm

assuming there'd be very few where we'd need certification hearings or to iron out disputes. In fact most of the agreements we have with symphonies, with art galleries, with theatre companies would not change a bit under this legislation. We have a voluntary agreement. We're very co-operative. We have differences of opinion, disputes, but those things are worked out.

One of the things I am going to mention though in terms of the response of the committee to some of the issues, is the notion, the whole notion of the importance of collective bargaining and things like that, as a piece of the puzzle. Collective bargaining is not a silver bullet. It's not a panacea.

In our province for example, according to the Hill report of 2004, actors made an average income, an annual average income — and Guy pointed out on the way down this may not only be acting — of \$12,509. Artisans and craftspersons, \$13,700. This is from Statistics Canada. Dancers, 14,900; musicians and singers, 11,900; painters, sculptors and other visual artists, 14,900. We have a serious problem of underfunding a sector. What the status of the artist legislation is in part is a human rights legislation to bring the people that have the least, that have been marginalized in our society, up to the same platform where other workers have the opportunity.

In many cases people aren't making minimum wage. They have the double whammy of no benefits, no workers' compensation, no employment insurance, no Canada Pension Plan, no holidays and the triple whammy of having absolutely no rights because when people enter into an agreement, there is no compulsion on behalf of the Labour Relations Board. We do not qualify. That situation needs to change.

This is an issue of equity and fairness and is part of the puzzle. It's not all of the puzzle. We don't expect we can get money from stones like the Saskatoon Symphony, that there's going to be all of a sudden a large amount of money when the legislation comes in. But we have a chronic underfunding example of how a group of people live. And this is not only for us because many of us are at that retirement age, but why offer music and art programs and writing in schools if our kids have absolutely no chance of practicing this for even a significant part of our living?

This is a human rights issue. It's an issue of fairness when the musician or the actor or the artist doesn't have the same rights as the painter or the person washing the dishes or the person in the legislature or anywhere else. We've got a serious problem, and we have the protracted problem of terrible, marginalized, low wages, absolutely no benefits.

And so if you happen to have carpal tunnel syndrome and you're playing in the Saskatoon Symphony, you're out of luck, you know. Or you slip when you're practising for a dance recital, you're done and absolutely no rights. And that's why it's so important to have at least a platform to have those persons and only those persons that want to access a collective agreement to have that right as all other workers in the province do.

**Mr. Vanderhaeghe:** — Well I suppose I will only be sort of seconding Skip's position from a personal experience. I'm a

writer of fiction. I published my first paid piece of writing in 1972. I subsidized my practice as a writer either teaching, writing consulting reports, doing what I had to do to continue writing until approximately 10 years ago. I don't want to see young artists have to go the route that I did, which is park a car because you couldn't run it, eat day-old bread. I think that some sort of minimum standards need to be set for artists, and I think that this legislation is a step in the right direction.

I teach creative writing to 19, 20-year-old people who want to be writers. They have no idea what they're facing, and my suggestion is that any steps that we can take to alleviate the difficulties they're going to be facing ought to be taken. And basically that's all I have to say.

**Mr. Kutz:** — Thank you.

**The Chair:** — Thanks very much. Questions? Mr. Toth.

**Mr. Toth:** — Well I guess the first question I would have is, how specifically would this proposed Act change your life?

**Mr. Vanderhaeghe:** — Is that to me?

**Mr. Toth:** — Yes. Well it's to whoever, like I mean you represent a large, broad group here.

**Mr. Vanderhaeghe:** — This Act sort of comprises many different disciplines. Some they will affect more obviously than others. As a writer for instance, let's say that I was working in film, a union would help enforce that you got paid — which can tend to be a problem in film — that you got a fair rate for the work you did. So in all those sorts of areas . . . A writer acts as a freelancer, but sometimes they're also acting as an employee.

I'm actually a member of the Writers Guild of Canada which deals with film. Writers Guild of Canada puts aside money for me for a pension that producers contribute to, that I contribute to, but most importantly they enforce your rights. They see to it that you get paid.

I've talked to writers who weren't operating within that structure. A producer begins work on film and says, gee I don't have the money to pay you; you've done the work, but I don't have the money to pay you. The writer has one option in that case: to take the producer to court. But the writer doesn't have the money to fund a court case.

So these structures are a kind of minimum protection for the artist. They provide a minimum wage. For instance, if I do film work I know exactly how much money I'm going to be paid for the job. The writers' guild sees to it that I get paid because if I don't get paid, the production gets stopped.

**Mr. Toth:** — Well I guess the question arises from there. Someone is going to do a production. They've got an idea that they can actually make some money at it. But if the production goes nowhere, and in the meantime they're basically, I guess, compelled to pay a number of artists . . . Like I guess the question I have is, how in the world does someone pay for a piece of work that doesn't get accepted or doesn't move forward and then try to meet their obligations?

**Mr. Vanderhaeghe:** — Well I would say kind of like analogous to somebody who wants to open up a restaurant and says to the electrician, I'll pay you if the restaurant works out. Everybody gets paid for the work that they do. So the producer has expectations of making a successful production. He's likely received Telefilm money, maybe something from the CBC [Canadian Broadcasting Corporation]. His producer's fee, I'll guarantee you, is in place. He will have his producer's fee out, but sometimes the writer doesn't get paid or any other artist.

**Mr. Toth:** — When we're talking about writing — and I guess you have mentioned about, say, writing for a production — but I guess the question I would have is, how would this impact an individual who has chosen to go into a field of writing? And I know an individual who was actually in the teaching field but left the teaching field because the demand for their writings. And they're writing basically fictional, I believe, romantic novels that are recognized worldwide.

And the question I would have is, moving forward with this legislation, how would that change that person's view because it's quite obvious they've done quite well? In fact they've left a pretty good profession to move into it, and they left a small community to move to the larger centre.

**Mr. Vanderhaeghe:** — I mean, I can't see it impinging on it in any way. In certain situations a writer would be almost in the position of an employee, for instance, when they're working for a film company. But there would be no union for writers per se for me or the example that you're giving. She could continue writing her books, selling her books in any way that she desired.

The arts are such a diverse spectrum of activities that the legislation may apply in areas where it makes sense to apply. I mean sort of, frankly speaking, for me personally it probably won't have much impact at all. And the reason that I'm here is that I'm not necessarily speaking on my behalf, but I'm speaking on behalf of younger artists who I don't want to see go through what I went through if it can be avoided. And as Skip said, there's no silver bullet here. This is not going to solve all the problems. What it will do is, if you make a small step it will help artists a little bit. It's ameliorative. It's not going to change people's lives overnight.

I mean the fact that artists are among the best educated, you know, in terms of degrees or training, one of the best educated segments of society and they routinely make 40 per cent less than, you know, the average of society says that . . . You know, I sometimes think of artists kind of like farmers, you know. We work because we love it, because we think it's important, but we end up subsidizing what we want to do with outside work. The difference is we don't have assets. You know, if a dancer breaks her leg she's kind of finished.

**The Chair:** — Ms. Crofford.

**Ms. Crofford:** — Yes. The question that I wanted to ask is around government as the engager. I remember having a story related to me a few years ago about people contracting for artistic services with a contractor based on scale rates, but then that scale not flowing to the people that that contractor then engaged, whether it was to make an advertisement or something like that. Now your comment would be that government should

be covered under the engager requirements. Would it solve that problem?

**Mr. Kutz:** — It may solve that problem. I think, I mean at the foot of this, especially with small organizations . . . I, you know, come from an organization that supposedly is the musicians' union, and we're not a union, for one thing. We're a musicians' association. We have 225 members, and we have an annual budget of \$60,000. We have one employee that works four days for a terribly abusive salary with no benefits.

So what I'm saying is that there has to be, with this legislation or this collective agreement or whatever, a spirit of good faith that goes along with things, an understanding in terms of some of the things that Guy said, that in order to protect a resource, to have people like Guy Vanderhaeghe living in the province and the next Guy Vanderhaeghe and, you know, the next great violinist and actor, that we certainly do need some good faith and some understanding that there has to be some minimum floor wages, benefits, and so on and so forth. So I think it probably could work.

I think the government as well as, you know, other part, the co-operative sector, the private sector, and so on and so forth have to be respectful of the fact that the few minimum wages . . . And it's probably not going to affect these salaries over the . . . The few minimums that we have, have to flow to those people. I would assume that would put some, that would put some compulsion on the part of the government to make sure that the people that they contracted with were of, you know, such integrity that that would be the case.

**Ms. Crofford:** — And I'm just reluctant to go much further, based on time. If you have a couple more, go ahead.

**The Chair:** — Mr. Iwanchuk.

**Mr. Iwanchuk:** — A couple questions. One is the . . . If someone could explain to me the impact of the Competition Act and what we were talking about here.

**Ms. Roberts:** — The reason we raised the question is that we feel that the MACSA committee has not done sufficient research on the question related to the Competition Act. What happens to organizations such as ACTRA or the Canadian Actors' Equity, which is the theatre union, or AF of M [American Federation of Musicians] if they are organized as a group and tell their members to do, for example, walk off the set because there's dispute. They can be charged under the Competition Act for restraint of trade. Or at least they used to be able to be charged.

Now the question is that the federal Act allows for a way of going around the Competition Act. Specifically article 9 of the federal status Act allows for the Competition Act . . . those organizations coming under the federal legislation to be exempted from the Competition Act.

Now our view is that something very careful has to be done to provide an amendment to the Saskatchewan status Act so that the same capacity of being exempted from the Competition Act would apply to the provincial Act. That means then that in fact what the federal Act does is it imports certain language from the

Competition Act. I don't want to get too technical here, but it imports certain language which allows for that exemption. And we believe that it's possible that the provincial Act can do the same thing, if that could be examined.

We have a legal opinion that the issue . . . For example those that are already exempted under the federal Act could be practically exempt entirely even now. But it would not in fact include organizations such as the Saskatchewan Craft Council and so on. So there has to be a general, there has to be a general exemption. We believe it has to be done actually as an amendment to the Act, to the provincial Act. And we believe that that requires additional legal research to be sure of that proposition. I don't want to take any more of your time.

**Mr. Iwanchuk:** — No. Just another brief question. Independent contractors . . . We've heard that people would be deemed to be an . . . obviously a definition of employee and what is an employee and all the rest of that comes in. And how do you see artists in terms of . . . I know it's a wide question because there's different applications but that they wouldn't be deemed to be independent contractors?

**Ms. Roberts:** — You have defined them as independent contractors.

**Mr. Iwanchuk:** — Well okay. But there are certain people that — if you're talking about certain Acts and so that we could properly understand that — that they would automatically fall under this, or would there be some difficulties here in terms of people being deemed to be independent contractors and still being union members?

**Ms. Roberts:** — Well if the Act specifically says that they are independent contractors and they are defined as professional artists and they therefore come under the Act, they would be . . .

**Mr. Iwanchuk:** — So then that . . . you see that.

**Ms. Roberts:** — Automatically then independent contractors. And you're raising the tax question I assume, that they don't want to be treated as employees . . .

**Mr. Iwanchuk:** — Right.

**Ms. Roberts:** — Because artists get a little bit of exemption from the tax situation, not sufficiently. And of course taxation question is a much bigger issue than even this legislation.

**Mr. Iwanchuk:** — Well I know because you raised the WCB [Workers' Compensation Board] question as well.

**Ms. Roberts:** — Yes.

**Mr. Iwanchuk:** — I mean I don't know, but I was just trying to get some of your thoughts on it. I realize how you . . . maybe my question would have been, how would you like to see it work, I guess.

**Mr. Kutz:** — I think that what we've suffered from is kind of the fact that there's been arbitrary definitions that this person is an employee and this person over here is an independent contractor. In the old days you used to be a contractor when you

could say, well I'm not going to be coming to shovel the manure from the driveway; I'm going to send Guy. Then yes, I am a contractor.

But we've been saddled . . . and I think some of the questions about kind of our members . . . this ties into some of the questions about our membership and whether people really know or understand what this complicated business of status of the artist is about. It, you know, is also kind of feathered into this because in this particular question people have said, well I don't want to lose my ability to write off my cello, you know, when I go to the symphony rehearsal or my clothes or my workspace at home. But these are people — don't forget — that are making 15, 16, \$20,000 a year. It's the only little benefit they have. So a lot of these things are arbitrary at best.

We need some deeming so that people have the ability to have some of the basic rights that other people in the workforce have. But at the same time, we do need to have the ability . . . And this, I think, the provincial legislation will be a platform to address some federal issues with Revenue Canada about issues such as income averaging.

Someone like Guy, who works on a major novel for three years, may not have any income in the first two. But in the third one there's, you know, hopefully a lot of income. But, you know, most of it's going to the taxman. But we need some of this, and we need to kind of remove ourselves from some of the arbitrary definitions that we have of the different kinds of workers. That's one thing that we're saddled with. One thing that independent contractors have is that they have the ability to write a few things off.

And in saying that, I also say that it's difficult because we need to . . . One thing that our small organizations, including the arts alliance which is like a \$100,000 organization a year, cannot and hasn't done — and we take responsibility for this — is educating our own members about this. A lot of people simply don't know the difference.

And just like in a lot of trades, I find that the people that are working the most are people unfortunately that are my age. As a bass player, I play too much for someone my age. I do. There's no people coming, you know, there's no people coming up. We're losing the skill, and people do not have the same choices.

And people that want to make a choice to be a writer or something else because of this — very difficult, especially when you're looking at tuition fees. We have people coming out of the U of S [University of Saskatchewan] and U of R [University of Regina] drama departments paying \$5,500 tuition a year that have no place to work really where they can get a few dollars back for learning their profession. So we have a number of kind of situations on different fronts, and organizations such as us.

And the organization I represent, that are way too small even to do our own member education, we try as hard as we can for the people that come there, but some of those issues, including the one about kind of the deeming of the independent contractor versus employee and things like that, we've had to live with that and try to educate our members. We need both the deeming to kind of have those employee rights.



But also if they expect you to show up on the job with a cello that's worth \$20,000, I want to have the ability to write some of that off too, especially if I'm getting 60 or \$65 a service, like you do with the Saskatoon Symphony or the same amount with the Regina Symphony. You simply have to have some room to manoeuvre.

**Mr. Iwanchuk:** — Because you also mentioned WCB, have you ever, you know . . . I mean, we want to be sure that we cover . . .

**Mr. Kutz:** — Sure.

**Mr. Iwanchuk:** — You know because I know they're . . .

**Mr. Kutz:** — Well one of the things . . .

**Mr. Iwanchuk:** — You know, they have some definitions.

**Mr. Kutz:** — One of the things, if I can — and Sheila may be able to add to this — but on the things people say, you know, to independent artists like dancers like Marnie is, well why don't you just pay your own WCB premiums? Well you know, WCB was not put in place for that particular purpose. In many cases, it was to protect the employer from being sued. In many cases, making these kind of incomes, we can't pay our WCB premiums. If we had the proper deeming, kind of in provincial legislation, we would perhaps be able to, maybe even share it with an employer, something that we don't have now.

At the present time, a dancer with a broken leg or a violinist with carpal tunnel syndrome has no access to that. I think some people think that you can pay your own WCB premiums. Certainly that is not within the spirit of the Workers' Compensation Board, either here or in other provinces.

**Ms. Gladwell:** — We're exempted specifically. We're exempt; artists are exempted specifically from the WCB Act.

**Ms. Roberts:** — There would be a possibility simply to amend the Act by simply deleting artists from the regulations. I mean, in other words, artists are specifically denied. All it takes is for the regulations to be changed so that that portion is deleted. That is a small, very small thing that could be done.

**Mr. Iwanchuk:** — But I also understand independent contractors are, you know, you might fall into that. So I just wanted to make sure that we were doing this, if we were going there, that we cover all of these things, because independent contractors are also not covered under WCB, so.

**Ms. Roberts:** — Yes.

**Mr. Iwanchuk:** — You know it's important what you . . .

**Ms. Roberts:** — Well very specifically, you know, there are some simple solutions, but they haven't been picked up. But specific deletions could easily be done.

**The Chair:** — Mr. Elhard.

**Mr. Elhard:** — Thank you, Madam Chair. I enjoy the conversations going on here today because it opens up sort of a

visual comparison of the realities being faced by a number of people and segments in our society. And Mr. Vanderhaeghe alluded to the analogy of farming, and I think I made that comment in front of this very committee once before. It sounds to me like the issues facing artists in this province are identical to the farm community, and very few of the farm community think collective bargaining is the way to solve that problem.

So let me ask you. I think I heard it said that that's not the silver bullet to solve these problems. There are many other things that might contribute to a better solution. If you had any and all opportunities laid before you as an organization representing artists in this province, you could select any one of them that would achieve the purposes you want to achieve — and that is to provide more stability and better remuneration for artists and all of those things that we've looked at — would this be the first element in achieving that goal on behalf of artists in the province, or would there be some other mechanism that you would prefer?

**Mr. Kutz:** — I think that if money weren't such an issue . . . We've been around the arts long enough to know that — on an individual basis as artists, which some of us are, and on an organizational basis as people that have served both on boards of directors and worked in some cases on the management side — that money is a continual issue, you know.

We forget sometimes that most new businesses in the last 20 or 25 years in our province — whether it's the new movie theatre in Saskatoon, and they got a 10-year exemption from paying entertainment tax; the Cargill fertilizer plant, you know; or the Intercontinental Packers, Mitchell's food and whatever — many types of governments whether municipal, provincial, or federal, there's money, you know, that is abated in . . . you know, there's no . . . You know the old, pure free enterprise doesn't exist any more. We're trying to live off scraps of . . . and basically it's been a situation where we're living off a very small portion, kind of, of the provincial budget. So that situation is not going to change. And they do, you know, in many cases feel like bread crusts sometimes, certainly because many of us had to make a choice not to be in the arts as part-time workers, not full-time workers.

So this platform, I see not only the collective bargaining part as being important. I think that we'd probably say that it's probably the most important pillar. But it would allow, for example, a platform to deal with some of the federal issues like the taxation issue, like the deeming for employment insurance, like the issues of workers' compensation that haven't been adequately dealt with. We could pay, or we could have the Act changed, but if we have to pay our own, it kind of defeats the purpose, you know.

Issues of, you know, in Quebec, for example, people that engage artists, you know, whether for a play or a, you know, say a musical service or whatever have to pay the two-fifty-seconds. They have two weeks of holiday pay. Holiday pay is a concept that is foreign to us, you know. We have low wages and no benefits. So every time we turn around, there's kind of a roadblock.

So I think the legislation serves as kind of a platform. I don't think, as I said before, that it'll change the volunteering

agreements that we've had. It may offer us a lever, for example, even with our own provincial governments when we, you know, have . . . perhaps there's a celebration coming up, and the actors and dancers and musicians can sit down at the table and say, you know, we need to have a fair settlement. If you're going to put a lot of money into building a new building for Kerrobert and something else, you know, how do we, you know . . . And that may be the way that we slowly move the well-being of artists, you know, as a group in arts organizations from A to B.

So it's not a panacea, and it isn't a silver bullet. But it is a platform, and it's the one that's the most logical for the time being. Because if you look at the numbers from Stats Canada and things like that in the areas where they've had some legislation, the money paid to artists is a little higher anyway and at least moving in the right direction. I would say that probably the salaries that we have are static. And unfortunately, when some of us leave the active workforce in the arts and things like that, I think there's a real possibility without intervention that salaries and income levels will go down.

**Mr. Elhard:** — Can you tell me roughly the number of artists that the Saskatchewan Arts Alliance represent?

**Ms. Gladwell:** — We're a member organization so it's the artists' organizations that would be members of our organization. So it would be in the thousands when you count the artists who belong to the organizations which belong to us.

**Mr. Elhard:** — One or two thousand or three to five thousand?

**Ms. Roberts:** — Well we did do a study, actually in 1993 when the first status report came out. And our estimation at that point — and that was a government estimation — was that it was around 10,000 of professional artists. We're talking about professional artists. Now I believe the department has a lower figure than that, but if we were estimating at that point I would say that it would certainly be around that ballpark still. I mean we're doing another study but we don't have the figures yet.

**Mr. Elhard:** — Thank you.

**The Chair:** — I apologize to the group that's coming next but the questions are important so we do have another question from Ms. Morin and then we'll wrap up.

**Ms. Morin:** — Just one more quick question. Sorry about this. It was mentioned earlier if there's any type of . . . Do you have any type of comparison that shows the income earnings of artists in, for instance, Quebec, because that's the only province that we have to refer to, and how it compares to the other provinces in Canada and whether we can see that there is an advantage to them having this type of legislation — for what I would think would be more than just the legislation itself but also the culture of mindset that it would change within the community and the respect that it would then bring the artists?

**Mr. Kutz:** — We do. We have a 2004 document from the Hill Strategies report. I think when you get the document — I think we have extra copies — it's interesting to note that in the performing arts, perhaps where the collective bargaining might be most applicable because it's not one size that fits all, that there is a marked difference in income levels and they seem to

be going a different way. Musicians, artists, dancers, and actors and craftspeople are never going to be rich either. We're just talking about some kind of a level where we don't have to get used to Purina when we're retired.

**Ms. Morin:** — Well thanks for that. The reason I asked the question is because I'm curious, I'm hoping that . . . I mean right now we know that there's, you know, from different groups there are set numbers of individuals that would qualify as their primary source of income. But as you were saying I mean you've been subsidizing this over the years despite the fact that it was desired to be your primary source of income. So I'm curious to see whether through legislative changes such as this that it would take that shift away from needing to be subsidized and more into a primary source of income.

**Mr. Vanderhaeghe:** — I think for certain disciplines it would help a great deal. But I think, I don't mean to be pessimistic but I think that despite this legislation, artists will still be subsidizing the work that they do. I think this will only help artists but it's not going to bring them as far as they would like to be brought.

**Ms. Morin:** — Back to the, it's not going to be the silver bullet. Okay. Well thank you very much.

**The Chair:** — Thank you very much for your presentation. And we appreciate your time and we appreciate that you've given us the leeway to be a little late and all the presenters following you too. The questions are important and it's hard to judge how much time to give each presentation, and so we picked an arbitrary number and here we are, you know, going over our time. So I do appreciate your tolerance. Thank you.

Our next group of presenters is the Regina Symphony Players Association. Good afternoon, and thank you too for your patience. If you just introduce yourself and give your presentation.

**Ms. Simmermon:** — My name is Lisa Simmermon and I am a musician with the Regina Symphony Orchestra. I play principal timpani with the orchestra . . . Is that better? Closer? Okay, talk louder. All right. I play the loudest instrument in the orchestra. I just can't speak the loudest. Pardon me?

**Ms. Crofford:** — You have to be your instrument.

**Ms. Simmermon:** — That's right, that's right. And I'm one of the elected members of the players committee which represents the musicians. And we have more than 60 musicians in the orchestra that are comprised of a combination of full-time . . . There are a dozen full-time members and then we have more than 50 part-time players. And I'm one of the part-time, and my husband is one of the full-time musicians in the orchestra.

So we wanted to come to be able to speak to you today. We thought it was of particular interest that you were looking particularly with a view to whether or not collective bargaining was an issue that was important to artists. Certainly it is for us as orchestral musicians. And because we work with the symphony on the basis of a collective bargaining agreement and have for many, many years, as do all of the other professional orchestras in the country, we felt that it would be good for us to

come and speak with you today.

We have taken the time to take a look at the Saskatchewan Arts Alliance's information that they've prepared for you, and we are in agreement with their recommendations to you. But there is one particular point that we wanted to bring to the committee's attention and that was in the work of the federal-provincial-territorial working group on the status of the artist, that in their efforts to establish some clear criteria about employment status — self-employed versus employee status — that it's really important to consider that professional artists can be considered self-employed under the federal Income Tax Act, but at the same time can be considered employees under the provincial trade union Act.

Now I know you had someone from the Saskatchewan Arts Alliance who said that the musicians' union is not a union. But in fact that is not an accurate statement in accordance with a ruling that the Saskatchewan labour board made. I brought it with me, so let me just give you the date of that so that you've got that for reference. That ruling was from April 11, 1997 when they ruled that in fact the Regina Musicians' Association is a trade union under the auspices of the provincial trade union Act.

In that ruling they also indicated that because of the nature of the work of the musicians in the Regina Symphony Orchestra, that the musicians would be considered employees under the terms of the provincial trade union Act, even though they recognized that some of the musicians were self-employed under the auspices of the federal Income Tax Act.

So it is to say the least a confusing situation, one we're trying to cope with as musicians ourselves. But we felt it was really important that you understand that we face this difficulty of having to be considered two different status, depending on the federal and the provincial jurisdiction and Act involved.

So we wanted to stress that any provincial language regarding collective bargaining agreements also needs to include the potential for a mix of self-employed and employed artists. Our full-time musicians a few years ago went from self-employed status to employee status when the management of the orchestra asked if we could please move to that direction in an effort to avoid a situation where the Canadian revenue agency would arbitrarily determine that an orchestra was an employee orchestra.

And in some cases we know that in orchestras where this has happened in Canada, where it's been retroactive, and then the amount of costs involved to the management of the symphony has been too much and orchestras have either gone bankrupt or nearly bankrupt over this issue. And so this was an attempt to try to avoid this situation. So we now have a mix where our full-time musicians are employees and our part-time musicians remain self-employed contractors. But we all function under the same collective bargaining agreement and the way that we've dealt with that issue is that we have language that addresses the employee issues of the full-time musicians so that that is articulated in our CBA [collective bargaining agreement].

One issue that we are concerned about is that when a union is not a certified bargaining unit — as is in the case of our union

— there is real lack of clarity regarding the validity and the legal status of a collective bargaining agreement when it's negotiated in that manner. And there's also a related lack of clarity regarding the role of the Labour Relations Board in providing the kinds of protections and services that are afforded to other workers with collective bargaining agreements that are negotiated by certified bargaining units. So there is a need to consider how to protect and assist artists with CBAs that are not necessarily negotiated by a certified bargaining unit.

Benefits are something that you heard talked about by the Saskatchewan Arts Alliance. And certainly for those of us who are musicians, they are a serious area of concern. The full-time musicians in the Regina Symphony Orchestra do have some reasonable benefits that are negotiated as part of our collective bargaining agreement, but the part-time, self-employed musicians have almost no benefits. Now it's not possible to expect any arts organization to be able to change that and address that issue unless there is funding that is allocated specifically for that issue. And so that's something that we would really encourage the government to consider is that when you're looking at the area of benefits that there perhaps needs to be some targeted funding that is specifically for that purpose.

Now those points obviously reflect our view that is in keeping with the Saskatchewan Arts Alliance — that the Saskatchewan labour board should administer the cultural sector collective bargaining and not a separate commission as recommended by the MACSA report.

Now we are aware too that in the ruling that was made by the Saskatchewan labour board with regard to the Regina Musicians' Association some years ago, they did say that they were not in a position to be able to deal with looking at issues on a sectoral basis, but we still feel that it would probably be best to work with the system we have. If things need to be tweaked or adjusted, that that probably is a better bet than trying to start something from scratch that is going to have a very steep learning curve.

Now health and safety issues are another area that we've had to begin to take a look at, especially since our full-time musicians have become employees just in the past few years.

We're just in the process of trying to set up a health and safety committee in the Regina Symphony Orchestra, and this is very new territory to us. And I have to admit that after going through all the documentation on the government websites, it's very confusing. And we certainly agree with the Saskatchewan Arts Alliance that there really is a need for some interim assistance with health and safety issues for arts organizations beginning to work on these matters.

But perhaps the single most important point that we can bring to you is the need for improved funding for professional arts organizations so that the income level of the professional artist in Saskatchewan can be reasonably addressed.

The full-time members of the symphony earn below the Statistics Canada low-income cut-off. And even with supplementing their work with teaching and with other kinds of work such as conducting or educational workshops in the schools, still wind up with most of us having family incomes

that are below the Statistics Canada low-income cut-off.

Those of us that are part-time musicians, well you can imagine it's only a few thousand dollars a year. And yet we are expected to have a level of training and have the equipment on hand and personal practice space and a commitment of time to be able to maintain skills that are involved that is almost the same as the full-time musicians. And yet our opportunity to earn income is extremely limited.

So we feel that even though collective bargaining is important as we spoke about — and we're certainly very much in favour of supporting collective bargaining — if you don't have adequate money that is provided to the funding agencies like the Saskatchewan Arts Board that then can go to the professional organizations, it's impossible for the organizations to be able to address reasonable income for the artists.

Now we spend between one and two years in negotiations every time our contract comes up for negotiation. And we spend a huge amount of time negotiating 1 or 2 per cent. We can't even keep up with inflation. And so we're losing ground and really have to look to the government to take a look at the situation for the longer term about how can this be addressed.

We would certainly ask you to consider other ways of improving the life of artists through additional measures such as taxation reform and protection and economic development. We were very glad to see the newspaper article that showed that people are certainly supporting cultural activities more than other recreational activities. And that was a real delight to see and we'd like to use that as a means to encourage you to take, to be able to take our concerns forward to the government as a whole and use that to support that indeed the people of Saskatchewan are showing their support for the cultural sector and now we ask that the government support it in a like way. Thank you.

**The Chair:** — Thanks very much. Questions from the committee. Ms. Crofford.

**Ms. Crofford:** — I'm curious where you saw the article in the newspaper. Sorry for that to be the first question I ask you but . . .

**Ms. Simmermon:** — It was there.

**Ms. Crofford:** — Do you know what day it was or what paper it was in?

**Ms. Simmermon:** — It was in the *Leader-Post*.

**Ms. Crofford:** — *Leader-Post*.

**Ms. Simmermon:** — I don't know if I tore the date off with the article.

**Ms. Crofford:** — Okay, but it was this past week?

**Ms. Simmermon:** — It was. Yes, it was just a few days ago.

**Ms. Crofford:** — We're not very far into the week so . . .

**Ms. Simmermon:** — You know, I could do a search for you. I could find out. I'm good at doing that sort of thing.

**Ms. Crofford:** — I'd appreciate that, even if you photocopied it and sent it along.

**Ms. Simmermon:** — Sure.

**Ms. Crofford:** — You feel that it's not that your employer would not want to pay higher salaries, but it's that they really don't have the adequate funding to do so.

**Ms. Simmermon:** — Yes. And that's what they've said and we believe that they're sincere when they say that.

**Ms. Crofford:** — And do you know what percentage your employers . . . This may be an unfair question to ask you: what per cent of your employer's income is corporate funding and what per cent is government funding?

**Ms. Simmermon:** — Offhand I don't know, but I certainly can take a look at the last few annual reports and see if I can find that information for you.

**Ms. Crofford:** — Yes. It would just be interesting to know that. And I don't think I have another question at the moment unless you would have a suggestion for how we can resolve the dichotomy about being both employed and a private contractor at the same time.

**Ms. Simmermon:** — I don't think that there's a real solution that . . . A lot of the issues come around the taxation issue. Obviously when you're earning so very little income but you're expected to have a huge amount invested in . . .

**Ms. Crofford:** — Tools of your trade, yes.

**Ms. Simmermon:** — Then we really would like to be able to preserve that tax status that allows us to be able to at least preserve as much of our income as possible from that. So that's why we're encouraging you at the FPT [federal-provincial-territorial] level to have some further discussions about that.

**Ms. Crofford:** — Yes, okay.

**The Chair:** — Thank you. Mr. Toth.

**Mr. Toth:** — Yes, thank you so much. I've got a couple of questions and one I could have asked even to the group previous. We're talking about . . . Everyone's talking about the lack of actual financial well-being for actors or people in the arts community. In your presentation you mentioned about full-time with the Regina Symphony. So many . . . I think you said about 12 individuals part-time. Can you give me what would be considered full-time hours, and what would be considered part-time hours?

**Ms. Simmermon:** — The full-time people are considered full time as a combination of services that are scheduled for them but also the preparation time that is required. And so we actually incorporate that language right into our collective bargaining agreement to illustrate that in fact they are providing

the work at a full-time rate which is in accordance with employee benefits that are possible — for example, employment insurance. So there are some very strict criteria in terms of number of hours, and so those criteria are met. And they are met legitimately.

We did end up working with an accountant to be able to come up with the language for our collective bargaining agreement that would take this into account. I'm not sure if other orchestras have used professional services to help them come up with language around that particular issue, but our musicians are articulated in our collective bargaining agreement that the full-time ones as having full-time powers as a combination of scheduled service time and preparation time at home. And we designate home as the employee's from home . . . so that home is the actual location, if you like, of most of the work.

**Mr. Toth:** — So would you be saying then that a full-time employee would basically be putting in say 36 to 40 hours a week.

**Ms. Simmermon:** — That's correct.

**Mr. Toth:** — That's the hours and that they have no other form of employment.

**Ms. Simmermon:** — I didn't say that they had no other form of employment. In fact I said they have to supplement it because it is below the poverty line, so in fact they almost all of them teach and do other things on a part-time basis.

**Mr. Toth:** — Now when you mention about the symphony, and, I guess, unfortunately — I enjoy music — I really haven't heard the symphony. I've caught a bit of it when you've been out by Fort Qu'Appelle there. That's been excellent, but where does the symphony derive its revenue? And how often does the symphony perform, or groups of, to derive its total revenue?

**Ms. Simmermon:** — We do a number of different series of concerts, most of which are at the Centre of the Arts here in Regina, some of which are in other venues. That's with the large, full orchestra. The full-time players are called the Regina Symphony Chamber Players, and they do many other smaller concerts. They do I think it's over 30 — over 30 or over 60 school concerts? — over 30 school concerts each year with the Regina public schools, and so their schedule depends on which concerts are in a particular week and how many rehearsals are scheduled for a particular performance.

**Mr. Toth:** — And when they do a public school performance, are they paid?

**Ms. Simmermon:** — The public school board does contract the Regina Symphony to provide school concerts, yes.

**Mr. Toth:** — So would it be fair to say that as far as the musicians in the symphony, your revenue, you could probably see higher revenues if you had more performances and were able to . . . and more people coming out to see the symphony like . . .

**Ms. Simmermon:** — We have almost full houses now. The Regina Symphony actually has an amazing audience, and we

have almost full houses almost every performance. So I don't think that that is going to solve our problem.

**Mr. Toth:** — Well the revenue has to come from someplace.

**Ms. Simmermon:** — It does.

**Mr. Toth:** — And that's what I'm, I guess that's what I'm trying to get down to.

**Ms. Simmermon:** — If we had a population that was maybe two or three times as big and we could do an additional concert of the same material, which is how orchestras in larger centres organize their concerts. You know they'll rehearse for three days, two rehearsals a day, and then do Wednesday, Thursday night concerts. So you're doing two performances but on the same preparation work. So you get twice as much revenue for the same amount of prep time. But we don't have the population base here to be able to do that. We just don't have enough people here.

**Mr. Toth:** — And I agree with you. And I guess that's kind of where my question was going, is based on if the symphony, like you say, was able to derive the additional revenue, then they could probably come up with better arrangements to pay the musicians even a more significant rate.

**Ms. Simmermon:** — I know the board of directors works unbelievably hard to earn every penny of revenue that is possible and every means possible. Their work in fundraising and working to build corporate donations and other ways of being able to build that revenue base is really superb, and I don't see any problem with the work that they're doing and how hard they're working to do it. And the fact that they are filling the houses and they've got corporate sponsors for every performance that we do shows that, you know, they're doing their homework and they're doing their job. I believe that they are sincerely fulfilling their end of the obligation.

**Mr. Toth:** — So if, based on some of the suggestions for this Act, how do you foresee that the Act moves forward with the changes making a significant impact in the lives of the musicians within the symphony and whether or not it would actually increase the revenue that they would derive?

**Ms. Simmermon:** — I'm not convinced that the Act in itself will make a huge difference to the lives of the musicians. I think it's a very important step toward a longer-term process of recognizing and valuing the artist. But I think the single most important factor for improving the income of the artist is enhanced public support of the funding agencies like the Saskatchewan Arts Board.

**The Chair:** — Thank you. Any further questions? Mr. Elhard.

**Mr. Elhard:** — Just a comment to follow up. I was at a fundraising dinner the other night where a very exquisite piece of artwork could barely get the reserve bid but an autographed Wayne Gretzky picture brought more than twice as much, which says something about the, you know, the general value society places on . . . I won't even call it comparative art because it isn't. But I think that I'm quite surprised by the figure you suggest here where your levels of pay for part-time

musicians is less than other areas 25 years ago. I mean I just find that incomprehensible. Can you indicate how that happened or where you got that statistic?

**Ms. Simmermon:** — Well I got my training in Ottawa, and I worked for a number of years as a percussionist with the National Arts Centre Orchestra in Ottawa. And at that time what I was earning as a casual extra percussionist was more than what I earn as principal timpanist now with the Regina Symphony. How did that happen? Well I don't . . .

Every place has their own negotiations about pay, but I think that it speaks volumes about the value of the musician in a particular community. I'm not the only person that's experienced that. There are many of us that have moved here from other places and who have, you know, married people that have come here. And this is our home, and we have no desire to leave. We love Regina and we work hard as part of our community to make things the best that they can but that's a reality that we at least wanted to let you know about.

**Mr. Elhard:** — You mentioned just in passing that there are things that you would like to see accomplished in order to raise the value of artists in society. What are some of those other things?

**Ms. Simmermon:** — Well I think in terms of raising the value of artists is a reasonable income. I do think that the support that is available in terms of some of the support through things like SaskMusic is great and growing. That's really developed in the past decade and that's terrific to see. I think that there's room for a lot more growth in the support that's available through the Saskatchewan Arts Board to individual musicians.

One area that I think that could really grow a lot more is the crossover between performing arts and the education system in working to support the music teachers and the regular teachers in the education system. I think that that's a tremendous area which is just beginning to be explored and worked on now and could grow an awful lot more. There's a lot more that as professional artists that we could do to be supportive and helpful in the education system in addition to the music programs that exist already.

I think it would be terrific if we could have an audience that was larger. That would be wonderful. I think that, you know, your point about the artwork and about, you know, a Wayne Gretzky signature, well the same sort of thing goes about how many people show up to the football game versus how many people show up to the symphony. We're the other Saskatchewan Regina team, and we'd like for people to feel that ownership of their orchestras, you know, both here and in Saskatoon. We're the other team. And we'd really like people to feel that they're coming to support their team when they come and they hear us.

And we want to be able to provide music that will make them enjoy the evening or the afternoon, whenever the concert is. I mean that's the whole idea of it is to provide and stimulate and entertain as well. I mean we're not blind to the fact that people pay money and come to see it and come to hear it because they enjoy it. And that's what we want to do is provide an enjoyable experience.

**Mr. Elhard:** — Thank you.

**The Chair:** — Thank you. Seeing no further questions, thank you very much for your presentation and your candour.

The next group before us is the Canadian Film and Television Production Association, and we do have some material from them to pass around. We need to wait?

**Mr. Barrack:** — We're just leaving some materials for you and can start with . . . My name is John Barrack. I'm the national executive vice-president and general counsel for the Canadian Film and Television Production Association.

To my left, your right, is Kevin DeWalt. Kevin is the president of Minds Eye Entertainment here in Regina. He's also the president of the Saskatchewan Film Producers Association, all of whom are members or connected with the CFTPA [Canadian Film and Television Production Association]. And he's also a board member of the Canadian Film and Television Production Association and past Chair of the mentorship committee and a representative on the Canadian Television Fund, amongst many, many other committees and volunteer duties, and a past Chair of the organization as well.

To my right, your left, is Paula Pettit, national director industrial relations for the CFTPA.

So we've presented you with a paper which it might make some sense if you just want to . . . I don't know if you want to take a minute, just to give it a quick overview, or we can launch right in. But it just might give some context for our statements. I'm sort of in your hands, Madam Chair.

**The Chair:** — Well we are running late, so perhaps you can run us through it.

**Mr. Barrack:** — Sure. We will.

**The Chair:** — You know, just bring out your points, highlight them, and we'll actually . . . We can read it at our own leisure after. But if you can highlight your most important points, that'll make it . . .

**Mr. Barrack:** — We will do that, and we'll try to make the most expeditious use of your time as we can so that we can move through here.

The CFTPA is a national association that represents over 400 film and television producers, interactive media producers across Canada. And we're a non-profit trade organization that, amongst our many lobbying efforts and other duties, has as one of its principal mandates the negotiation of agreements with various artists' organizations. So for example we negotiate master agreements with actors, writers, directors, and then down from there various technicians' unions as well. So we have agreements with ACTRA. We have agreements with the Writers Guild of Canada, and agreements with the Directors Guild of Canada, revolving a relationship with the American Federation of Musicians, and then with the various technical unions as well, cinematographers and so forth.

So that's sort of one of our overall duties, and obviously that's

what primarily brings us before you today is our experience in that area and our responsibilities in that area. And I'll turn this over to, first of all, to Kevin DeWalt to give you a little sense of the industry here and put that into context for you.

**Mr. DeWalt:** — The Saskatchewan film and television industry really started 30 years ago with a couple of independent individuals who were fledging filmmakers who tried to get some product off the ground here in the province. About 15 years ago is really when the industry started to take off. And just to give you a sense of volume, in 1992 Saskatchewan film industry was about \$5 million combining all production, including government commercial work and corporate work. And up until the last couple of years the industry's grown to somewhere around 70 or \$80 million a year.

So it's quite a success story in the province. And I would attribute the success story to the working relationship that our industry in Saskatchewan has with our labour and with our unions. I would consider, having chaired the CFTPA on a national level and being very involved in union negotiations across the country, I would say without question that we have one of the most stable relationships of any jurisdiction in the country in terms of our working relationships with our various unions in the province.

Certainly you'll have read in the most recent media that we have had some tough negotiations with ACTRA. I'm pleased to say that we are through those, and we look forward to a long, prosperous relationship with them. The reason why I set that stage is that we are a growing industry. We continue to grow. We're very stable in terms of our working relationships with our various artists and unions, and we're here in front of you to talk a little bit about our concern about what this legislation may do to that stability, giving you some examples from across the country.

**Ms. Pettit:** — So just to pick up on what Kevin was saying, it is truly a success story with respect to film and television in this province, and it's remarkable the amount of growth that has occurred even over the last two years. Production volumes have literally doubled. Part of the success is of course, you know, individuals like Kevin and also Vérité Films, WestWind Pictures, remarkable series like Corner Gas that build and maintain strong primetime audiences despite competition from extremely high budget US [United States] series. They absolutely hold their own. And they've captured the imagination, I think, of the Canadian viewing public.

One of the things that we also want to remark on is that the province has positioned itself extremely well. You've got a very aggressive tax credit regime in this province that's attracted foreign service location; also remarkably skilled and professional crews that are consistently commented on and praised by producers just who work globally.

Just again to pick up on one of Kevin's earlier points, there is a very well-balanced working and very mature labour relations environment in the province. And so one of the things that we want to emphasize is that if you are considering any amendments or any additional measures to the status of the artist that those be considered in the context of that and that they be sensitive, you know, to the fact that we have established

and mature working relationships.

**Mr. Barrack:** — As we mentioned off the top, we work with a variety of different unions. And one of the things that causes us the greatest concern . . . And I'm sure you've researched and read about the experience in the province of Quebec. The province of Quebec has fragmented labour relations into a number of substrata groups and has created an environment that is really not friendly to production. And that's from two perspectives.

The one is from foreign location shooting which has been significantly impacted by the fact that there have been interjurisdictional fights between unions that have not been well handled in the province, that have driven work out of the province on one level. And on the other level, a multiplicity of collective bargaining relationships, many agreements that have never even achieved first agreement status after as much as 10 years of bargaining. For example, the English language directors guild in Canada, in Quebec, has not negotiated a first agreement with the Quebec producers association. And that creates incredible instability and unpredictability in terms of trying to bring work into the province of Quebec. The other aspect is that it's a one-size-fits-all approach to collective agreements or collective bargaining.

So for example, one of the most successful types of production that occurs here in the province is we call fact-based lifestyle and reality-type programming. A lot of that work is done at a very low budget. And some of that is done union, and some of that is done non-union, but all of it is done with a contract, if you will. There's no performer that works without a contract. That same kind of work largely does not exist in the province of Quebec, and the reason it doesn't exist is that the collective agreement doesn't have any flexibility. There's no ability in that region to work either non-union or at extreme or below budget level. And so quite frankly what's happened is that work, the English language work has fled to other provinces.

And so what we're very concerned about here is that, if there's any work undertaken by this committee and ultimately the government to impose collective bargaining regimes, it must make sure that it maintains both the flexibility and as much as possible replicates the structures that currently exist. One of the phrases that ACTRA uses — and I'm sure if you haven't heard from them already I think you will tomorrow — they have often used the phrase, do no harm. I'm sure my friend Mr. Topp is going to be in here tomorrow making the pitch — and I'm sure who you all know very well. And to borrow his phrase, the whole structure here is to do no harm. And I think that's one thing, if nothing else, he and I will agree on.

**Ms. Pettit:** — Sorry, if I might, just to back it up a little bit from what John was saying. What exists currently . . . And we've given copies of the collective agreements that we've negotiated with the writers and the directors and the performers to the Clerk, and we'll send additional copies if you'd like those. But the way those agreements are structured, they work on a voluntary recognition basis. So in other words, the bargaining is not mandatory, and that is a system that has worked for us extremely well. It's allowed producers who are working within certain budget realities, the extreme low-budget end, to be able to opt in at times when it's appropriate given the

budget constraints. Or sorry, opt out when it's appropriate and opt in when they're able to.

So it's a system that we feel has worked extremely well, and we do have agreements that offer the protections that certainly the status of . . . that the legislation is entrusting extending with respect to pension and health benefits, the mandatory coverage on a written contract, etc. You'll see that with the terms and conditions of these agreements that they're very sophisticated and that they do cover off most of the concerns of artists.

**Mr. DeWalt:** — Just to bring that into sort of practical terms in the province and I'm sure Michael won't; I'm sure he'll be fine with me mentioning it, a company called WestWind Pictures here in town who has an incredible success story across the country called *Little Mosque on the Prairie*. It's a series that was conceived in Saskatchewan. If you step back two or three years ago and talk to Michael about it, Michael's company really started in terms of getting into the industry by doing ultra-low-budget programs. These are programs that are kind of magazine-format style programs, maybe documentary style programs. And it would've been impossible for that company to actually get those shows off the ground at 20,000 an episode or \$25,000 an episode without the flexibility within the system that we have now, that you can actually work on a low-budget project and work within the current regime.

If in fact this legislation does come through and it forces every single artist that's in the province to be forced to work under an agreement, it's very unlikely that some of these low-budget projects will actually get off the ground.

And my worry would be, is that there's a lot of up-and-comers. As you can see, I'm getting grey; Michael's getting grey. Many of us who've been around for 20 years are really focused on mentoring up-and-coming younger producers. We need to think about where our revenues are going to go in the next 5 to 10 years. And we need to have the flexibility for those young people so that those low-budget projects can actually get off the ground to ensure that we are, you know, training the next generation and giving those individuals an opportunity to get some experience.

It's never been tougher in this country to get a drama off the ground. It's one of the most difficult things to do. There's so many more companies now in the country accessing the various programs that are out there. So the entry point really has to be a regional entry point in the regions of this country and in budget levels that are significantly lower than what network television is paying at this point.

**Mr. Barrack:** — I think the bottom line is that when you look at this sector, this is not a sector that is either ungoverned, if you will, although that governance is always somewhat voluntary, long-standing, and established. And the recent ACTRA strike really points to that, which is, nothing compelled any of us to stay within that structure. In fact we had great debates amongst us whether we should stay in that structure or go outside that structure. But at the end we all agreed when we came to our final deal that that structure was very important to us, that structure we'd manufactured and in fact have gone to great lengths to preserve in what we call our negotiation protocol and procedures.

I think this is not the case with a number of unrepresented artists. And legislation such as this, whether it's here or other parts of the country, is very necessary for those groups. But this is a mature sector with mature relationships, and as Kevin's pointed out, there are times when there needs to be maximum flexibility. But no one's working without a net in that sense.

So do you want to speak a little bit about the mentorship aspects?

**Mr. DeWalt:** — One of the things that we are very concerned with as employers is training and mentorship. And I'm happy to say that the national training program of our industry actually started in Saskatchewan. I was the first Chair of that organization that convinced the CFTPA nationally to put in some dollars, to raise some additional dollars. It's very important to our association. In any given year we mentor about 75 individuals across the country. We contribute up to 75 per cent of the salaries of those individuals and expect the producer to put up the other 25 per cent. We're very focused on Aboriginal and Métis training right now. We've just established a couple training programs with that community.

So training has always been important to the production community in the country. And I know that when you look at this particular industry, I think it's important that you're aware that our next generation is very critical to us and that we put a lot of emphasis, a lot of money, and a lot of our resources internally with staff and financing to make sure that we're doing our bit as employers for that group.

**Ms. Pettit:** — And equally critical to both the CFTPA and our members is our health and safety issues. As a sector we're extremely proud of relatively unbroken records with respect to health and safety. We take for example the security and the health of minors extremely seriously, as Brian may attest to tomorrow in his presentation. But we're also concerned with implementing working with provincial governments with respect to health and safety training.

We have a program that exists in Ontario where we have a section 21 advisory committee, and we're working on creating different models that would ensure that there's education and training that's available to everyone employed or engaged in the film and television industry.

**Mr. Barrack:** — So in conclusion, having sort of read the various submissions, whether it's the Neil report or otherwise, and noted that the voluntary agreements in the film and television sector are very successful, I think that's really what we're here to say to you is want to make sure that, as you go forward — and I'm not referring to any particular amendment that's before you at this stage — but that there's a recognition that there needs to be balance in the system and that there needs to be a balance between obviously artists' groups on the one hand but also the engager groups on the other. And the way the current legislation and the amendments are put together, there isn't necessarily that balance with respect to engager organizations.

And I think that there needs to be a recognition that we bring to the system — as for example this association or whether it's the Saskatchewan association — we bring to it that balance. What



we don't want and doesn't benefit anyone is if, as Garry has put it in his report, there's a race to the bottom. That doesn't suit anyone.

We want to make sure we have high quality, talented folks. I think . . . I'm sorry, I don't remember your name, but you were asking the last person about the fall and the wages. That hasn't happened in that sector. And I think that's attributable to the unions, but it's also a tribute to the engager organizations, that there's a recognition that you're not going to have talented artists to work with, frankly, if you don't maintain a certain level of stability for them as well as for the industry at large. You need to keep good people in the sector.

And what we don't want to do is mire what we've achieved with either instability or overregulation so that way, as Kevin's noted, we drive work away or alternatively we don't make this an attractive location.

So we'd be happy to answer any questions that you would have of us in that regard.

**The Chair:** — Thank you. Ms. Morin.

**Ms. Morin:** — Yes, just a few questions. Since it seems from your submission that a good portion of your actors and such are already involved in various organizations, how do you see this legislation negatively affecting your industry other than, what we talked, the low-budget projects in terms of the new producers and such? Is there any other . . .

**Mr. Barrack:** — That's predominantly the way. And the other is to fragmentation. In other words if the approach here, taken here, were the approach that's taken in for example Quebec which were to require effectively local negotiation of each of these agreements, I think you'd end up with a race to the bottom, quite frankly. And the reason I say that is what you would find is you'd have regions competing against regions. It might benefit my members, quite frankly. But we don't think philosophically at the end of the day that is the case. It depends whether you are seeking to preserve those structures, in which case there is no harm, or whether you're seeking to create some new form of structure.

I guess what we're saying to you is to the extent it's not broken. I say to the extent it's not broken, it doesn't need to be fixed. We have no trouble with the institutionalization or institution of those regimes as somewhat permanent. We're happy with those, if you will.

**Ms. Morin:** — You know, I'm just looking at this table comparison of income, average income, I guess, for the various provinces across Canada. And clearly Quebec is showing the highest level of income for all artists' groups including actors to, well I guess, a fairly good degree with comparison to one other province anyways.

So I guess what I'm not understanding is if this is going to end up being the minimum standards for actors —because we're speaking specifically about your industry right now — if this is going to be a minimum standard for actors, how much lower could they possibly be paid in order to accommodate like the low-budget-type films and things? I mean are they being paid

less than that now in terms of, you know . . . I mean we're hearing from different industries that they're being paid less than the minimum wage as it is right now. So is there . . . I mean do we really have a fear that they could be paid that much less?

**Mr. Barrack:** — Really where they're paid less is on the back end of the residual type formulas which are not usually . . .

**Ms. Morin:** — I'm sorry. I didn't catch that.

**Mr. Barrack:** — Usually where they are paid less, if they are paid less at the ultra-low budget, is there's less money around for everyone. It tends not to be vis-à-vis the daily fee.

**Ms. Morin:** — Okay.

**Mr. Barrack:** — It tends to be with respect to the back end. We call the back end the residual payments. And the reason for that, quite frankly, is for small companies. It's very, very difficult for a smaller company and an up-and-coming company, as Kevin's put it, to maintain the sort of books and records that are required to do . . . That's sort of what we call back-end reporting. That's a big expense. It's a huge expense. And so one of the . . . That's really where you see the differential. Kevin, do you want to add to that at all?

**Mr. DeWalt:** — I mean, I guess it could be in a non-union shoot — if that was what we're talking about in terms of ultra-low budget — it's unlikely that you would have an ACTRA member working on that particular show because they're bound by the collective agreement. So you'd work outside of that agreement.

Clearly they would not be paid below minimum wage. You know, typically an ACTRA day rate for an eight-hour day without any buyouts and residuals is about 560, \$570 for an eight-hour day. Typically on a low-budget show with a non-ACTRA member, those actors are probably paid in the 200 to \$250 a day. So we're not talking anything about, you know, less than minimum wage here.

**Ms. Morin:** — I guess that doesn't mesh then in terms of the table that I've got in front of me because it's saying that on average the actors in Manitoba and Saskatchewan — because we happen to fall in the same lump — are paid \$12,509 a year. I mean to me that . . .

**Mr. DeWalt:** — Okay. Well I'm talking about a day rate.

**Ms. Morin:** — No, I understand.

**Mr. DeWalt:** — And actors are paid by per day, and it's how many days they work in a year.

**Ms. Morin:** — Exactly. So over the year though it ends up they don't end up getting enough work to provide them with a level of income that's above the low-income cut-off . . . is what the argument is.

**Mr. DeWalt:** — Well typically, you know, an actor may work five days or six days on a low-budget project and they may do that two or three times. At some point — and I can give you

many, many examples in this province — that actor gets enough experience, enough recognition. ACTRA starts to notice them. And then they become members of ACTRA, and they move up the ladder.

**Ms. Morin:** — Okay. So if they are paid that well on a daily basis then, like, is there a concern that the minimum standard that may be set out in the collective bargaining process, that would fall . . . that would reach above what you've outlined? Because I mean, obviously what you've outlined for a daily fee doesn't sound too bad if they can get 360 days of work per year or whatever, right? So do we have that concern?

**Mr. Barrack:** — The bigger issue that you have, the fine line is that it's work opportunity. But prior to driving the price up, you're only going to drive the work out of the jurisdiction. I mean the sad reality is that there are limited work opportunities, and there are more work opportunities in larger centres than there are in smaller centres. And there's more opportunity in Quebec, particularly if you're bilingual, because you have all of the French language production, for the most part, done in the province of Quebec. And you have a significant chunk of the English language production done in the province of Quebec. And there are fewer members of both ACTRA and UDA [Union des artistes] per capita in that province than there are in, for example, Toronto.

You also have that the unfortunate . . . I mean take *Little Mosque*. It would be great if *Little Mosque* were done here. It would be great if CBC decided to do *Little Mosque* here, but they didn't. They pulled it into the broadcast centre in Toronto. So it's a limited number of work opportunities. So those numbers that you're seeing aren't a reflection of anything about the agreements or even the amount that anyone's being paid on any given day. It's a very basic fact that there isn't a lot of work, and there's more work here than there ever has been. But if you were to impose structures that didn't allow for that low-budget work to go forward, those numbers that you're looking at, those annual earnings would be lower, not higher.

**The Chair:** — Ms. Draude.

**Ms. Draude:** — Thank you. I notice that the table that we were given says 2001. And I also read that there's been negotiations going on for eight years in Quebec, and without any final agreement. So do you have any more recent figures, and can you tell me what's happening to the average person? Is the amount of pay in Quebec going down now because there hasn't been any stability?

**Mr. Barrack:** — No, it's a patchwork. What has happened for example is the foreign location shooting in Quebec has been way down in the last few years. I mean there's been very, very little of it. And currently there have been a number of projects, large US [United States] projects, that could have gone into Montreal that haven't gone into Montreal because there's a current dispute between two technicians' union around status of the artist legislation. And that has kept some very large projects out of the province.

So I can't speak to the numbers that are specifically in front of you, but what I can say is that certainly if you track earnings in Quebec over all, that over all instability has hurt it in the last

few years. I've been on this job for seven years. If you go back, 1999, 2000 and so forth was very busy and has trailed off.

But you have to bear in mind that some of the agreements again are local. The actor agreement and the writer agreement are both national, okay so that they . . . In other words we do this sort of mutant version by we take the Quebec association, and they plug into this national bargaining and you get this, you know, camel, if you will, that is the ACTRA agreement, or this camel that is the writers' guild agreement which has a whole bunch of Quebec language in it.

**Mr. DeWalt:** — Well in fact there's . . . I believe in Saskatchewan we primarily have three main agreements. We have the national actor agreement, we have the WGC [Writers Guild of Canada] writers' agreement, we have the directors' agreement. We also have, you know a camera agreement. That's four main agreements that we deal with.

In Quebec they have 14 agreements, so there's 14 different agreements we negotiated in Quebec within that same jurisdiction. So you can imagine the frustration trying to get a project into that province when you're dealing with 14 different agreements — very, very frustrating.

So you know, we don't want 14 agreements in Saskatchewan. It just doesn't make any sense. We're too small. We're still burgeoning. We're still growing. Let's keep it simple. And it's what's working is working.

**Ms. Draude:** — I'm wondering if it's possible to get some more recent information because, you know, when we're looking at these documents — and, I mean, I believe you when you tell me it's going down — it's nice to have it in black and white.

**Mr. Barrack:** — We've left with you a copy of *Profile*, which is our annual report, so you'll have basically the facts and figures for the industry both nationally and broken down by region and province. You have the 2006 version. The 2007 version has just come out, but at the time of preparing this we didn't have it. So we will actually send you or send to the Clerk the copies of that for the committee, and we'll give you the most up-to-date stats. That was just released last week.

But I just want to note on this, if I might just comment on this back to your earlier question. If you notice for example the actors' earnings here, you'll look at BC [British Columbia], Ontario, and Quebec are roughly in a ballpark, okay. Those are the three major production centres in this country, and if you look at where the most indigenous work is done, it is Ontario and Quebec. Most of the work done in British Columbia in fact is US service work. Okay. So again it's a straight work opportunities issue. And I would argue that whether the numbers have gone up or down, that trend hasn't changed.

**The Chair:** — Mr. Iwanchuk.

**Mr. Iwanchuk:** — Thank you very much for your presentation. I think we're trying to achieve perhaps what you are saying because you're talking about mature relationships. You're talking about people having good wages, benefits, taking care of the industry, and the rest of that.

And I guess we would like — we start out from that premise as well — we would like to do that for all of our people in the arts, but I'm not certain here because I guess if we are to establish something so that more people can enter into this, the opting out . . . I guess this is where . . . because to get more localized . . .

So I mean if we say to a sector, or a sector approaches us and says, we would like to join a union; we would like to have this minimum standards, what would you say to us or how would you say to us because, I mean, to say, well we're fine, you know, what about . . .

So I'm thinking about all the other people who might want in. Does that fragment it? Does that get you to the 14 agreements? What does that do? You know, I'm kind of confused here because to say, leave it, then we have to address the issue of everyone else working, and everyone else just can't work low budget, I guess, or you know . . .

**Mr. Barrack:** — I guess the analysis I would use to it is artists in other sectors. What the thrust of the legislation that is proposed and currently on the books is for example the idea that no one works without a contract. All right. I think that's a very, very valid point and I think that again, I don't think anyone would argue with that. I think Kevin would probably confirm that even if someone's working on a low budget production that may be quote, "non-union," that we're still on a contract. And more often than enough the performers or writers or directors, they're going to have an agent that's involved in that negotiation.

This isn't a situation of people completely falling out of a structure or not working with the benefit of a contract. But I think if you try to legislate or regulate all production to a certain price point, there is a very simple . . . [inaudible] . . . it'll evaporate, it won't get made. It'll go to Manitoba, it'll go to Alberta, it'll go somewhere else. It won't get made here. And so something like WestWind wouldn't have had the successes they've had with some things like shows like *Designer Guys* and that kind of thing if that hadn't been the case.

So I think what you're, practically speaking, talking about is there need to be budget thresholds below which, you know, there is a certain degree of flexibility. Whether that's mandated, whether that's just accepted that there is a norm that's out there right now, but there is certain work . . . If we try to say that all things are captured — and that's the Quebec model, all things are captured — what you see as a very clear outcome is that work disappears. And so you may go down that road and you may, as I say, you may have a very noble document, but a very empty one.

**Mr. Iwanchuk:** — And I guess the struggle here is that everyone has a right, you know, to form a group or an association. That is their right and so we have to address that. We understand what you're saying but at the same time if a group of people determine that they would like representation I guess that becomes . . .

**Mr. Barrack:** — I think it's funny, you know, because the analysis on . . . And I'm a labour lawyer by background. And the analysis is, what is it that, who is seeking and when are they seeking? I think the question becomes you may be in one

context for one job, if you will — because this is an independent contractor type relationship — seeking to be represented. And in another context you may be seeking, you may be looking to work on a particular opportunity. I think there need to be certain threshold standards like the idea of being on a contract.

I don't think it's a question of anyone being asked or deprived of their rights to belong to an organization. I don't think that's the issue, if you like. I think it's a question of within that you have that right. The question is, can certain productions sustain the rates that those master agreements have? Perhaps those master agreements have to evolve. But to simply put them down as that's the only grounds on which you can work, very simply will be to make that work evaporate. There's a difference between rights, individual rights, and collective agreement terms or agreement terms. I think that's really what . . . There needs to be a differentiation; they're not one and the same. So we need to be very careful when we think about that as to what impact that has on emerging producers that garner work for these artists, and the artists themselves who are growing their own talents and ultimately, as Kevin said, have become recognized. Do you want to add to that?

**The Chair:** — Thank you very much. Seeing no further questions, the committee appreciates your time. I know you've come from afar and we appreciate . . .

**Mr. Barrack:** — Thank you very much, Madam Chair, and the rest of the committee. And we'd be happy to answer any other questions at any point if you have them.

**The Chair:** — And we will have further deliberations as a committee so we just may have questions for you. So thank you very much.

**Mr. Barrack:** — Okay, no problem. We'd be happy to come back. Okay. Thank you very much. Take care.

**The Chair:** — Our last presenter of the day is from the Saskatchewan Federation of Labour. Welcome to the committee. If you could just introduce yourself. And you've handed out your submission so if you just want to walk us through it.

**Mr. Anderson:** — Yes. My name is Don Anderson. I'm the executive assistant to the Saskatchewan Federation of Labour. First I want to thank you for allowing us to be here. Secondly, I apologize that our president, Larry Hubich, isn't available. I think he's having fun. I always say when I have to do these things, I've got good news and bad news. The bad news is that our president isn't here, but the good news is that I give short presentations. And being the last of the day, well, being the last of the day.

So you have the brief in front of you and I want you to know first that we presented a brief in 2003 and I've added that brief to the back of this brief. The paging's a little wrong because of the copying, but the last half, if you like, is our submission in 2003. And really not very much has changed. The good news is that instead of the 88,000 members that we had in 2003, we have somewhere in the neighbourhood of 93,000 members today. And we applaud the notion of why we're having the

minister's review. We think that the life and well-being of artists must be improved in this province and we like that.

We don't want to talk about the bulk of the report. I guess we have some opinions and may be able to answer some questions. But what really is of interest to us as the labour federation is the whole notion of collective bargaining for artists. And in reading the final report, while you mention it time and time and time again, I don't think that the report ultimately comes down to granting collective bargaining for artists. It doesn't seem to reach it to me.

I compare it to the construction labour relations Act where if a group of workers are on a job site and the carpenters go in and sign up — 13 carpenters out of 15 — then the collective agreement that's in place in the province applies to those people. It takes . . . You've got to go before the Labour Relations Board but it's a fairly easy process. I don't think that the recommendations being put forward in this document do that. We're not convinced that the lot of the artists will be improved in this process.

We think that individual contracts between artists is important. We've heard this afternoon of artists not being paid for their work, producers running out of money leaving artists in the lurch and stuff like this. So having agreements between artists is important. But we don't think that it has the long-term effect that a good collective bargaining relationship would have. You need a procedure to solve grievances and disagreements and I'm not sure that the recommendations would get you there.

So again, we believe the process for certification should be uncomplicated and efficient. As well, we believe that the current collective bargaining rights of national organizations — and that's been addressed this afternoon — have got to be recognized. They can't just be wiped out.

I've seen some comparisons about what happened in BC. Apparently similar things have happened in Quebec. Some of that surprised me a little bit. I was looking at the numbers. I don't doubt what these folks said, but I didn't realize that there was the extent of the problems in Quebec that these people seem to think that there are. I knew that there were some wrinkles in British Columbia, but I didn't realize it was that way in Quebec. I'm going to have another look at it to make sure that it's true.

We think that there is no need to set up a tribunal or whatever to deal with the rights of artists. We think that the current Saskatchewan Labour Relations Board has much expertise in the area of collective bargaining, and we should use them.

The one group said they were worried about the extra costs. We'd be worried about the extra costs too. Why would you reinvent the wheel if there are people in place who can do this? Having said that, I was interested to hear the earlier folks from the federal tribunal talk about their special expertise. I mean, there is no doubt that there are some different wrinkles, if you like, from the traditional collective bargaining setup like I best understand.

And we also want to re-emphasise our concerns with issues facing artists. You've heard it all before but it's real — low

earnings, no real access to labour standards, or pensions or benefits or workers' compensation or occupational health and safety. And while some improvements through legislative changes can be made in those areas, we still believe that the best way to address these things is through a collective bargaining arrangement.

So in closing, we think that the right and the ability to bargain collectively with your employer will improve a worker's life. It has been proven over and over and over. And it has. There's statistics out there. These workers are better off economically, more likely to have pension plans and savings and safer workplaces.

Artists deserve to have access to collective bargaining, and of course it's up to them to decide whether or not they want to use that option. If we believe artists are important — and our federation certainly does — then we should provide them with the same rights as other workers. Teachers bargain collectively; so do doctors, and so do football players. So why can't our artists bargain collectively?

**The Chair:** — Thank you. That was nice and short. Ms. Crofford.

**Ms. Crofford:** — Yes, I don't want to get all philosophical at the end of the day here, but one of the differences between some of the groups you just mentioned and artists is that when teachers bargain collectively, they can access the public purse to pay for the outcome of that bargaining. The volunteers who are the board of the symphony don't have access to the public purse to pay the bargained wages.

So we get into a little kind of a different dilemma here unless we extend this notion beyond the notion of a small group of volunteers — as they are in the CBO [community-based organization] sector or any other sector — being employers. And I think that's what's a little bit tricky about this sector because every form of engagement is a little different. The symphony's different than the person who plays in a bar is different than the person who plays in a house concert. You've just got such a variety of employment circumstances. So I guess, do you think there should be — and boy, I really might get killed for asking this question — that there really should be some requirement that if legislation like this is implemented, that there's some responsibility by the public purse to help support the costs of recognizing the real costs of employing an artistic sector?

**Mr. Anderson:** — Well at the risk of being philosophical too, I mean we've done this in many other areas for years. And in fact if you go back to — as best I understand, — sort of artists, if you like, in Italy in the 15th century, rich patrons kept Michelangelo alive at his court and other people like this. So I mean artists have existed in some way like that forever. I mean, so why not?

And earlier we talked about, you know, farmers. Artists are like farmers. Well I'm one of those people that if farmers are in a jam and need money I support giving money to farmers. I don't like the timing of it sometimes, but I support it. And so yes, if we think as a society that it's important to have artists amongst us and to enrich our lives, then I guess we pay something for it.

So is it a formula of 1 per cent of our gross national product should be put towards the arts or 5 per cent? I mean it's up to you folks to, I guess, decide how that works, but we'd be in favour of making sure that artists earned a decent living.

**Ms. Crofford:** — What caused me to think of that was we have a pay equity process at Conexus Art Centre where the employees who work at the art centre receive some additional public funding in order to pay for the pay equity adjustment. But the artists who perform in the centre don't get that same consideration. So I'll just leave that one.

When you talk about . . . You know we do have, I think particularly with the film folks that just spoke, we do have an environment where they have a pretty long-established tradition of looking at pay and benefits and a whole range of other things. How do you meld bringing this kind of a regime into a situation where not everybody is even remotely at the same level in that discussion because they do have, as seen just even recently with the ACTRA debate, they do have a structure for getting this done.

**Mr. Anderson:** — Well I mean, I believe it's the role of you folks to provide a framework. But you also . . . I mean not everybody's going to be rushing out looking for collective bargaining immediately, so I guess you deal with the ones that come forward first. It's trial and error on some part, if you like. But again I think we say in our paper, I mean we've had some success federally. I thought we had more success in Quebec and my comments reflect that. But you know, what is it that we can learn? You know, what have they done right that we can adopt?

And if I can get just a bit personal about this, my son is an artist. He's a musician, and he does dinner theatre. And you read about the poor, struggling artist. My son, I mean, I don't think he's poor as such, but he's certainly a struggling artist. And just a week or so ago he had a second child. He's 33 years old. I don't think he's got very much money, if any, in a pension plan. It doesn't work that way.

When he was doing dinner theatre across the Western provinces, he would do two and a half months in Winnipeg, then two and a half months in Edmonton, and then two and a half months in Calgary, and the two weeks off in-between were free time. But when they were done in Winnipeg and had to go to Edmonton, they got no travel allowance, no mileage, no meals. They got time off without pay. And because we sat like an oasis between Winnipeg and Edmonton, we'd get the whole bloody troupe in our basement when they were moving. We would. And similarly when they all trooped back to Winnipeg from Calgary, we got them again. So we got to meet some nice people.

But I mean that's a heck of a way to string together an existence, and that's what they did, and of course no benefits, no workers' compensation, although I doubt that one. I really doubt that one. I believe that you can go self-insure yourself on workers' compensation. It shouldn't be that way, but I believe you can do that. But when you're self-employed, when he makes his Canada Pension Plan contributions, I think he has to make both sides of those. And of course on a meagre income to start with, you don't have very much.

Back to having collective agreements or just a contract, again I've watched him and his buddies in the bar scene. And you know, sometimes the bar owner would come up with the 250 bucks promised. Sometimes he'd say, oh we didn't have much of a night tonight so here's 100 bucks. Have another beer. But again it's hard to plan your life on that. And of course I think these are things that countless artists in Saskatchewan face on a fairly regular basis.

**The Chair:** — Anyone else? Mr. Elhard.

**Mr. Elhard:** — From your experience with your son's endeavours, when he went into those dinner theatre or bar experiences, did he have a written contract?

**Mr. Anderson:** — I don't believe he did in any of the bar situations. I think there was some kind of standard agreement they signed with the engager or the dinner theatre company. There is a contract, but it's more a liability contract for the employer than it is for him. You know if you fail to show up or if you . . . it's that kind of contract rather than anything that would provide extra coverage for him.

**Mr. Elhard:** — So there's obviously improvements that could be made on behalf of artists in that area of contractual obligation.

**Mr. Anderson:** — Oh yes, and some of the suggestions put forward would do some of that. But at the end of the day, again we'd argue that a collective bargaining association would prove much more worthwhile to artists.

And in fact you know you heard this last or the group . . . it was the second-last group talk about — no, I guess it was the last group; there's been so many — talk about their arrangement or their working ability with their unions. And that's pretty darn important, but it obviously can work. And I guess my problem is . . . I think someone over here asked, you know, how much less would people get paid? Well I mean, you've got to pay people for the work that they do. Slavery worked pretty good for somebody, didn't do very much for the slaves. I mean is this sort of the general notion in terms of how we treat our artists. And I don't mean to be too flippant about that. I mean these folks have value, contribute value and should be paid for it.

**Mr. Elhard:** — I think I raised this example once previously, and that was an OSAC [Organization of Saskatchewan Arts Councils] sponsored concert in the community of Hazlet. Now Hazlet you know probably only has 75 people living there at the best of times, but when I went up to take part in or participate as a spectator at the concert, I was one of maybe 20 people, more likely 15. And I guess one of the things that always concerns me about these discussions is how increasing or giving artists the ability to increase their pay will impact the availability of those kinds of concerts and other activities in these very small communities around Saskatchewan.

I guess I'm concerned that there might be a trade-off here, and I don't want to see my constituents, my small communities, be the losers in this whole thing. If prices go up, if contracts get higher in order to meet the financial expectations of the artist involved, who pays the price? And what price is paid by some of the smaller communities around the province? I'm troubled

by that.

**Mr. Anderson:** — Well and it's a fair question. Then the other question coming back is, should the artist pay for it? Should the artist be the person to starve to death? Should they be the person that donates their time so that your community can have a night out? I mean it's not just one way; it is both ways.

It sounded to me like . . . I mean if you do it sector by sector as people are willing to do it, because there's no guarantee that this is where people are at anyway, you'll shake some of those things out. I mean the tail end of our brief talks about how people pooh-pooed the fact that there could be collective bargaining relationships at all in all sorts of fields. I mean you can find a million reasons not to do something. Let's find some positive reasons to do this. And of course I would argue the positive reason is that I believe it will improve the life and working conditions of artists.

But again we'll go back to where I read the brief. You touch on giving the notion, but you don't seem to follow through with delivering on it.

**The Chair:** — Any further questions? Seeing none, thank you very much and thank you for your patience during the day to get us to this point. The committee will now adjourn and resume deliberations tomorrow, same place, at 1:30.

[The committee adjourned at 16:40.]