STANDING COMMITTEE ON HUMAN SERVICES

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STANDING COMMITTEE ON HUMAN SERVICES

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[The committee met at 18:00.]

Bill No. 5 — The Public Service Essential Services Act

Clause 1

The Chair: — I'll call the committee to order. Committee members, welcome this evening. We have two items on our agenda this evening. We will start with consideration of Bill No. 5, The Public Service Essential Services Act. We will recess at approximately 8:30 for a 15-minute recess, and at that time we will then switch our consideration to Bill No. 6, The Trade Union Amendment Act.

We have Minister Norris with us here this evening with his officials. And I would simply ask the minister to reintroduce his officials. I believe there may one or two new officials with us. I'm not sure. But we'll ask the minister to introduce his officials, and then I'll open the floor to examination of the Bill. Mr. Minister.

Hon. Mr. Norris: — Thank you very much, Mr. Chair, and colleagues. I would like to reintroduce Wynne Young, our deputy minister; Mike Carr, associate deputy minister, labour, employee and employee services division; Mary Ellen Wellsch, the acting executive director for labour planning and policy; and Pat Parenteau, also joining us this evening, senior policy analyst within the Ministry of Advanced Education, Employment and Labour.

The Chair: — Thank you, Mr. Minister. We have one substitution at this point in committee. We have Ms. Morin substituting for Ms. Junor. Committee members, the floor is open for questions. Mr. Yates.

Mr. Yates: — Thank you very much, Mr. Chair. We have a number of more general questions before we get into actual specifics tonight about the Bill and start going through it in detail.

You'd indicated last week when I had asked about where did the conceptual design for this particular piece of legislation and why this model was picked — it was made-in-Saskatchewan solution. When you were looking at the various models, could you give us some idea as to the type of research that you undertook and whether or not you considered models from outside our own, outside Canada and other parts of either North America or other parts of the world?

Hon. Mr. Norris: — Thank you for the question. Again, I appreciate the question. Last week I think I made reference to one's horizontal, if you want, horizon of significance. It's a phrase from Charles Taylor's book *The Malaise of Modernity*. And then there's also a vertical element, that is if you want, the organic growth out of Saskatchewan's own experience.

The question as I interpret it, just how broad was that horizon of significance? For, I think, appropriate rationale within contemporary Canadian public policy, our frame of reference was primarily Canada. The focus here relates to the jurisdictional experience of Canada, even given that as a federation our constitution provides section 91, 92, 93, and 95 with, if you want, separation of powers and also areas of concurrence. So there is this Canadian focus.

Then within that Canadian focus — and we made reference last week and I will have Mr. Carr make some additional comments shortly — just again focusing on some of the comparative research that has been done, and within that there was a focus on some specific jurisdictions. We wanted to ensure moderation. There were some key criteria there. That is, we wanted to ensure the right to strike remained. That's absolutely essential. That balances off with this notion of public safety. To remove the abstractions we can turn and point to some examples. Obviously in recent Saskatchewan history we want to make sure that highways are plowed when there's a snowstorm. We want to ensure that kids get health care they need. We want to ensure that individuals have access to cancer care and treatment through chemotherapy. So those were some specifics, and again we'll come back to that.

Another criteria obviously related to an emphasis on public services and public service providers. And that's a key element here. Some jurisdictions have it quite significantly broader than Saskatchewan does. So the focus here, and it's contained within four criteria, that is a focus on ensuring protection of lives, protection of property, protection of the environment, and significantly the functioning of the courts. Now in the courts, again, the emphasis there is to ensure protection of child custody services among other services. That's a second criteria.

Third criteria that we looked at related to negotiations. That is, how do we ensure that employers and bargaining units have the opportunity or — if you choose certainly a term that I favour is — are enabled. This legislation is meant to enable that those parties actually have the opportunity, in fact an imperative, to come to their own agreement, their own essential service agreement.

That's why within the legislation, long before there's a labour disruption, there's a 90-day threshold where it's anticipated that the parties will have an agreement in place. If it isn't, there's a second threshold. That is within 30 days. That 30-day threshold allows for the bargaining unit to request from the employer the list. At that point again the intention is that there will be every opportunity to actually come forward and derive a consensus regarding essential services.

There's then the provision within the legislation that if there is continued disagreement . . . And I think it's worth noting here, because it actually gets back to the root of the question, it's worth noting that within the Manitoba model, what we've seen is that over the course of 12 years only a few cases have actually been referred to the Manitoba Labour Board. So what we see is . . . what happens is a change of culture or expectation.

So those are three key criteria that we looked at, again reinforcing the moderation and the very fairness of this essential service piece. And quite honestly we were drawn, our attention was drawn in from looking all across Canada. We've drawn in to the experience of Manitoba where both a Progressive Conservative Party and a New Democratic Party have upheld their essential service Act. We found it fair, reasonable,

moderate, that it has enjoyed bipartisan support in Manitoba. And for the key criteria that I've focused on — that is, the right to strike remains; that is, a very narrow focus; that is, the imperative for the parties to negotiate — we really used Manitoba as a very informative model for us.

Obviously if that's the horizontal piece that I've just simply laid out, then we also obviously are informed . . . And my legislative colleague highlighted this quite correctly; there is a significant made-in-Saskatchewan component. That is, being informed by some of the best practices from across Canada, then what we've seen is this organic piece within Saskatchewan. And so drawing on some of the specific experiences within contemporary Saskatchewan, obviously we've been informed by a number of those elements.

And I won't go into detail with them. I will just simply reiterate that we've had some recent experiences. Obviously most recently we've had the CUPE [Canadian Union of Public Employees] strike at our two universities. That affected health care for scores of people in Saskatchewan. And a couple of weeks ago the dean of Medicine at a public forum noted that they're still feeling the reverberations and implications of the strike.

Then we can go back a little bit further to the SGEU [Saskatchewan Government and General Employees' Union] strike in January 2007 where there was a threat where snowplow operators may actually move, move to labour disruption at a time that would cause great disruption, concern, and threat to safety. Then we can go further into that strike and we can see that, you know, obviously RCMP [Royal Canadian Mounted Police] officers from Alberta, from Saskatchewan, Manitoba, along with out-of-scope staff from the government were called in to keep the province's correctional centres operating. And I've made reference to certainly one of my colleagues, the member from Prince Albert, who has had some experience and has offered some vivid anecdotes to me and several of my colleagues.

Obviously we can go back to 2002 where we've seen that chemotherapy, there was at one point only one out-of-scope pharmacist who was shuttling back and forth between Regina and Saskatoon doing the very best that any single person could to try to ensure that chemotherapy and cancer treatment was available to the people of this province.

We turn to those instances, and as we look horizontally again across Canada with a focus to Manitoba, then as we look vertically within the Saskatchewan experience, I think we've come to a point where we can turn and say in a comparative sense using the Canadian frame and Canadian federalism as a reference, then as we look, if you want, vertically or through our recent history, we can see that it's peculiar that Saskatchewan doesn't have an essential service legislative piece already in place.

And what we said in our platform, what we campaigned on is that we would ensure essential services within the Canadian context that's done through legislation. Mr. Chair, it's done through legislation. That legislation has been informed through comparative context. It's been informed by Saskatchewan's recent history — if you want that horizontal and vertical nexus that has come together — and in our opinion provided a foundation and framework from which we then drafted the legislation.

What we said is that we would draft the legislation. We would table the legislation, and then we would hold consultations. These consultations, they included over 80 letters of invitation being sent out. We had ads in nearly 100 newspapers. Between the deputy minister and myself, we met with nearly 100 individuals in 20 meetings. And based on those consultations, again drawing on this made-in-Saskatchewan approach, what we listened to from right across the policy community and what we were informed by through this helpful dialogue led us to offer some recent amendments.

And I won't go into great detail. It may be the subject of some future questions, but it is to turn and say we offered five amendments. We felt that these would clarify and strengthen the intent of the legislation and also further assist all parties in knowing about their rights and responsibilities under the legislation. And again, I won't get into the detail of those. I'm happy to do that at another time. But I hope this initial response, if you want, provides an initial overview — if you want, an impressionistic overview — of how we've come to this point today.

The key element here is, the key element here is, as we look across Canada, almost every provincial jurisdiction has essential service legislation in place. That is, people want to be sure that that right to strike is balanced with or is contextualized by public safety. And that's absolutely essential, and that's why we're moving forward on this Bill, Mr. Chair. And I appreciate greatly the opportunity to answer, at least with an initial overview, that question.

The Chair: — Mr. Yates.

Mr. Yates: — Thank you very much, Mr. Speaker. I thought I had the record on filibustering. I think I got a challenger . . . [inaudible interjection] . . . Oh boy he's headed for trouble then.

My next question is, as you looked at . . . You made some reference to Manitoba. But as you looked at the various practices across Canada, did you also look at the outcomes? What the relative outcomes were — number of disputes, amount of days on strike, all that type of stuff? As you were doing your comparative analysis, to see not only where the legislation . . . how it was designed, but what the outcomes of that particular legislation was and its impact on the provinces?

Hon. Mr. Norris: — If I may and then I'll consult. I think the element of the outcomes, if I've understood correctly, also relates to the efficacy and effectiveness of the legislation . . . [inaudible interjection] . . . Okay good. Thank you.

Thank you, Mr. Chair. Again we appreciate this. As that horizontal comparison was under way, obviously we did begin to focus within some specific jurisdictions. As I said, Manitoba certainly captured our attention, captured our attention. As I've suggested, there's a bipartisan spirit within Manitoba regarding the essential service piece. That was something that caught our attention.

As I said as well, there have only been about three cases referred to the Manitoba Labour Board over the last 12 years. And that was significant to us because what it reflected was that parties in Manitoba picked up that spirit, picked up on the imperative that they were responsible for negotiating their agreements.

And as well, obviously we did some additional research regarding the Manitoba model and provided some helpful data for us. That is, another example would be — and again we may come to this in more depth and detail in the pursuing dialogue, which I welcome — it's to turn and say that there is an example, let's say, around categories or classifications. And what we were able to also find there, as a representative example of the relevance, where it was instructive for us to see how a case from 1998 had actually been resolved looking at some specific classifications and categories.

So that's mostly where our efforts were. That is, this broad comparative piece, we began to narrow our focus. Our research then began to drill down based on that Manitoba model. And so we would be most informed about the jurisdiction just east to us. And again perhaps not surprisingly I think there's also this shared sense of place that we have as far as being Prairie provinces and part of being the West.

What I may do is, I may just invite Mr. Carr to offer some, I guess, specific insights because if I'm not mistaken there may be an element here again regarding efficiency, effectiveness, and efficacy, where there may be some linkage or what David Hume might have called a necessary connection between the variable of having essential service legislation and perhaps some other outcomes. And I won't prejudge where that question is, but it is to, it is to turn and say that having the presence of essential service legislation would simply be one variable or factor within a broader labour relations milieu within any given jurisdictions. But on that, before we go further on that, I will ask Mr. Carr to just comment.

Mr. Carr: — Thank you, Minister. As we undertook the comparisons within the ministry to form the approach that we were going to take with reference to drafting, we looked at all of the provincial jurisdictions across the country and we looked at it in the context of looking at traditions in Saskatchewan. For example in referencing the Manitoba experience and looking at that particular model, there was a specific application in the Manitoba model that we determined not to go with, and that had to do with outlawing strikes in the police and firefighters arenas, as well as elementary school and secondary school teachers. And that simply demonstrates again that as our policy and planning group was going through the exercise of looking at the interjurisdictional comparisons, we were looking at what would be fitting in the context of Saskatchewan.

Mr. Yates: — Thank you very much. During these consultations were there any meetings or any direct contact with officials from Manitoba or other jurisdictions to get their views on how it was working from their perspective?

Hon. Mr. Norris: — Thank you, Mr. Chair, and I appreciate the question from my colleague. I'm very happy to report that there has been — what I would make reference to, a dialogue — a dialogue with Manitoba regarding essential services. This dialogue, all situated, has had three levels of reference or analysis. It has included our direct contact with the registrar of the Manitoba Labour Board and probably in and around three times directly there.

As well we've had direct contact with the relevant ministry at a working level. And the tone of that dialogue — before I get to the third level of analysis — has been focused on the application, if you want, speaking directly to the effectiveness of the Manitoba legislation. Within the ministry the dialogue focused on a couple of key elements, that is elements of the framing of Manitoba's legislation which has been very helpful, and also drawing on some of their subsequent experiences. And so again those insights are offered from two levels of analysis.

I've also had the opportunity to speak generally with my colleague from Manitoba. Not too long ago there was a ministerial meeting held in Quebec City and I was able to have rather informal dialogue with my legislative colleague in Manitoba just speaking generally about some of the elements of our legislative program. I also had the opportunity to speak with other ministers responsible for labour in Canada at that Quebec City meeting and it was very, very helpful.

For example, I was able to speak with my colleague from Nova Scotia and to find out some of the challenges he confronts sitting within a minority government setting, as he looks at the essential service Bill that they've put forward and tabled. But that perhaps has taken a slightly different trajectory within that broader minority setting than perhaps he anticipated.

So again in summary, there is a well-established dialogue with Manitoba. I would put the primary emphasis on two out of three levels of analysis, one focusing on the Manitoba Labour Board, the other focused within the relevant ministry. And on a more ad hoc basis, I've also engaged in some informal dialogue recently. But the dialogue especially at the first two levels of analysis has been helpful regarding the application or what we may call here effectiveness, efficacy, as well as the framing of the legislation. And if you might like to call that the Manitoba experience with essential services.

Mr. Yates: — Thank you very much, Mr. Chair. My last question on this particular area is, has any of this contact or discussions occurred since February 1 of this year? I understand there's been some developments since February 1. I'm just wondering if any of it's occurred after February 1.

Hon. Mr. Norris: — The dialogue with Manitoba, obviously there was an emphasis towards the end of last year, but I'm happy to report that as recently as Monday part of this discussion and dialogue has been under way.

Mr. Yates: — Thank you very much, Mr. Chair. My next questions, couple of questions have to do with . . . The minister may or may not be aware that in the last round of collective bargaining with the public service bargaining unit, SGEU, they came to an agreement as part of a settlement recommended by an arbitrator, Mr. Vince Ready, that they would in fact work through and put in place essential service within the public service. May or may not be aware that it was the union that put the proposal on the table — which is fact.

Now that process is started, but has some considerable work to do. I think they've had some preliminary discussions. And in Public Service Commission estimates the minister and his officials have indicated the union put 1,900 jobs — you know, something like that — and the employer put 2,600 and, you know, they're sort of working their way through.

Now with the upcoming legislation, is that process going to be allowed to be completed? And will that process be adhered to if they come to an agreement?

Hon. Mr. Norris: — I appreciate the question. We'll be back in just a couple of minutes.

While I will refer eventually to Ms. Young and Mr. Carr, I think this is a helpful example. And without speaking to the specifics, obviously SGEU recently resolved a dispute with CEP [Communications, Energy and Paperworkers Union of Canada] and that had been outstanding, but thankfully that's been resolved. The negotiations with the Public Service Commission, again I won't get into specifics, but I'll say it's this kind of initiative that we hope to see across Saskatchewan. That is, the spirit of the essential service legislation focusing on public safety, and that balance with the right to strike.

The key here is enabling. And so if parties . . . Again I'll take it out of the specific context, if I may, recognizing the good work that is under way. It's to turn and say, if parties, that is if employers and bargaining units already have or are moving towards an essential service agreement, then in fact the spirit is actually being upheld. That is that's what the legislation is really meant to reinforce.

This becomes ideally a part of Saskatchewan culture. That is the right to strike remains, but it's mindful and it's balanced with that priority on public safety which is absolutely essential for Saskatchewan to move forward. I will have Ms. Young and Mr. Carr offer some additional insight.

Ms. Young: — Just probably a couple of additional points. Certainly the PSC [Public Service Commission] fully understands the position they have and the unusual circumstance that they're in, and they are now considering how they may choose to proceed. This really is an opportunity for them to jointly consider with the SGEU how they might move forward. They do have obviously some time in which to do this and their collective agreement is in place until September 2010, and so that allows them to move forward in a thoughtful way.

I guess the other party in all of this is Mr. Ready. And that, I do not know if he has been contacted, but of course Mr. Ready may have views on how it ought to proceed too, and if that's the case I'm sure he will weigh in with both parties when the time is right.

Mr. Carr: — Thank you, Minister. I really have nothing more to add. I think that you've underscored very well our intent and purpose with the Bill as to encourage the parties to reach essential services agreements.

Mr. Yates: — Okay. Thank you very much, Mr. Chair. That wraps up my questions. I'm going to turn it over to my colleague.

The Chair: — I recognize Ms. Morin.

Ms. Morin: — Thank you, Mr. Chair. I want to start off with a few more questions about some of the comparisons with other provinces. It's my understanding that BC [British Columbia], Manitoba, Ontario, and Quebec don't have universities included in their essential services legislation — or municipalities. Can you confirm that?

Hon. Mr. Norris: — If I may, Mr. Chair, I'm wondering if we could just get those provinces repeated and we will just write them down.

Ms. Morin: — It's British Columbia, Manitoba, Ontario, and Quebec.

Hon. Mr. Norris: — I'll turn elements of that question to Ms. Wellsch and Mr. Carr, but I want to just make reference to British Columbia. British Columbia has a very broad interpretation of essential services and so the specific phrasing I'll leave to Mr. Carr, but I will turn and say the focus on specific institutions in British Columbia, it appears, can be determined almost case by case. And I'll turn the specific details to your comparative question over to my two colleagues.

Mr. Carr: — Thank you, Minister. With reference to British Columbia, the legislation applies outright to all government employees and Crown corporations. It then goes on to state that in British Columbia any service that if disrupted can be designated an essential service. If a strike or lockout has not commenced it cannot occur until essential services have been worked out. If a strike or lockout occurs and is in progress it can continue only as long as essential services are provided. The Act does not specifically reference disruption in educational programs but there's no reason to believe that in certain circumstances it could not be applied.

Ms. Wellsch: — I will add that you're correct about municipalities and universities for the most part — except in Quebec municipalities are actually covered, and it lists a municipality or intermunicipal agency in the Quebec legislation.

Ms. Morin: — Thank you. So the amendments to the Act seem to be fairly large in terms of their encompassment. So for instance the concern now that I'm hearing is that there will be an increase in liability on employers now if they don't deem the correct group of employees an essential service component. So are you finding now or does — how should I say it? — does the Act and now these amendments confirm that employers are potentially liable for any and all harm to the public or customers or clients if they don't provide adequate or sufficient essential services during a strike?

Hon. Mr. Norris: — If I may, I'll address this by looking at a fundamental element or premise of the question, and that premise is that the determination of the provision of essential services would be unilateral. And the legislation is very clear — again, the goal here in protecting public safety and balancing the right to strike — it's to enable the employer and the bargaining unit to reach an agreement or consensus on essential services. What this does for the question, and the process without getting into a lot of detail again, the process is where a

90-day threshold comes and ideally there's an agreement in place. There's time to work out that agreement. There's a 30-day threshold at which time the bargaining unit has the right to request a list from the employer.

Again there's an opportunity to negotiate, to come to an agreement. If an agreement can't be reached it would go to the Labour Relations Board. So this addresses a fundamental premise of the question and that is that this is somehow unilateral action or based on unilateral action by the employer. And that just simply isn't the case. This is a negotiated agreement.

The key element here is that the legal environment wouldn't change. And I will have both Mr. Carr and Ms. Wellsch just speak to it. Ms. Wellsch will just highlight, if you want, the continuity within that legal environment. And Mr. Carr will more broadly contextualize what that dynamic looks like just to reinforce that the key premise, again the key premise here is that this is not about unilateral action by the employer. This is actually about negotiated agreements between the parties. On that, Mr. Carr.

Mr. Carr: — Well from a general context, Minister, I would say that having spent a lot of time around bargaining tables I can't envision the context within which the legal environment would give rise to a tort, based on the fact that the parties are there trying to reach a collective bargaining agreement. And if they're acting in good faith towards the establishment of that collective bargaining agreement, any agreement they reach in advance of that around essential services would have the same criteria. So in my mind it would be unlikely that there would ever be a cause of action that would arise out of essential services bargaining.

Hon. Mr. Norris: — Ms. Wellsch.

Ms. Wellsch: — Thank you, Minister. That being said, anybody, anybody who feels that they might have a claim for a lack of services is always entitled, in our court system, to bring their claim. The defendant defends it and it's entirely speculative without having some precedent to know how it would be decided. The legislation is certainly not intended to change that in any way.

Ms. Morin: — Let me paint this picture. So the parties can negotiate an essential services agreement. If the parties don't negotiate an essential services agreement, the employer than can deem what that essential services agreement would . . . I mean, what that package will look like.

Hon. Mr. Norris: — If I may, it's just an empirical correction. Again the premise is on unilateral action by the employer. The default is not back to the employer. The default is to the Labour Relations Board; that's the, if you want, the dynamic. There's a nexus here. So we have a 90-day threshold, a 30-day threshold. At the 30-day threshold, the employer provides the list to the bargaining unit. Again there's scope and room there for an agreement to still be reached, or there's recourse, a 14-day window to go to the Labour Relations Board — all of this done well in advance of even a potential labour disruption.

This stands in stark contrast to what happened during the recent CUPE strike. That is during the recent CUPE strike, as we saw a spilling out on to the pages of the press and in the media, what we saw was the labour disruption was already under way and the negotiation over numbers was overlaid during those early days of the labour disruption.

This actually is set up, the legislation sets in motion a framework within which these, the opportunity for agreement is done well in advance; that is there's a 90-day threshold. There's a 30-day threshold. There's a two-week parameter within which the LRB [Labour Relations Board] offers a decision. All of this done in advance.

The key to this dynamic, the key to this is that this is not unilateral action. It's not unilateral action by the employers. It's not unilateral action by the employees. This is fair and balanced. It's meant to ensure there's a degree of predictability, stability, security, again moderation. The right to strike remains.

Again we see the need for negotiation. That imperative is in place. We see a narrow focus being in place. So we see this legislation not premised on unilateral action but premised on that nexus of negotiation. And that's a key element of what we are dealing with here.

Ms. Morin: — Let me try this because I'm not sure we're on the same page. So the employer has a legal obligation to designate if no agreement can be reached. The union has no legal obligation to agree to provide essential services under this legislation. Is that true?

Hon. Mr. Norris: — I think there's a fundamental element or a question relates to compliance, if . . . That may be a key part of your question. If not, then we'll back up and go through this again. But the notion of obligation is that the parties will come, ideally they will come to this agreement well in advance of any labour disruption. And so the significance, the significance here is the bargaining unit — and again this is where the significance of some of the research that we've done — the significance here is only three cases within the last 12 years in Manitoba have actually been referred to their Labour Board.

So what we're dealing with is even the propensity for the partners, for the parties to negotiate that agreement. The bargaining unit can and has the authority within the Act to then go to the Labour Relations Board within Saskatchewan. So the employer offers a list. It's a 30-day threshold. The bargaining unit can either agree, disagree and negotiate, or refer the matter to the Labour Relations Board. That key dynamic from there, once the agreement is in place, then there is a duty to comply within the Act. What I'll do is I'll have, again, between them, Ms. Wellsch and Mr. Carr make reference to what that dynamic is. But the dynamic is premised on, if you want, that negotiated settlement. Mr. Carr.

Mr. Carr: — I think the point to be made lies in section 9 of the Act. Again:

> A public employer shall serve a notice on the trade union in accordance with this section if:
>
> > there is a work stoppage or a potential work stoppage; and

(b) there is no essential services agreement concluded between the public employer and trade the union.

A notice required pursuant to this section must set out . . . [a series of factors].

But the essential point here is that once that notice has been served, then there must be compliance by the trade union and by the employees who are deemed to be essential.

Ms. Morin: — There is no legal obligation for the union to go to the Labour Relations Board though, is there?

Hon. Mr. Norris: — Certainly the experience, as we make reference in Manitoba, is that the overwhelming experience is that the parties negotiate. There have been three instances in the last 12 years where elements have gone to the Manitoba Labour Board and the Labour Board has ruled.

But your question if I may, and perhaps I'll get the terminology wrong, but if there is a passivity from the bargaining unit — that is if the bargaining unit de facto accepts the employer's list — then, you know, one then turns and says that becomes the agreement and that's what would be carried out.

Maybe I'm missing an element of the question here, but it really is premised upon the bargaining unit — you know, again based on what's happened in Manitoba — serving the interests of its members and being an active and engaged participant in those negotiations.

Perhaps I'm misinterpreting. Is there a notion of passivity, that is where a bargaining unit here would just simply accept de facto the list, which may occur? I mean, it's not to rule that out but then that would become an agreement in and of itself and if I'm not mistaken. Mr. Carr.

Mr. Carr: — Certainly, Minister. I think that the example that's being described, the situation would be that the employer has put forward the list. The union may say, that's your list; fine. Then the employer is under the provisions of the Act able to then go forward and notify the employees on that list that they are in fact deemed as essential and then there will be a requirement for compliance. And failing compliance there will be the remedies under the legislation.

Ms. Morin: — Thank you. There may well be a situation where a union would agree simply to an employer's list but I doubt highly that that will be the case. Actually what I was referring to was more so with respect to the House amendment. So if a union and an employer don't come to an agreement as to what the essential services agreement should look like, what the package should like, the onuses then falls on the employer to designate what services will be essential. Is that correct?

Hon. Mr. Norris: — The question, if I understand this again, if I have a very specific reference here and that is the employer provides a list. The bargaining unit considers that list. There are two routes. That is, there is an acceptance of that list and as you say that may or may not happen — one wouldn't want to prejudge — or there's an opportunity to then turn and say it's not back to the employer is the reference; it goes to the Labour Relations Board. That's the significance. So the ruling would come not from unilateral action from the employer; it would actually go to the Labour Relations Board.

Ms. Morin: — So in the intervening period before the Labour Relations Board then makes a ruling, the employer would be designating which services would be essential and which would be provided in what realm. Is that correct?

Hon. Mr. Norris: — Again I'll ask the officials to comment in more detail, but the significance here is the frame offers considerable opportunity for the agreement to be reached, an agreement to be reached between the parties long before there's any labour disruption. So that's the significance of this framework.

The specific scenario that you are speaking to or about is if there is a labour disruption — if I've got this — if there's a labour disruption under way without an agreement. Is that . . . Okay. Then from there the Labour Relations Board, if this is the course of action, would have a two-week window, a 14-day window upon which to make a decision. The intervening time, the employer list stands. But the significance again is all of this is meant to be done well outside of any potential labour disruption, thereby helping to ensure greater predictability, stability, public security, and public safety being balanced with that right to strike.

Ms. Morin: — Thank you. So because of that, I would assume that the employers would at any time want to assume the least amount of liability possible in their, with respect to their employments, their businesses or employment situations or whatever it is. So if the onuses of liability then falls upon the employer, why would an employer then not deem 100 per cent of its workforce as essential in order to cover off liability so that in the event that a situation occurs during the dispute that they could then absolve themselves of, well to the extent of a liability that would be incurred through the means of not having properly designated what part of the workforce needs to be essential?

Hon. Mr. Norris: — Thank you. I think the significance of the question actually helps to highlight an element of significance and continuity within the legislation and within the labour relations milieu within Saskatchewan, and that is the duty to bargain in good faith. And that duty remains and would remain through such negotiations. And I'll have Ms. Wellsch and Mr. Carr also speak to the contours of what that duty to bargain in good faith looks like.

Mr. Carr: — Thank you, Minister. In practical terms the parties again are entering into discussions as a precursor to collective bargaining to renew or establish a collective bargaining agreement. As they're engaged in discussions around essential services, those discussions are going to continue in the same spirit and good faith required to reach an agreement at the main table on the issues of renewal and continuation of the collective bargaining agreement. In a situation where one or the other of the parties fails to act in good faith, the remedies remain in the context of the Labour Relations Board to apply a remedy when one or the other party applies for an unfair labour practice review.

In practical terms, the other fundamental issue here is that

liability exists based on what the enterprise is engaged in. And it continues before, after, and during collective bargaining. So the suggestion that any action by a party, whether it's the employer or the trade union, would be affected by a consideration of liability is rather unusual in the context of collective bargaining.

Hon. Mr. Norris: — Ms. Wellsch.

Ms. Wellsch: — I don't really have much more to add. In the context of an unfair labour practice, both sides will have to present their evidence as to what happened and why. I can't begin to assess what the Labour Relations Board would do with an allegation that an employer was over designating in order to avoid liability. That would be complete speculation.

Ms. Morin: — Well actually, I'm actually responding to some current concerns that have been brought to me by some employers actually. So in this situation for instance, I mean it's always better when there's an agreement that's reached between the two parties. There's no question about that. But ideally speaking we'd like to see that, but that doesn't always happen. I mean it's not a perfect world. In this situation with respect to essential services agreements, because there is an onus on the employer to designate in the event that an agreement cannot be reached and if therefore a union would have to comply, that would then mean that the union cannot be liable because they are simply complying to a designation that is made by the employer in the interim. Would you agree with that statement?

Hon. Mr. Norris: — Thank you. We'll just . . . we'll review, but if I could just get clarification. Again this is a hypothetical that's being spelled out. Within this hypothetical frame of reference, what charge of liability do you envision? I'm just trying to get a clearer sense of that.

Ms. Morin: — Everything that we're talking about with respect to this legislation is hypothetical. We're hypothetically hoping that agreements can be reached, but in some cases they won't be able to be reached. So in the event an agreement can't be reached between an employer and the union, it is the employer's responsibility to designate then, in the interim before a ruling has been made by Labour Relations Board. Because the union has to comply with that designation by the employer, it then means that there is no liability on the union if something happens in terms of an event or situation during that dispute, if the essential services aren't properly designated, that would have caused that situation to have occurred.

Hon. Mr. Norris: — I'll just begin before referring the matter to my colleagues. The claim, or question, query — if I've got it correctly — was premised that this is a hypothetical question. And then if I understand correctly, that there was a response that in fact this is hypothetical. And I guess what I'll do is I'll start by saying the Act, this is not hypothetical. This is an anomaly that Saskatchewan does not have an essential service agreement. It's an anomaly within the Canadian context. The Act is very purposeful. It's moderate. The right to strike remains, but that emphasis on public safety is there.

The models that we can turn to from other jurisdictions in Canada — and this is the federal government, Manitoba, Ontario, Quebec, New Brunswick, and Newfoundland — require a bargaining unit and an employer to negotiate an essential service agreement. And ours does that same thing — not hypothetical. It's enabling.

The significance of that is to turn and say the process is one that is transparent. It's one that is prudent. Ninety days out, ideally there's an agreement. There's a second threshold in case that agreement can't be reached. Again 90 days out of any potential labour disruption. Thirty days out an employer offers a list. The list then goes to the bargaining unit. The presumption with the query, if I've understood it correctly, is that the bargaining unit would then do nothing with the list. It wouldn't serve the interests of its members.

This is a rather unusual scenario. The notion then out of this very unusual — maybe even fantastic — scenario is then drawing down into questions of liability. And there are some key elements here relating to duty to bargain in good faith with reference to unfair labour practices and reference to the LRB on those claims alone, never mind outstanding issues. And I'll ask my colleagues to spell out — again on a couple of different angles — what this, what this scenario would look like.

But I just certainly for those not in the room, this is, this is a very, very peculiar idiosyncratic scenario that's being spelled out. And I'll turn it over to my colleagues to actually respond to this.

Mr. Carr: — Thank you, Minister. Again simply to state that the process is one that contemplates full, free, and fair collective bargaining, contemplates that parties of goodwill will engage in a series of discussions to work out a solution to an essential services agreement. And certainly that requirement, under the legislation, imparts two things. It imparts a duty both on the union and on the employer, but it also empowers the Labour Relations Board to apply the same remedies currently available with respect to a duty of fair representation application or an unfair labour practice application.

So it seems to me that from practical standpoint, the parties are going to do their darndest to arrive at an agreement and that if the employer is at a position where there's an impasse and no agreement is present and produces the list, I fully expect that there will in the vast majority of cases be a response by the affected trade union representing its members' interests by proceeding to the Labour Relations Board for clarity and resolution.

If the union for its own tactical purposes decides to abdicate that responsibility, then there are two potential consequences in my view. The first would be that the list stands and is enforceable in the normal course of business. Employees on the list are notified that they've been deemed as essential, and in event of any dispute they take the appropriate action by coming to work and performing their duties.

The other option is that the union finds itself subject to application brought by its own members to address those issues through the Labour Relations Board and a duty of fair representation application.

Ms. Morin: — Thank you for that answer but the question has been taken completely out of context. I didn't say that the union

was going to abdicate its responsibility in negotiating an agreement for essential services. Those are, with all due respect, Mr. Minister's words and the assistant deputy minister's words. Those are not my words.

I'm saying that in the event — because we don't live in a perfect world — in the event the two parties can't come to an agreement on what should be deemed essential services or how many people should be assigned to those essential services, that would mean that there would be an impasse in those discussions around getting that essential services agreement.

In that case there would have to be a designation by the employer as to what essential services would be deemed and what parties would be applied to those essential services. Given that the liability then falls solely on the employer, do you agree that that would be something that the employers might be nervous about because they're the ones that have to make the designations? So they're the ones that would then assume 100 per cent of the liability in the event that something would happen during the dispute if they did not properly designate the essential services that should be applied.

Hon. Mr. Norris: — Thank you. I will defer to Ms. Wellsch. But I think there is a very strong consensus, in fact I would phrase it, there would be a leap to link this dynamic to any element of liability. And on that, rather than go through again this dynamic and the significance of the LRB, maybe you can highlight both the LRB and perhaps some court processes may be relevant as well.

Ms. Wellsch: — When we're speaking of liability for an unfortunate event that occurs, I think we're probably talking about the court process in a negligence suit. And in that case, it would be whoever was harmed by the alleged lack of provision of essential services would bring a lawsuit. And who they might name as defendant will be up to them. It could be the employer. They could also name the union.

If you're suggesting that the union has a complete defence by the fact that the employer is the one that has produced the list and that the union is simply complying with it and is not responsible for the ultimate list, I don't know if we can go that far to say that they have a complete defence.

Ms. Morin: — Thank you. That's a fair answer. I know that those are decisions that have to be made in the courts. But like I said, I think that will be one that would be interesting in terms of when and if that situation did occur.

Given that situation though, if the employer even had an inkling that there might be an increase in liability if the designation isn't properly made — this is where I'm getting back to; we're coming back full circle now — the employers would potentially then be more inclined to deem 100 per cent of its workforce essential in order to stave off the possibility of liability being increased through a situation that might occur in a dispute if they don't properly designate. Would you agree with that?

Hon. Mr. Norris: — It indeed, in an important sense, it does take us full circle. That is, the bargaining unit in such a scenario — and this again is a hypothetical scenario — the bargaining unit is going to serve in all likelihood . . . Again as we look to Manitoba, three cases, only three cases have even been referred to the LRB. The others have been settled through negotiation. But the bargaining unit is likely to serve the interests of its members.

The parameters within which each party works, bargaining unit and employer, works within the parameters of the duty to bargain in good faith and duty to ensure that it is not overstepping notions of unfair labour practices, at which time there are remedies in place that limit that behaviour.

So it does take us back. That is, the question of liability is a leak, is a leak. This is something that is certainly . . . The Essential Services Act as proposed will not affect the legal milieu within which these negotiations and discussions are under way. There is continuity within the legal setting. Mary Ellen.

Ms. Wellsch: — If the question relates to what goes on in the mind of the employer when they're designating their essential services, I imagine it'll be different for everyone. If they are tempted to pad the numbers a bit, I mean certainly there are processes within this Act and within The Trade Union Act to keep control of that.

Ms. Morin: — I appreciate what you're saying with respect to there are other provinces that have essential services legislation, but there are many nuances of differences between each one of those pieces of essential services legislation. I'm sure the minister already knows that.

I'm curious. You say that there are three cases that went to Labour Relations Board in Manitoba. Do you know who brought those cases to the Labour Relations Board? Were they employers or employees? . . . Or unions, sorry.

Hon. Mr. Norris: — I appreciate the question. I will have those three cases that were ruled on. I think the dates are significant. It demonstrates a degree of predictability in Manitoba. CUPE Local 3644 v The Middlechurch Home of Winnipeg, July 2, 1998, in which it was declared that 35 per cent health care assistant duties to be non-essential and reduced the numbers from 56 to 36.

UFCW [United Food and Commercial Workers] Local 832 v St. Boniface General Hospital, March 30, 1999. It was determined that the labour board does not have the jurisdiction to order management employees to perform work during any work stoppage, order the employer to produce lists of volunteer or replacement worker's names and addresses, and declare the essential services determined by the employer to be non-essential.

SEIU [Service Employees International Union] Local 308 v St. Adolphe nursing home company limited, March 29, 1999. And it again made reference to varied numbers of workers within five categories.

Those are three rulings. I think the significance of this is, here was a rather orderly process conducted through essential services within Manitoba, in and around the time where Saskatchewan was having its own labour disruptions within areas of health care. And the NDP [New Democratic Party]

government of the day legislated nurses back to work and it . . . I think the fact that we make reference to three cases in 1998, '99, and '99 again, demonstrates those are three rulings, demonstrates just the significance of the essential service piece within the Manitoba context.

It's as we look back over the CUPE strike, as we look back over the SGEU strike, both in 2007, as we look to the 2002 Health Sciences Association of Saskatchewan strike — again it was where the chemotherapy provision was in jeopardy — and then of course we go back to the 1999 strike, I think it reinforces the significance of the Bill.

That is, the Bill is meant to offer fair, balanced, moderate legislation that protects public safety and at the same time balances that with the right to strike, offers the parties an opportunity to negotiate — that is, it is up to the parties to negotiate the agreement — and focuses on issues and areas of public services. So the scope, the means to negotiate the agreement and maintaining the right to strike, here's a piece of legislation that has within it the opportunity for Saskatchewan to move in to a far more predictable, stable, safe and secure labour relations environment.

Ms. Morin: — Thank you, Mr. Minister. So the Act requires the union to comply with the employer's unilateral designation even if it disagrees. So there is no unfair labour practice to do what the Act requires which is comply with the employer's unilateral designation. So are you saying that employers can go to Labour Relations Board to force the union to agree with the designations?

Hon. Mr. Norris: — It's here and it's to counter the question and turn and say quite simply no.

The significance is placed on the Labour Relations Board. The three cases that I've just drawn reference to regarding the Manitoba context actually offered the Manitoba Labour Board being mindful of and attentive to requests from the bargaining units . . . And so I'll ask Mr. Carr to articulate more fully, but the significance here is on the Labour Relations Board. That is the key element. The key element is the unilateral action is not unilateral action. The unilateral action is not an element that is a defining feature here. The defining feature, it's the feature that — once again I'll repeat for the record — the federal government, Manitoba, Ontario, Quebec, New Brunswick, and Newfoundland require the union or bargaining unit and the employer to negotiate an essential service agreement.

This is exactly the frame of our legislation. This is about the parties coming to their own agreement. The reference, the reference is then to the Labour Relations Board in the parlance of political science. I mean, the check is back to the LRB. That's the element here. I'll ask Mr. Carr to just help, perhaps again put a slightly different hue on the conception. But it's quite clear.

Mr. Carr: — Thank you, minister. The process set out in the Act is very clear with respect to what will happen in the vast majority of cases where the parties can reach an agreement on essential services. Those circumstances where there's a failure to reach agreement and the list is the employer's list and it goes forward to the Labour Relations Board . . . the union will not, in my mind, be engaged in an unfair labour practice for having failed to agree to the list. But there will be a remedy sought if they have not gone to the Labour Relations Board.

The list is there and is activated at the point of a dispute. And individuals, who have been designated, fail to report to their designated duties as an essential services worker, in those circumstances, the first point of remedy under the Act will be to fine the worker and then to engage in a process under the Labour Relations Board because I'm sure at that point, the remedial powers of the board will make a determination as to whether there is an active undertaking by the union to have its members defy the list.

Ms. Morin: — What clause in the Act depicts that a party must go to Labour Relations Board in the event that there is no agreement that could be reached?

Mr. Carr: — The simple requirement is that the Act speaks of "may." The issue is entirely in the hands of the union as to whether they wish to bring application before the Labour Relations Board. As I've mentioned in previous information, if there is a failure by the union to take that process up, there may be risks that its members will hold it account for.

Ms. Morin: — So we've come to find now a few concerns with these new amendments. We've now found that the employer could potentially incur a higher liability. We've now found, as per your version, that there may be a problem with duty to fairly represent in terms of the unions. And we've also discovered now that there really is no onuses on anyone going to go to the Labour Relations Board in the event the two parties can't agree on essential services agreement because the party to bring it forward would be the union, but they don't have an unfair labour practice to be able to file because the Act clearly designates that the union has to comply with the employer's unilateral designation, even if it disagrees. Would you agree with that?

Hon. Mr. Norris: — Mr. Chair, for the record, I dismiss outright both the assumptions and the accusations that follow from those flawed assumptions. The leap to hypothetical scenarios has missed the significance of the Labour Relations Board. It has missed the significance of dynamics of collective bargaining. And I think most importantly it has missed the very spirit of the legislation which is to further enhance public safety and security in Saskatchewan.

So I've not found any compelling evidence. There would be a couple measures of any successful argument — one relating to validity, the other relating to soundness. On both scores, I find the suggestions unconvincing, unsound, invalid, and therefore insignificant as we begin to look at the elements and amendments of this legislation. I will ask Mr. Carr to elaborate slightly, but for the record, the assumptions, the argument — unsound, invalid, and unsustainable. Mr. Carr.

Mr. Carr: — Thank you, Minister. In terms of the legislation itself, I would remind everyone present that what the goals and objectives are of the process is to enable the parties to engage in collective bargaining, to design a solution with respect to the provision of essential services, in the event of a dispute, that is of their making that satisfies the interests of all parties, and

ensures that they have set the groundwork by establishing that essential services agreement in a way that respects the interests of all parties so that they can move to the main table and address collective bargaining in a productive and results oriented manner.

A failure by one or the other of the parties to engage in that process with that good intention and spirit will undoubtedly lead to some difficulty. But I would also say that on the basis of experience, both across the country and within normal collective bargaining in the province of Saskatchewan, far more settlements are reached then end up in dispute.

Ms. Morin: — Thank you. Well I have to say that if this was such a respectful process, that the government would have then undertaken or would now undertake to hold public consultations to clearly get all the information and all the concerns and all the questions that are currently floating around Saskatchewan.

I have one . . . well we'll see if there is one more. I should stop saying one more question on this particular topic because it could be that that not be the case. But what legal opinions has the minister sought with respect to potential increase of employer liability because of the designation onuses falling upon the employer?

Hon. Mr. Norris: — I'll begin my response by speaking a little bit about consultations, and I've done this previously, but maybe for the record it's worth doing.

The consultative process, we said in our platform that we would ensure essential services within the Canadian context to ensure essential services. And I've gone through the earlier questions, both the horizontal perspective, that is that horizon of significance, a phrase taken from Charles Taylor's book, *Malaise of Modernity*. We focused on Canada. Then we also looked vertically within the Saskatchewan experience if you want that sense of place within Saskatchewan.

The consultations, what we said was that upon tabling the legislation, we would hold sessions that offered feedback and provided for the opportunity of consultations. The government advertised in nearly 100 newspapers. We sent out over 80 letters of invitation. Deputy minister and myself met with nearly 100 individuals from right across the policy community. We met with individuals from organized labour. We met with individuals from post-secondary sector. We met with individuals from the business community. We had individuals come up to us anecdotally, standing in grocery stores or out at public events, some curious about essential services legislation, some supportive of essential service legislation, some resistant to essential service legislation.

There have been consultations. Those consultations allowed us to come forward with some recent amendments. We came forward with five amendments, for the record, three of them inspired by organized labour. The consultative process was helpful, insightful, informative.

I think what I'll do is take a moment to contrast that consultative process with some recent experiences by the NDP. These sources are mostly from the popular press. The 2005 smoking ban: ". . . Chief Alphonse Bird of the Federation of Saskatchewan Indian Nations criticized the government [that is the government of the day that was the NDP] for not consulting with First Nations . . ." Regina Leader Post, April 13, 2005.

Regarding the curious arrangement regarding Domtar, this is from the *Prince Albert Daily Herald*, September 12, 2007, and just prior to the election. Chief Lionel Bird of the Montreal Lake Cree Nation:

> To date there has been no consultation by Saskatchewan with the Montreal Lake Cree Nation regarding the arrangements between the Government of Saskatchewan and Domtar [again, that Government of Saskatchewan at the time being the NDP] and Domtar for the Prince Albert Pulp Mill.

The *Leader-Post*, September 12, again quoting Chief Lionel Bird: "We're not opposed to industry. We're not opposed to any development in our traditional territory but we have not been consulted at all."

Chief Marcel Head, Shoal Lake First Nation, *StarPhoenix*, September 13, 2007: "There just doesn't seem to be any cooperation . . . We've kind of been left in the dark about this [is what he said]."

Chief Lionel Bird, again of Montreal Lake Cree Nation: "There's a legal requirement for them [again that was the NDP government] for them to consult with us . . . (The province has proceeded with its plans) without any care or desire to deal with any concern Montreal Lake Cree Nation has."

With a focus on labour legislation, in late 2004, the NDP government then introduced two Bills, 86 and 87, which represented changes to labour legislation. An open letter to the former minister of Labour, this is 2005, NDP minister of Labour: "Your continual reference to consultations with the business community and legal practitioners is very troubling. There has been no meaningful consultation or public hearings on these significant changes to labour legislation."

Michael Fougere, councillor and respected individual here within Regina, in the Regina *Leader-Post*, May 4, 2005: "They've learned nothing from available hours . . . they introduce the bill in the legislature and they assume that's consultation. That's not consultation."

Regarding school division amalgamations as reported in the Saskatoon *StarPhoenix*, June 8, 2005:

> The injunction was filed on behalf of 16 individuals, 3 school boards, and a total of 41 municipalities, towns, and villages. The group alleged that the minister of education failed to engage the plaintiffs "in meaningful consultation."

We can look to First Nations privacy issue regarding prescription drug plan. Changes to the prescription drug plan in Saskatchewan announced again under the NDP, January 28, 2005, began to collect the prescription information of First Nation peoples. The Government of Saskatchewan — that is, the NDP — did consult with the FSIN [Federation of

Saskatchewan Indian Nations] until 2002 regarding the changes. But Vice-chief Morley Watson in charge of the FSIN health and social development portfolio in 2005 said the issue had not been brought to his attention in over a year.

Morley Watson . . . vice-chief with the Federation of Saskatchewan Indian Nations said, he's unhappy the government [that is the NDP] made the decision to track prescriptions filled by First Nations people without any recent consultation with the FSIN.

The issue brought up February 4, 2005 in the *Regina Leader-Post*: "Any time we have issues that involve First Nations people, those First Nation people have to have the opportunity to be involved in discussions . . ."

Mr. Chair, for the record, I wanted to read that because I think that what it does is demonstrate three points. It reinforces the significance of the consultation that we have undertaken: nearly 100 letters in newspapers, over 80 letters of invitation, the deputy minister and myself meeting with nearly 100 people in 20 meetings, meeting with stakeholders from across the policy community, taking those consultations seriously; coming forward with five amendments from right across the policy community; and having a much better sense, having an enriched sense, of the significance of the essential service legislation to the people of this province — to the people that want their highways plowed, to the people that want to ensure their kids have access to care, to the people of this province that want to ensure that chemotherapy is accessible, people that don't want to hear that animals were euthanized at the University of Saskatchewan because there was no essential service agreement.

The people of this province have lived without an essential service piece of legislation as an anomaly, as an anomaly, as an exception to what goes on in most of, indeed practically the rest of, Canada.

The notion that we have somehow not taken these consultations seriously, the notion that we were not attentive to what was said, the notion that somehow this issue, this public policy issue has not been scrutinized by the public, by the media, by groups ranging from CUPE to the NSBA [North Saskatoon Business Association] in Saskatoon . . . Both groups, by the way, I participated in meetings that they held — the CUPE convention, the NSBA lunch.

So for the record, Mr. Chair, as a way of offering some preliminary comments to that last question regarding consultation, I counter with empirical evidence aplenty. We have consulted. These consultations have been helpful.

The second element to this is that we see a track record from the previous government that is uneven, uneven when it comes to consultations.

And the final point is that the call for increased consultations, I fear, on occasion becomes a call for inaction. And this government, the government of Premier Brad Wall, my legislative caucus colleagues, we've already moved on nearly 60 promises. We're seeing real results, and the results we're focusing here relate to the public interest of this province.

So I will ask Mr. Carr to make a few comments regarding other features of the query.

But I raise my own query. And that is, when it's time to vote for this piece of legislation, when it's time to vote for the security and safety of the people of this province, when it's time to take note of our children, of those with disabilities, of those in need . . .

Mr. Yates: — Point of order, Mr. Chair. The answer to the question is so far from relevant to what the original question is, at this point I think it would be appropriate to move on to the next question.

The Chair: — Mr. Yates, I note your point of order. Members have the ability to put their questions and take the time that they need to put their questions. I believe the same right extends to the minister in answering the questions. I'll ask the minister to continue with his comments.

Hon. Mr. Norris: — Thank you, Mr. Chair. The invitation of one of the committee members, the invitation of one of the committee members is to start over. And, Mr. Chair, it's easy to start over because the question remains, and it's not a rhetorical question. It couldn't be more accurately and aimed directly at the discussion and dialogue we're having today. That is, the question remains, will the official opposition vote to ensure that the highways are cleared, that access to care for kids is available, that cancer treatment is available? That's the question. It's the question today. It's the question that will remain for those individuals in the official opposition to contemplate as we work through this because the government is clear.

On that I will ask Mr. Carr to offer some closing remarks to that query.

Mr. Carr: — Thank you, Minister. Again it seems to me that the question is based on an assumption that things are not going to be concluded in a satisfactory way in the bargaining process. I think that the our commentary around consultation and around the events of the activities of the ministry in terms of consultations with stakeholders has led to the amendments that the minister has set out.

I think that no different than in the process of bargaining, you'll find that it's going to — once enacted — experience the goodwill of the parties to arrive at those first essential services agreements. And from there there will be a pattern emerge, and that pattern, I would assume, would be a productive result that would lend credence to the requirements for the Bill.

Ms. Morin: — Thank you very much. Okay. Let's try this. Since the minister is clearly practising for his next career which will likely be someone who's going to preach to a congregation, I'll try and . . .

An Hon. Member: — Point of order. I mean that's . . .

The Chair: — Mr. LeClerc.

Mr. LeClerc: — Mr. Chair, that's facetious. I think it's uncalled for. I don't believe that the minister has personally

insulted you or your background and hasn't gone on to say that you're going to be a union leader or a pastor. I know that the opposition may not be getting the answers that they would like and that the answers from the minister may be a little esoteric for their liking, but regardless I haven't heard an insult being given by the minister or the minister's staff members towards the opposition. And I find that very unbecoming. I especially find it unbecoming as a Christian who spends a great deal of his time actually preaching in churches.

So I think it's really, you know, I really think it's unbecoming of the member to go on down that rabbit trail, and let's try to keep it as to a more parliamentarian debate.

The Chair: — Mr. Yates.

Mr. Yates: — Thank you very much, Mr. Chair. In response to the point of order, committees like the Assembly, the issue would be a point of debate. There were comments made. These answers have been extremely long in nature, off topic in many cases; the answer wandering broadly. We have only so many hours to ask questions. In fact we're at a point this evening where we have considerable questions. I would like the Chair to consider amending the agenda to continue on with this line of questioning right through till 10:30.

The Chair: — Mr. Allchurch, I believe, would like to enter into the debate.

Mr. Allchurch: — Just to debate the comments made by the colleague from the opposition side. I've been in the Assembly for nine years, and I know he's been here as long if not longer. When we're doing committee work, when we're doing committee work, it's up to the opposition to ask questions. And you've undertaken that so far. It's up to the minister to answer the questions, whichever time he feels he needs to answer those questions. In committee and in estimates there's always been a great deal of latitude as long as it's to the point of the question asked by the opposition member. And I feel wholeheartedly, Mr. Chair, that the minister has stayed on track.

The Chair: — Committee members, I would offer this: Marleau and Montpetit state on page 522 that, "Remarks directed specifically at another Member which question that Member's integrity, honesty or character are not in order."

And so I would ask, I would direct that questions be put without impugning another member's integrity, that they deal with the Bill that we are considering. The members certainly have the right to take the time they need to frame their questions, and the minister — and if he so chooses — can call on his officials to frame their answer in the fashion that they so choose and the time that they would require.

So I would ask the members to continue to consider Bill No. 5. And as to Mr. Yates's point, I believe we need to have an unanimous motion to change the agenda of the committee. And I don't see any appetite for an unanimous motion, and I would direct that we stick to the agenda as outlined at the start of this evening's sitting.

Ms. Morin, you have more questions, do you?

Ms. Morin: — Absolutely.

The Chair: — Certainly. I recognize you.

Ms. Morin: — Thank you. I have hours worth of questions. Mr. Minister, I'm going to ask you a series of questions, so I'll warn the minister ahead of time that notes should probably be made.

First of all . . .

Hon. Mr. Norris: — If I may ask a question of the Chair . . .

The Chair: — Are you raising a point of order, Minister?

Hon. Mr. Norris: — I'm just not certain of its categorization. I would just simply ask that any notion of a long list of questions coming with the proviso of I should take notes, I hope what would be under consideration of the members of this committee is that — not only for myself but more importantly for the officials that I have here working diligently tonight as they have on so many evenings — that the pace of questions, that the substance of questions and the scope of the questions, we actually have time to contemplate, reflect upon, if you will, digest. Otherwise what we'll have to do, Mr. Chair, it would seem to me, is we would probably have to go back to the start of the question and work our way down again.

So if it would be fair to just turn and say, you know, with respect to the officials that are here this evening again, I hope the Chair and colleagues — as legislative colleagues — that we're all mindful of the pace and scope and to be mindful of that. Thank you.

The Chair: — Thank you, Minister, for those comments. I was in error when I asked if you were raising a point of order when in fact you are a witness before the committee and you cannot raise a point of order. I would ask all members here this evening and the minister to respect one another. And we have made, I believe, considerable progress this evening and I would — we have 10 more minutes to deal with this Bill — and I would ask that we continue the progress that we've made so far this evening.

And with that, I recognize Ms. Morin. She has another question. I ask her to place her question at this time.

Ms. Morin: — Okay. Mr. Minister, which three changes were inspired by organized labour, that the minister spoke to earlier, with respect to the amendments that have been brought forward, and how many letters has the minister received either through his office or the Premier's office from citizens of the province or outside of the province who are opposed to this legislation proceeding without first going through a meaningful consultative process?

Hon. Mr. Norris: — Thank you for those two questions. I will answer the second question first.

I guess, Mr. Chair, one's not certain of what more I can say about the consultative process. I have tried my best to highlight the comprehensiveness of the consultative process without going through the details that I've been through this evening. The reason that we make reference to that is because . . . and it

was the reason for my caution or concern that I raised.

That is, if we begin to deconstruct that question, that second question in and of itself, we see three key elements to it. As I understood it — it was noted quite quickly and perhaps I missed it — first the reference was only to any feedback that's been received that offers a subset here, any type of opposition to the Bills. Any social science research — any — would have to ask a broader question, and that is, before attaching a normative notion to the feedback, the higher order question would be, what type of feedback have you received? That's a key element.

And the answer is, in general terms . . . And I've tried to reinforce this. We have received in the formal sessions, we have received through MLA [Member of the Legislative Assembly] offices, we have received anecdotally standing in line at the grocery store, viewpoints and opinions that are curious, want to know more about essential service legislation in Saskatchewan. Some are supportive and some would be less than supportive. But the key element on this is to actually be able to stand back. And if we're asking that kind of question, it's to take a much broader contextual frame than just simply asking about one specific reference point.

The next element in that second question related to the means of receiving that feedback. And again if we turn and ask a higher order question rather than the specific means, we ask, how have these views been offered to you? Then we can have a broader dialogue and discussion. We can turn and say any number of means. In fact what we see today, we see a letter to the editor; yesterday, an article in the paper. So how would you categorize? How might that be categorized as far as offering feedback?

The third element . . . So we've looked at the, I think, incomplete question about range of opinion, means through which those opinions have been delivered, and I think significantly here, and I hope I'm incorrect on this, but some notion, some evaluative notion that there is greater value or weight or emphasis that is to be placed on those with a certain view, in this instance — I believe the question, again, it was framed very quickly — those that perhaps aren't as supportive of the essential service piece. And I would ask a rhetorical question to my colleagues: why would weight be given to that subset?

Mr. Speaker, as I said, I tried to be very coherent in this. There were two questions that I heard. They were framed very quickly. I've attempted with a degree of candour but also comprehension to address the second question first. The first question related to the amendments that were informed by organized labour, and I believe my colleagues have summarized that. And I'll ask Ms. Wellsch to review those three.

Ms. Wellsch: — The three changes that we are proposing in the House amendments that were suggested by organized labour include both the amendments to clause 2. That is, the amendment to the definition of essential services to clarify that for executive government the same core criteria apply as for all other public employers, as well as the amendment to the definition of public employer to make it clear that not every employer in the province could be designated by regulation as a public employer under this legislation.

The third one is the amendment to clause 6. And there was a suggestion that the way the clause 6 was worded is that when it says the employer is to prepare a list of the services that will be essential, that that doesn't leave room for negotiation. And of course the intention always was that what services will be considered essential is to be negotiated. So the amendment will say the employer provides a list of services it considers as essential services, rather than services that will be essential services. Those are the three.

Hon. Mr. Norris: — Those three, Mr. Chair — if I may — again those were informed by. Again, not in isolation, not in isolation, not to be construed as simply reflecting specific views, but informed by. And that was part of a consultative process that was very rich and informative. Thank you very much, Mr. Chair.

The Chair: — Ms. Morin, we are very near the time for recess. I will permit one short question. If you have a short question, you may go ahead and ask it.

Ms. Morin: — Well now which short question to consider. All right, we're going to go with this one. We simply didn't hear the second change that you had mentioned that came from, that were inspired by organized labour. So we've got the clause 2 change, we've got the clause 6, and I didn't hear the second one. Could you please repeat that? Thank you.

Ms. Wellsch: — The second one is also within clause 2. There are changes to two definitions within clause 2.

Ms. Morin: — My shorthand isn't fast enough. Could you just maybe repeat that then? My shorthand isn't fast enough. Could you just repeat that then?

Hon. Mr. Norris: — The specific references, clause 2(c) offering clarification as it relates specifically to the Government of Saskatchewan, that the Government of Saskatchewan must meet the same criteria as other relevant employers. And clause 2(i), and this is a narrowing. There were concerns expressed quite publicly when the legislation was tabled that this could affect almost any public or private sector employer and what we've turned and said is no, these are very, very specific parameters within which this legislation will be relevant. And so clause 2(i) — clause 2(c) and clause 2(i) were the first two.

The Chair: — Thank you, Minister, for those answers. Committee members, we will take a recess of approximately 15 minutes. We will resume sitting at . . . well 15 minutes from now, whatever that . . . about 8:48. And at that time we will resume our consideration of Bill No. 6.

[The committee recessed for a period of time.]

Bill No. 6 — The Trade Union Amendment Act, 2007

Clause 1

The Chair: — Committee, we are now resuming our sitting this evening. The next item on the agenda, the final item on the agenda for this evening is consideration of Bill No. 6, The Trade Union Amendment Act. Before I open the floor for questions I would just inform committee members that Mr.

Yates is now substituting for Mr. Broten. So I'll recognize members that have questions for the minister. Ms. Morin.

Ms. Morin: — Thank you, Mr. Chair. Mr. Minister, I'm wondering if you can tell the committee how many letters or emails the minister has received in his office and the Premier's office with respect to concern for Bill 6. And I'll leave it at that.

Hon. Mr. Norris: — Mr. Chair, thank you for that question and the opportunity to join you for this next round. I don't know if it's worthy for the record to just briefly reintroduce the officials or not. Once again, Wynne Young, our deputy minister joins us. Mr. Mike Carr is here, associate deputy minister. Mary Ellen Wellsch, the acting executive director of labour planning and policy; and Pat Parenteau is also here, senior policy analyst within the Ministry of Advanced Education, Employment and Labour.

Well I'll phrase it like this, Mr. Chair. There's a great degree of continuity regarding the question that's just been asked and one that was asked previous this evening as it related to Bill 5, but I feel that a comprehensive answer is actually required because the premise of the question and if I've written it down, letters and emails of concern or with concern for — I'm not certain — Bill 6. Once again there are three elements that are significant to this question.

First, inquiring simply about feedback that makes or has a very specific reference point on that range or continuum of feedback is very curious. It's curious, Mr. Chair, because what it does is simply take a snapshot of one element of that continuum. In this instance, the word was concern. The second element is that it makes reference to specific forms of communication, letters or emails, as I interpreted the question.

It leads to a question about other medium. For example, today in the *Leader-Post*, page B9, there is a comment from Mr. Pierre Duval. And the introductory line begins, I had to comment . . . I will simply paraphrase. I had to comment on a recent letter regarding changes to The Trade Union Act. I won't go through the editorial. I will say that it concludes by saying, "It's wonderful to finally have a nondictatorial government . . ." Again it's only an editorial but it goes directly to this question and that is . . . And to be sure there are — I want to be very fair — there are any number of editorials that could easily have a different opening and concluding remarks.

But it speaks to why the specific reference to public dialogue within a very narrow stream, that is within simply letters or emails. Certainly within our increasingly data-driven lives there are any number of means and mechanisms available to encourage, allow, afford individuals the opportunity to express their opinions or questions, concerns, queries, support for, opposition against any number of public-policy-related initiatives.

The third element relates to what I call a normative weight. The member has a particular attachment to perhaps — or perhaps just curiosity — about those with concern. So the response is that within contemporary Saskatchewan, a Saskatchewan that's growing in population, a Saskatchewan that's increasingly diverse and cosmopolitan, a Saskatchewan that offers a rich and rewarding fabric, Mr. Chair, the answer is there are numerous stakeholders offering opinions on any number of public policy issues including, in this instance, Bill 6, and that potpourri of popular input is welcome, it's encouraging, and reflects the dynamic engaged citizenry of our province, Mr. Chair.

Ms. Morin: — Mr. Minister, would you by chance, I'm sorry, would you by chance be aware that there was a poll done by the Saskatchewan Union of Nurses just within the last week, and that 98 per cent of the respondents were opposed to the government position, and 92 per cent . . . Well I'll just leave it at that. I'll leave it as a one-part question. Are you aware that there was a poll done by the Saskatchewan Union of Nurses, and that 98 per cent of the respondents are opposed to the government position on Bills 5 and 6?

Hon. Mr. Norris: — Thank you for, thank you for the question. I certainly have heard that there may have been some type of feedback offered. I guess if we step back from dealing with any specific cases, we ask some methodological questions as public policy practitioners. And the reason I ask these questions is because I have an incomplete snapshot of the specific case.

But I think it's worthy of asking again some basic social science questions when we look at really any numbers. And those range methodologically from the crafting of the question or questions, the sample size, the context within which they're asked or it's asked. We can ask about the tabulation of results. So there are any number of variables that again, as public policy practitioners, when we see snapshots of any, any public policy issues or issue that allow us to either reflect on or inquire further about issues of methodology . . . and in this instance I can only say that, as I say, I have a passing awareness of the specific. But as far as any of the details, methodological details, I don't have those and therefore I would find it difficult to comment on the validity of, that is the methodological validity of the number.

So I appreciate the question. I don't have enough information to really offer a reference on what that indicates at this time.

Ms. Morin: — Thank you, Mr. Minister. Well I was simply asking if you are aware of the information, so that would have been a yes or no answer, but perhaps the minister misunderstood my question.

And as for the previous question — which I'd like to go back to now that I've regained my thoughts again — the question was, Mr. Minister, with respect to concern. That could be both positive and negative with respect to the legislation that you're presenting. Do you have, does the minister have a total number of letters and emails that the minister has received? And yes, I'm excluding editorials at this point and phone calls and things like that.

I just want to know what the minister has received in total with respect to Bills 5 and 6, or if you can't break it down . . . if the minister can't break it down, Bill 6 would be nice. But like I said, if it can't be broken down, Bills 5 and 6 with respect to emails and letters that have been received specifically through the minister's office and the Premier's office, a number, if it has been tabulated.

Hon. Mr. Norris: — I can, Mr. Chair. There is a dichotomy in

the question that is, again, the frame of reference, curiously — I will only say curiously. There is a frame of reference that is letters and emails. Then there is a notion, if I've heard it correctly, a phrase, in total. What I've tried to articulate clearly is that while one element of the three previous points that I've offered has been clarified, that is probably a term we could use with a focus on Bills 5 and 6. But it really does matter when we turn and ask, in total, and that was the request because, in total, then suggests that the inquiry, the question, the request is attempting to get a snapshot, an overview.

Perhaps if we were to make reference to an art genre, we would say an impression of what that feedback or mood looks like. And if we were to stay with the analogy or metaphor of the genre of the fine arts, then we would see that the portrait would be incomplete by simply addressing letters and emails. So there is a dichotomy.

Again sticking with this metaphor, I want to see two or three colours highlighted within an image, but I also want to see the total image at once. And the answer is, the answer is that I believe the member is asking to have an impression of the feedback or public mood that is apparent within the rich tableau of Saskatchewan. And by simply focusing on letters and emails without reference to specific letters to the editor — as I've said, they go both ways — blogs, the electronic medium increasingly being used for communication, suddenly even these specific, again going back to that metaphor or analogy or simile, these colours begin to fade.

So there's a dichotomy, a duality, the request for letters and emails, and a notion, in total. And so I just turn and say that within the vibrant dynamic civil society of Saskatchewan there are points of view and points of reference that reflect a healthy, dynamic civil society that is attentive to any range of public policy issues — federal, provincial, municipal, those relating to First Nation and Métis — and this request would be part of that fabric, but only part of that fabric, Mr. Chair. And if the intent is to have an overview of Saskatchewan civil society, then the request for these particular elements is, while selective, probably incomplete and, as a result, not as instructive as it may be.

Ms. Morin: — Thank you, Mr. Minister. So when I posed the question about receiving letters and emails initially, I initially asked about those that came to the minister's office or the Premier's office with respect to asking for more comprehensive public consultations. The minister didn't like the way I posed the question. So then I re-asked the question and posed the question, asking any emails or letters that came to the minister's office or the Premier's office with concerns that could be both positive and negative. And the minister again was not able to answer the question in a definitive manner in terms of how many letters or emails.

So would it assist the minister, because I do want to play nice, and I'll co-operate in any way I can to get the answer, if I have to. Would it assist the minister if I simply asked what . . . how many, in terms of . . . The terms of reference would be all points of contact. So in terms of all points of contact, how many points of contact has the minister received in total, both positive and negative, with respect to Bills 5 and 6?

Hon. Mr. Norris: — As my colleague comments on the quality of water available, I'll make comments.

As of April 14, you know, I will just offer from within the ministry if this will provide that snapshot again. As of April 14, 2008, 97 individuals and organizations provided feedback on the proposed amendments to The Trade Union Act and the essential service Bill. For the most part these individuals provided comment on both pieces of legislation, but there's some overlap. There's some distinction. Eighty-two submissions were focused on the essential service legislation; 55 submissions were received respecting amendments to The Trade Union Act. So again we see some overlap.

In addition, there were some 2,480-some letters received from various individuals. And again that grouping, which I appreciate greatly the inclusive nature of the question, those reflect again that broad spectrum of opinion, of support for or reservations about both pieces of legislation — the Bill 5, essential service Bill, and Bill 6, amendments to The Trade Union Act.

And again that's simply a snapshot in time. It wouldn't touch blogs. It wouldn't touch some of the informal communication that we've received and probably you've received. It wouldn't touch media commentary. That could be in the form of news stories, television, again websites. It wouldn't touch letters to the editor. It wouldn't touch the reporting within, within dailies or weeklies within Saskatchewan. So again it's a snapshot of very, very particular stream regarding these two Bills.

Ms. Morin: — Thank you, Mr. Minister. When the minister replied to a letter that was sent to him, and the letter of reply was dated April 16, he replied that the ministry had received nearly 70 emails. What were those emails in reference to?

Hon. Mr. Norris: — Mr. Chair, if I may, without, without access to the documentation that's being referred to, I have a very . . . I mean our office . . . We send out quite a number of letters, so with that, I mean I would like the opportunity, or have the opportunity to actually, to view the document that's being referred to.

Ms. Morin: — Then we'll have to wait a bit, because I don't have the document here with me because it's not here. So we'll look forward to responding to that perhaps the next time we're sitting, and I'll make sure that the minister is aware of which document I'm referring to before we come into committee next, so that he can prepare himself for that answer to that question.

The response the minister just gave me with respect to the total, all points of contact answer, I'm assuming then that that did include emails that the minister's office has received. I mean the minister's already referred to the fact that it doesn't include blogs and such. Just simple answer: does it include the emails that the minister's office has received?

Hon. Mr. Norris: — Thank you for the question. It would be difficult to say any particular form. They have arrived in various forms.

Ms. Morin: — So it would be safe to say that included the emails, the emails in the all points of contact then. Would that

be correct?

Hon. Mr. Norris: — If I may, I wouldn't refer to it as all points of contact. This would be a particular snapshot again. We would have included in this, letters received by regular mail, some faxes, some emails or attachments that were a part of emails. So again, this would be part of a narrow spectrum, but I think we're, you know, we're trying to get a snapshot. I think you're asking about relative interest within these Bills.

Ms. Morin: — Thank you, Mr. Chair. I will now turn the questioning over to my colleague, Kevin Yates.

The Chair: — I recognize Mr. Yates.

Mr. Yates: — Thank you very much, Mr. Chair. I'm going to move to ask questions about where, as you looked at the various pieces of legislation — I assume mostly across Canada — where did you draw the changes that you are proposing from? And in doing so, what consideration did you take from the various provinces across Canada?

Hon. Mr. Norris: — Thank you for the question. I will, Mr. Chair, again with your permission, I'll offer a bit of an overview and then I'll actually ask some of the officials to actually, to weigh in. I want to applaud their work. It's one thing to do these kind of research; it's another to put it into concise form so it can be communicated in forms as we, as we enjoy in Canada in our parliamentary system.

We are able to, and again we're able to turn and see a comparative framework across Canada, what I refer to and continue to refer to as a horizontal comparison within Canada. So we see . . . I won't get into great detail, but I'll simply hit some of the key elements of the amendments to The Trade Union Act. And then I will, as I say, I'll have my colleagues drill down a bit.

There are some key elements regarding communications. What we find across Canada regarding what we've called responsible communications, and again my colleagues can speak to that, there are only two exceptions to this. And we see that Quebec and Newfoundland are the exceptions. All the other provinces allow for communication.

We can then go to mandatory votes and there will be six provinces that have those. I'll just again take snapshots and I'll be handing this off. The threshold for vote, and this one is very . . . offers insight about Western Canada, So what we see in Western Canada is a range or a bandwidth, if we could use that metaphor, of British Columbia at 45 per cent, Alberta at 40 per cent; Saskatchewan at present, 25 per cent, the lowest in Canada by a country mile; Manitoba, 40 per cent.

With the amendments that we're proposing, Mr. Chair, what we will see in Western Canada is BC at 45 per cent, Alberta at 40 per cent, Saskatchewan at 45 per cent, Manitoba at 40 per cent. We will see in Western Canada a bandwidth of 5 per cent, between 40 and 45. That's significant as we turn and say that Saskatchewan has a role to play in the new West.

Regarding the length of agreements, there is a range. We see that again there are some examples of decision deadlines for the Labour Relations Board. We see annual reports being offered by six at present, and we will be the seventh, where we propose that the Labour Relations Board offers an annual report to this distinguished House.

I will now turn it over to my colleagues if they would like to highlight any other elements that I may have missed. But I can only say I was impressed from the start with the diligence of the research. I continue to be impressed as the research is offered in very concise, easily digestible pieces of information. So on that, Mr. Carr.

Mr. Carr: — I'm not sure, Minister, what I could add. The table does make comparisons on an interjurisdictional basis that we found quite useful in preparing the amendments. It does talk about deadlines for filing an unfair labour practice, and it does compare again with a range that centres on 90 days to 30 days to a comment in Manitoba that deals simply with undue delay. There is a requirement across the country to ensure that the minimum length of a collective bargaining agreement is one year — that's fairly consistent. The majority required with respect to defining the outcomes of a vote is set in each jurisdiction, and again it's fairly consistent regarding the majority of those present and voting.

Mr. Yates: — Thank you very much, Mr. Chair. As you were considering the various . . . And it would be helpful if we could actually have a copy of the chart at some point. That'd be useful just as a reference to ourselves. As you were considering the various options, you talked about the 40 to 45 in Western Canada — you had two at 40, one at 45 and one at 25. Why choose 45?

Hon. Mr. Norris: — Thanks for the question. The notion again is focused on promises contained within the campaign platform, that the democratization of the workplace being a key priority — and if I'm not mistaken, it was on page 19 of our campaign platform — the democratization of the workplace and being competitive with other jurisdictions in Canada. There is also specific reference to playing a lead role in the new West, a theme that has recently come up within Alberta — Alberta and the new West — but that our Premier has been talking about for at least a couple of years.

The significance again goes to that very narrow bandwidth within Western Canada where competitive . . . It may be helpful if I actually extend it beyond Western Canada to offer this range: BC, 45 per cent; Alberta, 40 per cent; Saskatchewan, at present 25 per cent — as I say, an anomaly; the lowest by a county mile — Manitoba, 40 per cent; Ontario, 40 per cent; Quebec, 35 per cent; New Brunswick, 40 per cent; Nova Scotia, 40 per cent; Newfoundland, 40 per cent; and a discretionary clause within PEI [Prince Edward Island].

So as we focused on Western Canada, and again it was very similar to the process used, our focus became more refined as we looked across Canada. We saw in Western Canada between 45 and 40 per cent. We were going to be consistent. The bandwidth is very narrow — that 5 per cent piece. And obviously there is this notion of balance. There's also a notion of successful outcomes. And so those factors helped to inform the selection of 45 per cent.

Mr. Yates: — Thank you, Mr. Chair. Thank you very much for providing the chart. And it just puts it in very clear. So we moved in Saskatchewan under this legislation from what is the lowest to now the highest. And, Mr. Chair, six of the Canadian jurisdictions are at 40 per cent, which would be the norm in Canada then. Your own, your own *New Ideas for Saskatchewan* party platform document says you'll ensure "balanced labour environment in Saskatchewan that is fair to workers . . . and competitive with other Canadian jurisdictions."

Just on a basis of being fair and competitive, if the norm in Canada is 40 . . . In fact there is only one jurisdiction in Canada at 45, British Columbia. There are two jurisdictions at 35, which, you know, if you have one at 45, two at 35, six at 40, the norm for Canada would be 40. And when you talk about providing a balanced environment that's competitive with other Canadian jurisdictions, if you were truly doing that, you would be moving to an environment with 40 because that's really the Canadian norm.

And so I'm wondering why, based on your own party platform and that you want a balance with respect to the rights of workers and employers, why would you move not to the Canadian norm but from arguably the lowest to the highest and just jump right over what would, I think, in any statistical manner be the norm? Because the norm, if you were to take the percentages across Canada and divide it, it would be less than 40 because you have two at 35 and of course one at 25 so you would be looking at a norm somewhere around 38, 39. But six jurisdictions are at 40 and one at 45.

Hon. Mr. Norris: — Thank you, Mr. Chair, for the question and the opportunity to return to this. The significance of the corrective is that when we look at where we are coming from, the context is, you know, Saskatchewan was 15 points off, 15 points off by a country mile. As we looked at this, the public policy imperative is to set an environment that helps to foster and facilitate growth in a fair and balanced way. Significantly the 45 per cent applies to both certification drives and decertification drives. And this was meant to actually ensure greater stability than potentially we would have with any other number within that 5 per cent range.

Saskatchewan again has gone from being 15 per cent, 15 points off that mark to now within a bandwidth of 5 per cent, and the 5 per cent in Western Canada is 45 per cent in B.C., 40 per cent in Alberta, 45 per cent in Saskatchewan is where we're going, and 40 per cent in Manitoba. We're now dealing with a bandwidth of 5 per cent which allows us a public policy imperative for growth and stability and balance to turn and say, this obviously is within the realm of reasonable. It's within the realm of predictable for both certification and decertification points of reference. And that's why this number has been selected.

A corrective has been taken, and that corrective is meant to ensure that Saskatchewan is ready for growth. The signals to stakeholders are very clear, and that's why we've selected this number. And again as we look to what's happening in Western Canada, we see two at 40 per cent, two at 45 per cent, and so we are completely consistent with taking a leadership role in the new West.

Mr. Yates: — Thank you very much, Mr. Chair. Well the minister can correct me if I'm wrong, but if Saskatchewan was at 40 per cent, we'd still have the same 5 per cent variance in Western Canada. We'd just have one province at 45 as we do today in Canada, and we actually have nine provinces today at 40 or less. And I think Alberta is doing, has done very well economically and with its growth. I think that other jurisdictions in Canada, Ontario's done very well economically and with its growth over the years. And they've done so at 40 per cent.

If it's a corrective, this could be considered an over-corrective and perhaps going to the extreme on the other end. And I want to go back to the fact that what your party platform said, will establish fair and balanced labour environment in Saskatchewan that respects the rights of workers and employers by "Ensuring a balanced labour environment in Saskatchewan that is fair to workers and employers and competitive with other Canadian jurisdictions."

I would argue that if you asked any statistician if that, based on the 10 jurisdictions in Canada, would be considered to be fair and comparative, that 9 out of 10 are going to tell you no because they're going to look at the 10 jurisdictions in Canada and quickly come to the norm is 40. And so once again it may be a corrective but it might be an over-corrective. And in light of the commitments made in your platform, are you prepared to consider an amendment to 40 per cent?

Hon. Mr. Norris: — Mr. Speaker, I appreciate the question. It offers an opportunity for, I think, a very relevant and helpful public policy debate. It also offers an opportunity to see a distinction between the governing party and the official opposition, and that is we said we'd be competitive, not average. And this element within the amendments, part of a greater package, is consistent with the direction that we're going, reinforces the fairness of workers and employers because again that percentage is both for certification and for decertification, and it relates to the competitive advantage and position of the new Saskatchewan in the new West.

And the new average in Western Canada is going to be 42.5 per cent. And so any statistician would turn and say it's equidistant between 40 and 45. The bandwidth is reasonable, the position is competitive. And when we came forward with our legislation it wasn't with an eye of statistical analysis, it was an eye for competitive advantage. And that, Mr. Chair, is why we've taken the position we have and we are more than content — pleased, in fact — with the number that's been determined within the legislation.

Mr. Yates: — Thank you very much, Mr. Chair. Well I understand the answer I got, but nowhere in your platform under the area of a fair and balanced labour environment for workers and employers does it say that we're going to have . . . competitive. It says we're going to have a fair and balanced labour environment in Saskatchewan that respects the rights of workers, employers and it goes on to say, "Ensuring a balanced labour environment in Saskatchewan that is fair to workers and employers and competitive with other Canadian jurisdictions." It doesn't say Western Canadian jurisdictions so it talks about Canadian jurisdictions.

So as an expectation you would look at Canada and if I add up

the 10 jurisdictions in Canada including the Canadian Labour Code, I don't come with 42.5, I come up with slightly below 40 which should be rounded off to the . . . would come out to 40. So I have some difficulty matching your direct election commitments to outcome, and once again would ask you how you square that circle for me.

Hon. Mr. Norris: — Thank you very much. I'll make reference to a few pages. Actually it's contained within a section of the platform called, *New Ideas for Jobs and Economic Growth*. It's a subsection introductory page and I'm happy to get us, all colleagues, copies. You'll notice here on the introductory page of this subset, as we go along, we can see that "Making Saskatchewan a leader in the New West" is a priority**.** It's within this very subsection, within this very subsection that we turn and see between, well when Lorne Calvert was premier of this province, 35,000 people left this province, we can see that as we go.

You can go then to page 19, "A Fair and Balanced Labour Environment for Workers and Employers." That continues on to page 20, "Ensuring a balanced labour environment . . ."; "Respecting the right of labour and management to negotiate collective agreements, by removing legislated limits on the length of collective bargaining agreements" — right there within the amendment. "Ensuring democratic workplaces . . ." We're now on page 20. "Requiring secret ballots on any vote . . ."; "Ensuring freedom of information . . ." — right there in the amendments; "ensure essential services" — Bill 5.

Flipping the page, in a subsection that is entitled, "Making Saskatchewan a Leader in the New West, Canada and the World". And the order is relevant. Within Saskatchewan there's a profound and proud historic sense of place, a sense of place that is sometimes overlooked or forgotten, but never for long. The subset turns and says, "Promoting Saskatchewan in the New West." Mr. Chair, it's to turn and say, our positioning in the new West is strategic. It's purposeful.

Frankly, for too long there's been a long shadow cast over this province. A long shadow, the source of which through metaphor I will express as an old, dead tree — a shadow of fear. And what we've just done in this election by voting in Brad Wall's government, the people of this province, my colleagues in the legislature, we've uprooted that tree. We can see a clear horizon, a horizon that begins by repositioning ourselves in the new West.

It begins by ensuring that we have an increased profile in Canada, and it ensures that we have a new, real, and enhanced prestige in the world. Let me offer some empirical evidence to say that we're on the right track. Recently in *Maclean's*, Premier Wall's trips to New York and Washington were covered — profound articles, important articles for this province. And most significantly, the tab they were under in *Maclean's* was the world, Saskatchewan in the world.

What we see in Canada is Saskatchewan playing no longer a quiet sibling, but a real force of leadership, a real force to champion the interests not only this province, but our country. And in the new West, in the new West when we talk about issues of significant public policy import, we see a leadership role being played by Saskatchewan.

Mr. Chair, I simply reinforce we are not interested in being average. For too long, average was a defining trait of Saskatchewan. We are interested in being competitive, and that is completely consistent with our platform. It's consistent with our public policy positions. It's consistent with our priorities. And it's consistent with the promises, 60 of which we've kept to date. That is why the 45 per cent threshold for certification and decertification is the position of choice for Saskatchewan.

Mr. Yates: — Thank you very much, Mr. Chair. I have a number of questions. But before I move on to some of the questions, I have one I just feel compelled to ask my learned colleague, and I'm sure he knows the answer too.

In reading legislation, reading a document, reading law, I'm sure my learned colleague would understand that the specific overrides the general. And in this case, you may have lots of references in your document to new West and being competitive. But when you get down to the specific, it says:

> Ensuring a balanced labour environment in Saskatchewan that is fair to workers and employers and competitive with other Canadian jurisdictions;

And being at the highest level does not reflect that comment. And that is the specific which people would go to, to try to understand what your policies were, where you were coming from, and what you intended to do once you formed the government. So people who voted on November 7 voted with an expectation of having a balanced and competitive with all the other Canadian jurisdictions.

Now I only make that point because my colleague is learned enough to know that the specific overrules the general, which leads me to other questions. How does making it harder for a union to organize or to certify give Saskatchewan a competitive advantage? And whom would it be competitive for? Because Alberta seems to operate quite well at 40 per cent as does Ontario, which are two of the economic powerhouses in Canada and have been for decades, not just a short period of time. And they manage to operate very well with a 40 per cent threshold.

Hon. Mr. Norris: — I appreciate the question.

Again, Mr. Speaker, on the point of the platform and then I will move to the second element of that query. Fair to workers and employers and competitive with — we didn't say we would settle on the national average. We said we would be competitive with. A 15-point spread is where Saskatchewan has rested, and I say rested purposely.

We are now within a five-point bandwidth, positioning ourselves competitively, as we've said. While my distinguished colleague, he and I may agree to disagree on an interpretation, there can be no lack of understanding that we promised to be competitive. And we are competitive. It leads to his second question, and it's a very good question. I appreciate the question.

What does competitive mean, if I've understood the question? Competitive for whom, with what potential consequences? My colleague just then turned and asked, as I understood, a very specific frame and that was for organized labour.

An Hon. Member: — For both.

Hon. Mr. Norris: — For both. And I think the broader piece is actually more helpful. I will ask my colleague, Mr. Carr, to actually highlight the significance of this in a context that is fair to both workers and employers.

Mr. Carr: — Thank you, Minister. The threshold that is under discussion is the threshold in the Bill at which point an applicant trade union may bring forward a request for certification of a bargaining unit.

The threshold for determining the outcome of the question remains 50 per cent plus 1. And so in effect what this legislation will do is it will create a greater opportunity for successful outcomes in that the union embarking on the organizing campaign will have a clear understanding of what it ought to do in order to be successful.

The simple point again is that on many, many, many applications, the threshold isn't considered because the union has presented a sufficient opportunity in terms of its support cards to have a successful application and a certification granted. In this case the legislation will require a vote and all parties will know on the basis of that vote what the outcome is.

Hon. Mr. Norris: — If I may, Mr. Chair, to ensure there's very clear understanding as far as what the campaign platform spoke to and what we're delivering on within this piece of legislation:

> Ensuring democratic workplaces by:
>
> Requiring secret ballots on any vote to certify a union in a workplace, and a 50% plus one result for successful certification;

We said it here. We ran on it and now we're making sure that we're acting to fulfill that promise. The significance of this legislation, when seen in totality with the amendments, means that we are moving forward on keeping another one of our campaign promises with the broader purpose of ensuring that we're keeping our promises. We're ready for growth, we're sharing the benefits of that growth with the people of Saskatchewan, and we're learning lessons from other jurisdictions. Thank you, Mr. Chair.

Mr. Yates: — Thank you very much, Mr. Chair. What I'm trying to get from, what sense I'm trying to get from this is, are these amendments going to . . . Do you see them spurring economic growth, investment opportunities? Do you see it bringing new businesses to Saskatchewan? Do you see it growing the business environment? I'm trying to get some sense why 40, 45 makes any significant difference.

Is it going to advance our economy, bring more businesses? Is it going to make employers feel more secure moving businesses here? I'm trying to get what's the difference, right? Ontario, Alberta operate at 40 per cent. So what are we going to achieve by doing this? Does it mean less votes? Does it mean less work or less votes supervised? Because whether you're within 5 per cent of the 50 does that mean naturally you'd see the 50 per cent more natural? I'm trying to get some sense why the 40 to 45 makes . . . Generally there's some motivation for doing something. I'd like to know what it is.

Hon. Mr. Norris: — I appreciate the question and I think the empirical evidence that is already mounting regarding the new position of Saskatchewan is beginning to accumulate — March last year to March this year, 14,000 new full-time jobs in Saskatchewan. What we see people back to and moving Saskatchewan for the first time. We see Saskatchewan playing a leadership role in international trade in Canada.

We see numerous indicators — empirical, wide-ranging. We see banks coming out making pronouncements about growth in Saskatchewan. We see the media coming out talking about Saskatchewan being the new it province. We see any number of tangible, real pieces of evidence regarding growth. An element of that growth is a more fair and balanced labour environment that balances and respects the rights of workers and employers.

What we see through these amendments is a consistency that has been lacking in Saskatchewan. Let's turn to an example within the legislation, that is moving away from the three-year limits on collective agreements. There are numerous cases where exceptions have already been made, more than 48. So if we're already making public policy exceptions, why not simply undertake what we're doing right within this legislation? If parties, bargaining units and employers, want to move to four years, five years, or six years, then why not let the parties determine that reference? Suddenly there's a degree of predictability that there hasn't been to date. Consistency, predictability, fair and balanced, these are elements, Mr. Chair, as we begin to look at again this bandwidth.

What hasn't changed is 50 per cent plus 1. What has changed is a secret ballot provision, the democratic right respected in the workplace. What has changed is that threshold where Saskatchewan was off by a country mile. Now we're competitive within the new West — fair and balanced. Competitive, in response to my colleague, for both certification drives and decertification drives, fair and balanced.

So we see consistency, predictability, growth agenda. We can reflect on the budget. We can reflect on any number of initiatives undertaken by this government that have reinforced the message, that message I made reference to. That long shadow of fear coming from that dead tree has been uprooted. The shadow is gone and a fair, balanced labour environment focused on these amendments provides for greater predictability, consistency, and a fair and balanced environment for workers and for employers.

The tangible, real evidence is accumulating as fast as it can come in. Land sales for oil and natural gas, April 2008, more than all of 2007 combined — $265 million. There's a small indicator. Mr. Chair, this is part of our growth agenda. We ran on this. We're delivering this. And whether it's anecdotal or whether it's empirical, this is part of the equation for moving Saskatchewan forward in the new West, in Canada, and around the world.

Mr. Yates: — Thank you very much, Mr. Chair. Well I think I have to start by just mentioning that a number of the significant changes that you indicated, including 14,000 new people, all those things have occurred under the current labour legislation

and started to occur over the last year. So I have difficulty just equating what you're saying, that it's making all this difference in the economy because when the economic environment is right, the economy grows. And as the economy continues to grow, people come. Where there's jobs, where there's opportunities, growth occurs. I would argue that many of the changes made four or five years ago in the oil and natural gas sectors and mining sectors, which all take time to see fruition and come to light and build all, have all come together. And we're seeing growth.

And yes, we had an election. We changed governments. But I'm still failing to see the connection. So I guess I'm going to ask a question, and maybe you can answer. Maybe you can't answer. Maybe it's one of those things; it's perception versus reality.

But do you really believe that the threshold, whether it's 40 or 45, business is going to invest more in Saskatchewan, entrepreneurs are going to come here, we're going to see . . . we're actually going to have a more competitive environment, that business would view it more competitively? It seems to be a stretch, I guess. It may only be a perception.

But is that why this change was made — to enhance the business environment, to build the business climate in Saskatchewan, to give business an advantage or a hand up or a perception of a hand up? Because as we look across Canada and you look at the other jurisdictions — whether it's 35, 40, or 45 — we have a combination of economic, you know, activity, capacity in those jurisdictions that doesn't seem to be at all driven by that. So I'm wondering why, and why you take the particular view that you have on this legislation.

Hon. Mr. Norris: — Thank you for the question. Mr. Chair, the question is, actually, it's a profoundly important one. It speaks to elements of continuity and change. There were pieces of public policy, to the credit of the last government, that actually helped spur Saskatchewan forward. There were other pieces that needed change. So it's that element of continuity and change.

But the broader question, the more significant question, relates to how do we fulfill the promise of Saskatchewan? How do we fulfill the promise of Saskatchewan? On November 7, the people of this province made a very clear choice. The promise of Saskatchewan could best be realized by Premier Brad Wall, by his team of elected officials. Sixteen hundred people last night came together in this city in two rooms to hear, to hear an introduction by a very distinguished Saskatchewan citizen, Pamela Wallin, introduce our Premier and to hear our Premier articulate a vision about the new era in Saskatchewan, about keeping promises.

And the promises relate to using what President Bill Clinton framed in a question. And the question is simple and the answer's profound: what is the purpose of our prosperity? And our Premier addressed that. The purpose is to sustain our growth. The purpose is to share its benefits with each other and with future generations. Its purpose is to help reposition Saskatchewan, not simply on empirical scorecards but actually in the conscience of citizens across the country.

Whether we talk about investments in the budget, whether we talk about . . . as we are tonight, we have the privilege of having a dialogue and actually getting down and dissecting elements of Bill 6. Whether we're talking about legislation that's already been passed — yesterday we passed the first pieces of legislation as a new government — what we have a vision of is a vision that has motivated and mobilized polities over the ages, and it is a notion of the good life.

And it manifests itself in keeping our promises. We promised to be competitive. We promised to offer a labour relations environment that was fair to workers and employers. And the amendments to The Trade Union Act, as now being considered, they allow us to turn and say clearly, consistently, predictably, you know where Saskatchewan's going not through statistical analysis and national averages, but with a vision of leading.

And the benefits, the benefits, Mr. Chair, retail sales, international export of goods, wholesale trade, and new motor vehicle sales all show that Saskatchewan is at or near the top of the list when compared to other provinces. My colleague has asked are there not elements of continuity? Some, yes. Saskatchewan has a proud tradition. Some of that continuity goes back to 1905, and I would posit that perhaps we can reflect on Saskatchewan history by drawing on elements of Friedrich Hegel.

There's a thesis that started Saskatchewan, and this thesis was Saskatchewan could play a significant role in Canada. Saskatchewan for many years was the third most populous province in Canada. An antithesis arose. That is, Saskatchewan would have to sit quietly in the shadows. And this has led to a new synthesis — a Saskatchewan based on hope, a Saskatchewan moving forward, Saskatchewan being competitive in the new West, Saskatchewan being recognized in Confederation, a Saskatchewan moving beyond the equalization debate, a Saskatchewan that takes its place as a jurisdiction with bounty embedded within it and a promise to be met and kept.

That's where we sit tonight. And this piece of legislation, these amendments allow us to reflect on that vision forward. These pieces of labour legislation are sending a very concise, clear message to all stakeholders, not simply business — to employers and employees, to organized labour, to others fair and balanced as promised. And that, Mr. Chair, I think, provides us with an incredible opportunity to move forward on our platform and on the promise of Saskatchewan.

Mr. Yates: — Thank you very much, Mr. Chair. Well I want to start by saying we all share a desire to have a province that has a strong economy, that's moving forward and booming through jobs, people. And we need jobs to have families to be able to afford to pay their bills. And that's all very positive.

What I'm trying to, I guess, understand is do we have some . . . Has the new government . . . Because all those things started to happen without any of this legislation, may well continue to happen if the legislation wasn't there. Is there evidence that business will invest more money? Is there evidence that people fear the current legislation, or people don't like the legislation? Or do we have any actual evidence that the change will make the difference, that business will consider expanding in Saskatchewan and moving to Saskatchewan?

Do we have any indications that the business and climate will improve, people will come, create more jobs? The things that . . . You know, the multiplier effect that stimulates the economy to result in population growth, results in all the favourable economic issues we want, and I think it's to say we all want. You know, I think we all want to have that type of stimulated economy, and you know, we want to have our children have the opportunity to have the best possible opportunities. But is there any evidence that the current laws create some sort of fear in the business community or some sort of negative backlash in a way that would actually stop that from happening? Because we're seeing evidence of it happening today.

Hon. Mr. Norris: — If I may, I realize the time, Mr. Chair. I'm not certain of the time that we're going to, but we'll as time afford . . . Let me come at this from a slightly different perspective, that is, the introduction within the amendments of the need for an annual report for the Labour Relations Board. I will posit that as an indicator . . . and I received feedback from right across the policy community on this. And there was, I will say, not an absolute consensus but quite a clear consensus on this, that whether decisions were to be voted up or down, stakeholders from organized labour to independent businesses wanted more timely decisions by the Labour Relations Board.

So what we've said, what we've said is why not ensure that the Labour Relations Board actually offers an annual report to this House. Why not have to report, as is done in several other Canadian jurisdictions, the activities of that board to the elected representatives of the people of Saskatchewan for both organized labour, for corporations. Not to turn and say which outcomes are more likely, but to turn and say how can it be as we sit here in the 21st century, how can it be that there are outstanding cases going back as far as 2004 and 2005 and 2006, cases that haven't been cleared up, cases that haven't been ruled on.

And a clear consensus emerged right across that policy community. This is a move forward. This is a move forward in Saskatchewan — not about favouritism, but about fairness and about a report structure that captures the spirit of the new Saskatchewan regarding issues of accountability. And that is reflective. It's embedded within these changes. It's embedded within these amendments. And that reflects the type of predictability, stability, consistency that our government is moving forward on.

And I think what we're able to deduce out of that example is that through drift, through drift, Saskatchewan lost its way under the previous government. It's through decision and decisive action that Saskatchewan has recovered its pace and is playing a leadership role. This is a different era. On that one indicator alone, it is a different era because people ought to know. They ought to know in a timely fashion. And what we've said in another amendment is they ought to know within six months. Vote it up or vote it down, win or lose, but let people move on.

There are two, two of the pieces within this legislation. My colleague has asked for an example. I've provided two within the legislation, that I have heard anecdotal evidence from organized labour, from corporations, where people have turned and said, you know, this just makes sense — not profound, not complex, just good, old-fashioned prairie sense. This is the way it should have been done, and it should have been done a long time ago.

That is why we're moving forward. That's the message that's resonating across Canada. And I believe these amendments are making a difference.

The Chair: — Committee members, we are at the time of the agreed time of termination. I see Mr. Yates is signalling.

Mr. Yates: — Yes, Mr. Chair, I'd just like on behalf of all of us to thank the minister and his officials for coming this evening. And it's another late evening, and we do appreciate you taking the time to be with us.

The Chair: — Mr. Minister.

Hon. Mr. Norris: — I would just like to echo, I know for my legislative colleagues, I know it's another late night, but I think I would ask all of you to join with me. It's one thing for elected officials to stay late in the evening, but it's another for our officials that serve. They serve with diligence and great professionalism, and I wonder if you would just join me in giving them a hand to say thank you very much for their presence and efforts tonight.

Some Hon. Members: — Hear, hear!

The Chair: — Committee members, we will need a motion to adjourn. Will a member so . . . I recognize Mr. LeClerc. Mr. LeClerc moved our adjournment. Are the members agreed?

Some Hon. Members: — Agreed.

The Chair: — Before we adjourn I would also like to thank all members for their co-operation. I believe we have made progress this evening. And with that, this committee is now adjourned.

[The committee adjourned at 22:31.]