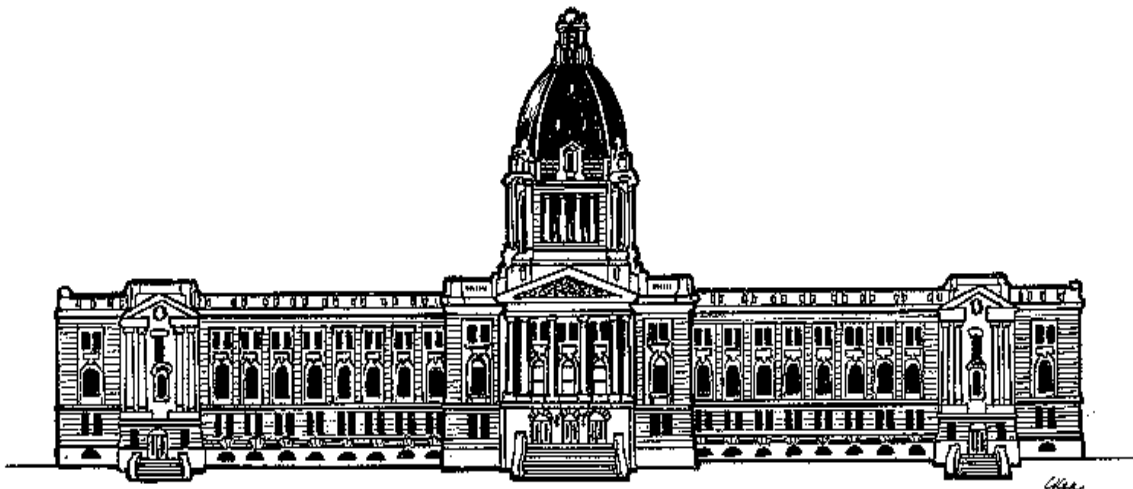




# **STANDING COMMITTEE ON HUMAN SERVICES**

## **Hansard Verbatim Report**

**No. 11 – May 1, 2008**



**Legislative Assembly of Saskatchewan**

**Twenty-sixth Legislature**

## STANDING COMMITTEE ON HUMAN SERVICES

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Mr. Serge LeClerc  
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Mr. Greg Ottenbreit  
Yorkton

[The committee met at 14:01.]

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

**Clause 1**

**The Chair:** — I'll call the committee to order. Welcome this afternoon. Our agenda before us is the consideration of Bill No. 6, The Trade Union Amendment Act.

Before I call upon the minister, there are a number of substitutions to the committee this afternoon. We have Mr. Iwanchuk substituting for Mr. Broten. We have Mr. McMillan substituting for Ms. Eagles. And we have Mr. Michelson substituting for Mr. LeClerc. So with those substitutions, we will carry on with our consideration of Bill 6.

We have Minister Norris with us this afternoon, and he has a number of officials with him. And at this time I would ask the minister to introduce his officials.

**Hon. Mr. Norris:** — Thank you, Mr. Chair. Here we have Mr. Mike Carr, associate deputy minister, labour, employee, and employer services division; as well Mary Ellen Wellsch, the acting executive director, labour planning and policy; as well as Pat Parenteau, senior policy analyst; and my chief of staff, Elaine Smith, is here as well. Thank you very much for the opportunity to once again appear before this committee.

**The Chair:** — I recognize Mr. Iwanchuk.

**Mr. Iwanchuk:** — Okay. Thank you, Mr. Chair. And good afternoon to everyone.

I guess I'd like to start out and maybe perhaps explain a goal at least that I would like to reach and our committee would also like to reach, and obviously to some understanding of the Bill, but also, I think, just an understanding of sometimes the motivation for the legislation, so you know if I could start on that.

And I know that these things have been . . . We've all heard the minister speak of the changes in terms of, if I could, fair and balanced legislation and bringing democracy to the workplace. I think he has used those. And I'd like to start there, just to sort of start as a base, to kind of get the explanations and build to that — to sort of start in the general and then move to more specific questioning. So if he could just go over — and I know he's said it many times, but if he'd bear with me and sort of just go over the whole point of what exactly was the government's . . . what do they mean when they say fair and balanced? And what do they mean when they say bringing democracy to the workplace?

**Hon. Mr. Norris:** — Great. Thank you. Thank you very much for the question. The mandate given to our government on November 7 obviously is represented in key elements of the campaign platform, that is, promises that were made and promises that we're keeping. To date I think we're up over 60 promises that have been kept.

The goal here is to ensure that there are some key elements within The Trade Union Act that reflect a sense of fairness and

balance within the labour relations environment for Saskatchewan. So we can go through some of the specifics, but what we saw as we looked across Canada . . . and maybe we can pull this information out as far as the comparison.

We can talk about the threshold. What we've seen is within the Western Canadian context — BC [British Columbia] sitting at 45 per cent, Alberta at 40 per cent, Saskatchewan under the former government sitting at 25 per cent for that threshold, Manitoba at 40 per cent. So we turn and we say, there was something peculiar. There was anomaly with that threshold. So what we did is turn and said, as we go across the country, not just in Western Canada, Saskatchewan had a threshold the lowest by a country mile.

So we said, let's actually make sure that fair and balanced legislation as well as being competitive with other Canadian jurisdictions is in place. So on that specific piece, what we can see is the proposed change moving to 45 per cent so that BC will be 45 per cent, Alberta 40 per cent, Saskatchewan 45 per cent, and Manitoba 40 per cent. There within the Western Canadian context, great consistency — a 5 per cent bandwidth.

We can also then talk about the significance of secret ballots, that is mechanisms that are used for, often to determine strike votes, to determine the leadership of organized labour, as well more broadly accepted practices within our democratic society. That is, an individual can have the opportunity to consult his or her conscience before casting a ballot and can do so in secrecy.

We've also come forward with the notion of responsible communications, again quite consistent with standards across the country within very rigorous parameters, that those parameters making sure that there is no coercion, intimidation allowed — and we can get the exact framing in phrasing — but a notion of responsible communication to ensure for a full dialogue.

As well we can then turn to the Labour Relations Board, and we can see the Labour Relations Board ought to have an annual report produced. It ought to report to this House on its activities. And especially in light of unfortunately what's been allowed to happen to the LRB [Labour Relations Board] in years previous. There are a number of outstanding cases going all the way back to 2004 that have not been completed — so 2004, 2005, 2006, 2007, into 2008.

What we've said is, there ought to be a six-month deadline. There ought to be a six-month deadline to ensure that (a) the LRB not only offers an annual report but (b) that its homework is getting done. The people of Saskatchewan need to know that.

As well we've said that it makes a great degree of . . . There's a great sense of allowing the parties to come together through free and fair collective bargaining to then ensure that they can move beyond, if agreed to by mutual consent, the three-year limit of a collective bargain. So of which we've seen in the past a number of exceptions already approved. So the exceptions turn and have offered the opportunity for citizens to turn and say, why have that anyway.

So what we see if we were to call it general terminology on this,

fair and balanced labour environment for workers and employers — there's that sense of balance. And again where does this come from? And I'll read for the record; it comes from page 19 in *Securing the Future: New Ideas for Saskatchewan*. This is a key element of our platform. "Ensuring . . ." Sorry, I'll start from the top.

A Saskatchewan Party government will establish a 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; [There's a frame for us]

Respecting the right of labour and management to negotiate collective agreements, by removing legislated limits on the length of collective bargaining agreements.

That goes to this last point that I've just read in; that is, we can move beyond three years. Relating to Bill 5 that this committee has dealt with, there is reference to ensuring essential services. As well there's reference here to reviewing the Workers' Compensation Board, and that work will be under way, coming in the future. Then we turn to ensuring democratic workplaces by requiring secret ballots on any vote to certify a union in a workplace and a 50 per cent plus one result for successful certification, then ensuring freedom of information in the workplace during any unionization drive by allowing unions and management the opportunity to fairly communicate with the employees.

In addition what we've also said within this section is making Saskatchewan a leader in the New West, Canada, and the world. And so we can see that, and again I'll just quote this:

A Saskatchewan Party government will host a New West Summit . . . [and play a leadership role within Western Canada and] . . . will streamline and enhance the Government of Saskatchewan's websites to create a . . . "electronic embassy". . .

So you get this sense of ensuring that Saskatchewan takes its rightful place (a) within Western Canada; (b) within Confederation; (c) within the world. One of the key areas to do that relates to Saskatchewan's labour relations environment.

We've seen through Bill 5 that essential services will be insurance that the people of this province are protected, and Bill 6 — the Bill in question and under review today — what we can term is that we're moving towards the democratization of the workplace, and we're also ensuring there's a greater degree of accountability regarding the Labour Relations Board.

That second piece is absolutely essential. We need to ensure that, and we heard this from right across the policy community, need to ensure that there is a degree of predictability regarding the Labour Relations Board. So how do we do that? Again there's a time frame within which its work must be completed — that is, a six-month time frame — and we must ensure that it offers an annual report, a report to this House, to the elected officials of Saskatchewan on what its activities have been.

So two key themes: democratization, within that frame, notions of fairness and bounds for workers as well as employers; and the other frame, accountability, especially as it relates to the LRB.

**Mr. Iwanchuk:** — Great. Thank you very much for that. I think I was looking for that and thank you very much.

Okay what I would like to look at this afternoon, because you have mentioned the various research or you mentioned that you had a look across the country, often times we've heard you say as well that somehow we needed to be middle of the pack or that we were, you know, in some way . . . Were there any other things that you looked at besides the thresholds in your, sort of, research to position Saskatchewan's — whatever words we use — middle of the pack or in competitive or whatever?

**Hon. Mr. Norris:** — Sure, and I'm happy to speak to that. The answer is yes; we looked at a number of variables. We looked at whether communication was allowed within any given jurisdiction. Then we looked at mandatory votes. We looked at thresholds for votes. We looked at notions of a majority. We looked at length of agreements, again in conjunction with the collective bargaining agreements. Then we looked at unfair labour practice deadlines. We looked at decision deadlines and then annual reports with reference to the LRB.

So then what we did is looked at the Canada Labour Code, the BC Labour Relations Code, the Alberta Labour Relations Code, The Trade Union Act here within Saskatchewan, the labour relations Act in Saskatchewan, the Labour Relations Act in Ontario, the Labour Code in Quebec, Industrial Relations Act, New Brunswick, Trade Union Act, Nova Scotia, Labour Act in PEI, and within Newfoundland, The Labour Relations Act.

So those are . . . Now the research extended obviously where we had questions or areas of interest, but I think what you can see is within various key segments there's a degree of depth and then this horizon, and the horizon is defined by the geography and political boundaries of contemporary Canada. So the answer is yes actually the . . . And I applaud the officials. They did yeoman's work as far as actually getting key insight and information gathered from right across the country.

**Mr. Iwanchuk:** — Now you talked about that you did go . . . In the research, did you simply say, here's the provinces that have mandatory votes, here's the provinces that have length of agreements? Here's the provinces that have time or unfair labour practice. You mentioned deadlines. What was the nature of the research, and was it simply a comparison at that level? You did mention that they did extra research in some areas.

**Hon. Mr. Norris:** — So the question relates to research methodology.

**Mr. Iwanchuk:** — Yes.

**Hon. Mr. Norris:** — Thanks very much for the question regarding the research methodology. And again it's just to reiterate how deeply impressed I am with the research that's been undertaken.

I think what we could do is we could suggest that what we have

here is various levels of analysis. So I guess the broader contextual piece is that as part of their ongoing work, our policy people obviously remain familiar with and attentive to the academic research. I guess that helps set the broader stage. As we then go to another level of analysis, there was an analysis of both statutes — and I've made some reference to that — but also decisions in other Canadian jurisdictions. And the emphasis on decisions is threefold, that is, to labour boards or their equivalents within various provincial jurisdictions, courts, and we would put a . . . given the Canadian political context, we would put significance on Supreme Court decisions as well.

What we can then turn and say is that there was directed research towards the subjects of this Bill. That directed research took two elements, that is, comparative and also what we might call rooted research or that focused within Saskatchewan. Some of the key research questions were defined as being outcome oriented, that is, focused on effectiveness, focused on sustainability, and focused on what may be deemed a success.

And obviously we've made reference to elements of this research, let's say, regarding Manitoba where the essential service Bill has led to only three settlements being needed to work through their Labour Board in Manitoba in the last 12 years. Importantly, as I made reference to this directed research, significantly this included what I would deem direct and primary research, that is contact made with other Canadian provincial jurisdictions from our officials.

So again if we stand back and examine those levels of analysis we can turn and say, there's ongoing work to make sure that the officials are familiar with and attentive to the academic literature, what's going on within the expert community. Then obviously research was focused on statutes and decisions, and again that had three tranches to it — labour boards, courts, and then Supreme Court, as and where applicable. Then what we can look at is this directed research piece to the Bill, and that was both comparative and what we deemed to be rooted in Saskatchewan research. And that was done on a very direct basis.

And so I think certainly the term that I would offer is very, very thorough research has been undertaken, both horizontally — that comparative piece — but also within the context of Saskatchewan at a great degree of depth.

**Mr. Iwanchuk:** — Thank you very much. This afternoon I'd like to focus on research. And I'd like to start on just laying out some facts and then just sort of indicate where this might be going.

Just one thing, in terms of some of my reading, that I wasn't necessarily aware of, that in the mid-'60s — '66 — that the United States and Canada both had about a 30 per cent unionization rate in there. Researchers have looked because now by, I think it was 2004 . . . at least the figures I have here, and I read these into the record the other night was that Canadian rates are now 31.8 — I think they're a little higher — and the States are at 13.8 per cent unionization rates. And different studies have been done to try and determine what caused that.

So one of the first things that . . . A question that was obviously

posed was, did a certain kind of legal rules or legislation have an impact on unionization rates? And I want to focus here because I think in the central part of Bill 6, this whole question and the major changes of unionization, the fair and balanced . . . And I thank you for that and saying that it's democratic.

I want to in fact challenge those, the whole concept of the way sometimes we use this. And sometimes it's hard to separate us as politicians from research and just what facts might provide us so that . . . But when we use the word democracy, it has meanings for all of us. But I think we're using it in the sense of, if I have understood what you're saying, that democracy . . . In terms of bringing sort of the right to vote to the workplace is somehow equated with democracy, and that that is, if I paraphrase, may be more representative than for example a card-check system.

Now also when I do this, there's a chart that I have before me, and again it's a 2004, but out of all the states and Canada, in the top — I think when I counted — the top 12 that they have, only Hawaii and New York and then Alberta is last there, with the density in unionization. And North Carolina is the lowest, and most of the states then come after Alberta, starting from Alaska right down to North Carolina.

Now this would obviously be something worthwhile looking at. And what I would like to pose for you is, what I'd like to discuss this afternoon is the concept and maybe to ask you first, if there was any research done on the concept of card check — let's call it card check what Saskatchewan now has — versus a mandatory vote. Was there any research done by the department on that?

**Hon. Mr. Norris:** — Thank you for the question and I'll just be right back.

The short answer, the immediate answer is yes, of course. But I'm interested in the question actually. The former secretary of Labor, Secretary Reich for Bill Clinton, offers in his memoirs I think some important insights about the dynamics under way within the United States and he offers elements of that.

I guess the first pause that comes . . . And I think it's a fair social science research question to turn and say, there are some parallel phenomena under way within two countries. There's a divergence or perceived divergence. The questions probably would flow: can the divergence be accurately and empirically documented? Is it, in fact, the case? And you offer some interesting examples — Hawaii and New York.

The complications within comparative study of Canada and the United States relate to federalism, of course. That is because both states are federal in their orientation. One then has to take another level of analysis to actually get down and say, okay on a state-by-state basis, what is to be learned, and within the Canadian context, on a provincial basis. So there are some complications when doing comparative studies on countries with federal systems.

But again, it's a fair question as long as we begin to take what John Courtney has called, you know, approach where institutions matter. We need to understand this.

So the answer is yes, the research was done. In fact it went beyond just simply looking at Canada-US [United States] comparative data. And that is, the research included, if I'm not mistaken, areas of Europe as well as Australia, New Zealand. And Mary Ellen will be able to expand more on some of the specifics of that and I think it's important research.

I think one of the elements of the question though can actually be found, if you want, rooted within the Canadian experience. And so in addition to the research undertaken, very ably undertaken by the officials, I actually do a little reading on my own in this area. And Errol Black and Jim Silver, *Building a Better World: An Introduction to Trade Unionism in Canada*. It's a second edition. It came out earlier this year and they deal with a variety of elements that I find actually very helpful.

And there's one passage here that I've found very helpful as we've gone along, and perhaps it can again help to root elements of this question. On page 57, and it's worth actually just taking a little bit of time for this.

In the past, it seems, each successive wave of unionization was followed by either stagnation or decline.

So right away there's a notion that there, not unlike other social phenomena, there will be ebbs and flows.

The initial wave peaked in 1920, but declined in the 1930s as a result of the Great Depression and intensified employer resistance to unionization.

So there's this dynamic that's under way within the Depression.

A second wave, involving a growth in industrialized unions, peaked in 1955.

And we can see that within the Canadian context coming out of the Second World War.

While union membership continued to grow in absolute terms through the mid-1960s, union density declined. The decline reflected a slowdown in union growth relative to the growth in overall employment and an increase in employment in non-unionized industries relative to unionized industries — specifically the growth in service industries relative to goods-producing industries. The extension of union rights to public-sector workers in the second half of the 1960s provided a fresh impetus to union membership. From 1965 to 1975, the number of union members increased by 1.3 million, and union density rose by six percentage points. Union membership continued to grow after 1975 but at a much slower rate, and union density levelled off at about 36 percent in the 1980s. In the 1990s union growth slowed even more, and union density declined. In recent years union density has been at its lowest level since the 1970s. The average for the period 2000-06 was 30.9 percent, which is 10 percent less than the average for 1990-99.

And it goes on. The reason I think that's important for the record is to turn and say, through an implicit analysis kind of embedded within this, these authors, very respected authors have offered a slightly different hypothesis than I think where

we're going to go. And that is, that within the Canadian context, there's been an ebb and flow.

Now your question isn't mutually inclusive of their analysis, but it does turn and say, the question that you're asking about a specific variable or a specific set of variables within the research needs to be contextualized by this broader pattern that Black and Silver actually highlight. So there's an existing ebb and flow.

I think your question, if I've come to understand it correctly, and then I'll come back to this comparative piece that you offered, the question that you raise relates to what effect does a secret ballot, does a secret ballot mechanism have on rates of unionization. Am I, I'm at least close, okay.

**A Member:** — Right on actually.

**Hon. Mr. Norris:** — Okay. The element here is to turn and ask a second question because within social science research, the practice is you actually also need to ask the next question, it would seem to me. And that would be, what other variables have also affected rates of unionization?

The significance of this is that it's sometimes referred to as starting with the conclusion first. That is, sometimes research can be undertaken . . . And I'm not suggesting this is the case. I don't have access to the material that you're working from. But it is to turn and say that sometimes if you start with the conclusion — that is, there is a relationship or a necessary connection between one variable and another or one element and an outcome — the onus is then to turn and say, okay what other variables or factors come into, come into relevance here? What are some of the other pieces?

So I simply offer Black and Silver to turn and say, let's contextualize this. I think what we've gone through and I think what we have access to is to turn and say, within the Canadian context the results are mixed. That is, the correlation, at least based on what we've seen, is that there are jurisdictions that have higher levels of unionization that have secret ballot, and there are jurisdictions that may not have secret ballot and they may have lower levels of unionization.

And I think, Mary Ellen, we've got that data, if I'm not mistaken? And that way we can kind of remove the abstraction. And this is from 2007, union coverage by jurisdiction. This is within the Canadian context. And this is from Stats Canada, labour force survey, historical review, catalogue no. — sorry, this is for the public record — 71F0004XCB.

So within the Canadian context there's 31.5 per cent; within Newfoundland and Labrador, 37.7 per cent; Prince Edward Island, 30 per cent; Nova Scotia, 29.4 per cent; New Brunswick, 28.2 per cent; Quebec, 39.7 per cent; Ontario, 28.2 per cent; Manitoba, 37.1 per cent; Saskatchewan, 34.8 per cent; Alberta, 23.8 per cent; and British Columbia, 32.1 per cent.

Now if we overlay some elements here, we can turn and say for example both British Columbia and Alberta have mandatory votes, but the discrepancy between them — that is 23.8 per cent in Alberta and 32.1 per cent in BC — leads us to another order of questioning, that is the variables. Here we have two sister

provinces. We have the same variable that you're looking at, that is provision for secret ballot, yet we have a point spread greater than well just in and around 10 per cent. So how would we account for that point spread? And I will suggest that one of the things we can take off the table is the secret ballot because both jurisdictions have a secret ballot. So the line of questioning — and I appreciate where we're going — what we see here is a point where we can turn and say well that variable can't explain the diverging trends of unionization within Alberta and British Columbia.

Let's back this up, so the question that was asked related to . . . and that's within the Canadian context, that's within the context of two sister provinces. So what we have is we can see that pointing to the one variable, that is the mandatory vote variable, doesn't provide us with sufficient explanation of the diverging paths between BC and Alberta on rates of unionization. Therefore if we back this up to your initial question and its framing, we can turn and begin to ask a whole series of questions. When comparing two different countries especially federated systems, I think the onus is then on us to then drill down and begin to ask, within that comparative context, within the complexities of federalism, what other variables may be helpful in accounting for divergence in rates of unionization between Canada and the United States? And I would suggest that probably the literature on this is rich and continuing. There's probably a nice healthy growth industry on this one.

And so it is to turn and say, based on what we've just offered the Alberta-British Columbia comparison, I would hesitate to suggest that there would be any obvious connection between unionization rates in the United States and those in Canada as identified by a variable of mandatory vote.

**Mr. Iwanchuk:** — Thank you very much. Yes, I think we're getting somewhere. Maybe not to the watching audience, but I think we are. And I'm glad you raised the Canadian comparisons. But let me just go back to this whole mandatory question.

In studies that I have looked at, and particularly the one with Professor Riddell, 2004, in British Columbia. If I could just read in . . . Between 1978 and 1998 he studied, investigated the experience of British Columbia. And it writes here:

This is an interesting period since mandatory voting was introduced in 1984 and then eliminated in 1993. [So we've got a period of time here.] It provides an opportunity to link results with the specific manner in which workers certify a union. [And he] found that the unionization success rates fell by 19 percent after mandatory voting was introduced, and then increased by nearly the same amount when it was eliminated . . . [Now he] argues that differences in certification processes are directly linked to the divergence in unionization rates between Canada and the United States.

Now another study also found, this one was at Queen's University:

. . . investigated the effect of Ontario's change from card-check system [again voting] to mandatory voting in 1995. [Professor Sara Slinn at that time] She concluded

that the "introduction of mandatory votes had a highly significant negative effect on the probability of certification."

Another study in Wilfred Laurier University again, Susan Johnson, concluded that:

. . . 17 to 24 percent of the difference in unionization rates between Canada and the United States could be explained by the widespread use of mandatory votes in the United States, compared to the less widespread use . . . in Canada.

I also have another study because I think it was very astute of you to mention that there are many variables. We all agree. I mean social science research is not the easiest of research. But the study by Johnson, and this is a study at McMaster University, Susan Johnson . . . And I will read this, but I simply read it into the record. But I'm not prepared to answer questions on some of this. Because this, to me it seemed to talk directly to what you had raised there. And in the study on page 10 here, it said:

This paper is the first in the literature to use to use cross-section time-series analysis to provide direct evidence of the impact mandatory representation votes/card check on certification success. This methodology incorporates more information than either cross-section or time-series analysis. Both province fixed effects and province-specific time trends can be used in cross-section time-series analysis. Unobserved heterogeneity and legislative endogeneity may, to some extent, be addressed through the use of these variables. As a result, cross-section time-series analysis is more likely to correctly identify the impact of different union recognition procedures on certification success.

Now I think this directly what we're speaking about here. Now further in there and just as an introduction, just to sort of . . . because I think this speaks directly to the point, at least on this issue. The author goes:

This paper provides empirical evidence on how two alternative union recognition procedures, mandatory votes and card check, affect certification success. Mandatory votes require that . . . a union receive majority support in a secret ballot [in order to be recognized] In contrast card, check allows recognition based solely on membership evidence collected by the union and does not necessarily require a vote. In Canada, unions are recognized on the basis of either card check or mandatory representation votes. Canada is a federal state consisting of ten provinces and labour law is primarily the responsibility of the provinces. There is considerable variation over time and across jurisdictions in the use of these two forms of union recognition. I conduct an econometric analysis of cross-section time-series data for nine . . . provinces over the period from 1978-96 to identify how the type of union recognition procedure affects union certification success. The empirical results show that mandatory votes reduce the certification success rates by approximately 9 percentage points below what it would be under card check. This result is robust across specifications and significant at above 99% confidence level. The evidence

. . . [suggests] the type of union recognition procedure has a substantial effect on certification success and, therefore, it is likely more difficult for unions to maintain or to expand membership under mandatory representation votes than under card check.

And here's the interesting part that I like: "This [helps] explains why the labour movements in North America and the UK have supported card check recognition procedures while business has preferred mandatory votes."

Now and I guess the question and your premise, that you were after a fair and balance, on that point I have to tell you that my reading of this — and I'm trying to read over it a number of times and I'm not going to pretend to totally understand — but I think I understand what I read. And I think in some ways it is empirically dishonest — if I could put it that way — to say that to use, fair and balanced. We might politically use fair and balanced to try and couch it in whatever terms we could, but I don't think it's fair or honest, if I may say that, to say because I think the evidence shows that what you have done is chosen votes. Business prefers votes. You know, unions prefer card checks for whatever reasons those are. This will stifle union growth. You have the trade union movement upset. Maybe they . . .

**A Member:** — Could I make a point of order?

**The Chair:** — Mr. McMillan, you can raise your point of order succinctly.

**Mr. McMillan:** — Just the questioning of honest. I don't know if that's appropriate, whether an hon. member . . . is it appropriate that be honest.

**Mr. Iwanchuk:** — Well excuse the empirical evidence to, you know, whether it's honest to say . . . I mean I could say . . .

**Hon. Mr. Norris:** — I took it as the word accurate.

**The Chair:** — Okay I would just caution members to not impugn other members' character. And if it's the understanding that you're using it in that context, I think that is acceptable but I would be careful.

**Mr. Iwanchuk:** — I was probably saying the whole government but it wasn't the member opposite. I think they got what I was trying to say. I think the sense here is to use the words — maybe I can put it this way — to use the words fair and balanced. In some ways that . . . and I'm not sure how to phrase this, Mr. Chair, but if the empirical evidence here is correct and if the study is correct, all I'm simply saying is that you have chosen one over the other system. Fair?

What I'm saying is, Mr. Chair, what I'm saying is dishonest is that, you know, is to say that somehow we are using fair and balanced and somehow we have empirically found what fair and balanced is, whatever that means. Maybe it's a political meaning, and that's where the confusion is coming in.

I'm just simply saying, if everybody agreed that this was black and this was white, to simply say it's dishonest to say that the white is black is . . . I'm saying, I'm not trying to impugn, I'm

not trying to . . .

So my whole argument here is just simply that, if you use one type of . . . According to this study, according to this study, and maybe that was the, intuitively, that the labour movement knew this or why they are feeling that they're so hard done by this, but intuitively, and perhaps they know this, is that, if the study is correct, then I would say it would be more honest to say that we chose what business prefers — that's simply taking words out of here — or we chose that we didn't want higher unionization rates. And we chose that method, and we put it in here.

And then that — I'll make just a couple more points on that — that coupled with the whole question of the opinion piece to send a message in that. And I have a whole bunch of things on that in terms of the employer actually having the right to be involved in this process. But that's perhaps for another time.

But the issue here, let me just state that this narrow issue is that it would seem to me that at least from this study and trying to — and they use a number of other cases — and trying to account for some of those things perhaps that you have spoken of, that they have found that card check . . . higher unionization rates, mandatory voting down. Studies in one province, BC — Riddell — where rates go up and down and then were in fact over a period of years this changes. Many studies that say that, and I guess a number of questions will arise from that.

And this is, I guess I was wondering if any of your research had, you know, done this because I guess what I was concerned about is some of this other stuff that I had read was from the *Fraser Alert*. So I'm just wondering, you know, that somebody if, you know — excuse me if I kind of thought that, you know — maybe somebody read that and said, no if we really want to stop unions growing, that you know, we should move to the vote system.

And you know what we'll do? And we'll maybe say this is more democratic. Maybe we'll say let's move to the vote system. And we'll say it's fair and balanced because we look across the country and six do it this way; five do it the other way. And we want to be in the middle of the pack. And that's true.

And I kind of sense that you probably wouldn't do that. Maybe you would. I don't know. I don't want to put any motives into that to use to sort of make it politically sellable here.

But I would pose to you then, I guess after that sort of long and . . . is that, when have you seen the research? And that's why I asked research on mandatory . . . this. And I guess just directly, is that why you chose mandatory vote?

You know, I don't know what else to say. And I didn't mean that you were dishonest. I mean I was just saying in a form that this, empirically it would seem that this would be dishonest according to this piece to say that. In some ways I guess it would be more honest to say, we chose this way. We wanted this effect; the research said that; that's what we did. That would be more honest to say. Politically maybe not the best thing to say, but it'd be empirically honest.



**Hon. Mr. Norris:** — Yes. First of all I outright reject the conclusion. Language is a pretty tricky thing, and you make a good point. The member makes a good point as he's going along here. There are a few pieces here, Mr. Chair, that we'll begin to work through.

Maybe what I'll do is, I'm just going to take a minute. I've got some notes that I've taken. I'm just going to take a minute and consolidate these otherwise I'll literally go by note by note and we'll get out of here about 5 o'clock. So I'll just take a minute and I'll consolidate this.

Thank you, Mr. Chair. I guess as a place to start we can speak about, as I've hinted at before, the significance of language. And these are just kind of contextualizing remarks or an element that maybe runs parallel. The suggestion . . . And it rests on something that can be called an if-then proposition. If the evidence as presented is clear and undisputed, then it must follow. And you can draw any number of conclusions.

The suggestion though of . . . and I asked specifically whether the member meant by honesty, accuracy. And what my interpretation of what was offered is that there have been two definitions embedded within the use of honesty. I believe one does relate, I think, to what the member was speaking about, and that is empirical accuracy. The other one, I think there was, there was some notion of tell us what the, you know the purpose of this is and it . . . through the lens of tell us what the purpose is as this will affect unions. Maybe I'm not quite accurate but I think that's where we were going and I want to be crystal clear about this.

The focus of the democratization elements within this Bill is actually about empowering the people of this province. That's the premise. From there we went on a . . . And I appreciate the dialogue; it went back and forth. And I think what we can say is and it's as simple as, so if you're asking, you know, about the research that's been done, and we have done quite a bit, but I'll just show you my research and I'll ask you what you can conclude.

If two jurisdictions in Canada, side by side, each have mandatory votes and one has a 23.8 per cent union coverage rate and the other one a 32.1 per cent coverage rate, would you not agree with me that probably we should look at some other variables? Because if they each share that feature yet each have outcomes that diverge, then there likely has to be some other variables or other factors, other determinants, actually that shape those diverging paths. So we look at areas of consistency. So there is again . . . And other research has been done. But it is to turn and say — and I've done it here before the committee — to turn and say, here's a circumstance where the variable in question doesn't actually answer the question. What accounts for this diverging, social phenomena?

From there, what can we conclude? We can conclude that based on Black and Silver's work — this isn't just done on the fly — I mean they offer a different explanation, a cyclical explanation. I then offered very, very specific reference point. I think it's fair to turn and say probably it's not clear. Obviously there are some studies that demonstrate this, but there are some other reference points or what we may call explanations that we need to delve into.

Okay, so where does this, where does this take us? It takes us to the focus of this Bill. This Bill is not about an increase or decrease in unionization. This is about promoting democracy in the workplace. It's about empowering the citizens of Saskatchewan like the citizens of British Columbia, like the citizens of Alberta, like the citizens of Ontario, like the citizens of Nova Scotia, like the citizens of Newfoundland. And we will soon — we plan to add Saskatchewan to that list — have the right to have a secret ballot.

The follow-up piece on this is to turn and suggest out of what I find a productive dialogue and let's explore ideas and actually look at different bits of empirical evidence. And then something happened at the end of the question. And that something then suddenly came around and it was, well business interests have somehow affected this, influenced this, and why don't you just tell people this is the way it is. And what I will call quite a careful analysis of the research that was offered, and I appreciate the work, suddenly — you know, out of Monty Python — now for something completely different, there's this other piece.

Instead of turning and saying, you know, this actually is an interesting discussion. I mean this . . . but to turn and there are a couple of elements: one, that the purpose, primary purpose of this element of this piece of legislation is anything other than about democratization, I simply reject. This is about offering the people of this province an opportunity for empowerment. How that shapes their individual decisions about whether to participate in a union or not participate in a union, I leave to the individual.

But that's not where this stopped. This then went to some influence or force. And it takes us back to, I believe, increasingly diverging models of decision making and an approach to public policy. That is, one approach as has just been offered, and again rejected. But it's to turn and say, there are interests out there that are affecting your public policy direction. And it's to turn and say, actually we campaigned on it. That is, the value that we put on democratization, I guess is what I would call self-evident. We ran on it.

We have a mandate. It's a different model of governance than likely the members of the official opposition are used to because they keep making reference to specific interests. Yet the questions are very, very, very oriented towards one specific set of interests, and I can offer great reassurance that the model we follow actually is premised on serving the public interest of this province. We ran on it. We were elected on it with a very solid majority. We said we'd keep our promises. We're up over 60 now, and this another one of the promises that we're going to keep.

And this doesn't mean that you turn, upon winning the election, and suddenly become attentive to specific interest. You turn and you say, this is what we ran on. This is what a government is elected on, and under the premiership of Brad Wall this is what we're going to deliver on. So we'll back this up, and I'll just review. I'll offer a summation of this. The focus of the Bill is not about rates of unionization. The focus is about the democratization of workplaces in Saskatchewan.

The member rightly says let's take another look at this; let's ask

some other questions. Does democratization of the workplace have any bearing on rates of unionization? If this is a question of concern for you then you rightly raise it. You offer some evidence. I offer again from Black and Silver, a competing hypothesis, that it's cyclical. I then turn and say based on that one . . . And this is done immediate. We can all participate in this. It's open and objective, to turn and say BC and Alberta, mandatory votes in each, yet one has 23.8 per cent rate of unionization, the other 32.1 per cent. If they both share that same trait of a secret ballot then I will hypothesize to turn and say there have to be some other variables. Because if they both share that trait, that trait can't help us to understand the diverging numbers between Alberta and BC.

From there we've gone on to this piece where what's really driving the agenda? And I'm happy to report what's really driving the agenda of the Saskatchewan Party is quite simply our platform. This is what we were elected on. This is what we ran on. This is what we were voted into office on. And this is what we're working to ensure that we realize. That is self-evident. It's contained right here. And any notion that there are specific interests that turned and said, well here's what you can do, the evidence isn't even conclusive about that. And regardless, the point is about democratization.

It goes to one further element. It goes to the element of respecting the will and wishes of the people of this province, and that they have the right to consult, the collective conscience, as individuals walk into and consider whether they want to participate in a bargaining unit or not. Nothing hidden. People can opt for it, opt against it. It's there.

As I say, I've tried to offer a summation, Mr. Chair. If I've missed a point I'm happy to go back over this.

**Mr. Iwanchuk:** — I think the minister did somewhat miss the point. But I just want to . . . that the point of the empirical evidence concerning the impact of the different unionization, union recognition procedures. And the author of this report says it's important for three reasons. And first it informs policy making. And I think that that was clear. That was my point of what I was trying to make.

But I'll leave well enough alone. I think the minister has felt that his study, BC-Alberta study, outmatches this one. I'm not going to sit here and belabour that point all afternoon. I'm glad he has analysis and has expertise in this area.

But I do want to read in, before I'm finished, into the record, I think the Labour Relations Board plays such a huge role in this and in terms of establishing the trust, establishing, well basically the trust of all the stakeholders who are involved. When they come before the board they have to have some confidence of the board's ability to rule in these areas. Unfortunately I think, as we've seen in Bill 24, we've seen in terms of the animosity that's been raised around this issue, but it seems every issue that this department's been involved in, or this minister.

But I would like to just read into the record, because this is from the Canadian labour lawyers association. This was a email that I had, came off the NUPGE, national union of public and government employees, I guess, site. And it says, "Canadian

labour lawyers blast political firings in Saskatchewan." And it's dated April 4, 2008. And it has here:

The Canadian Association of Labour Lawyers has spoken out against the proposal by Saskatchewan's new right-wing government to fire the top officers of the Saskatchewan Labour Relations Board.

In an open letter to Saskatchewan Party Premier **Brad Wall** and Labour Minister Rob Norris, the association says the firings violate the trust the public should be able to have "in a free and democratic society" that its affairs are being governed by an independent and impartial judiciary.

[In quotes] "This applies equally to the specialized administrative tribunals that regulate a diverse range of activities," the letter says. It is signed by association president . . .

And it goes on, and the next paragraph:

"We are greatly concerned by your government's summary termination of the appointments of SLRB chairperson (James) Seibel and Vice-Chairpersons (Angela) Zborosky and (Catherine) Zuck on the 6th of March 2008, all before the end of their scheduled terms and without cause. A new chairperson has been appointed without an open competition being held," [that was in quotes] the association notes.

"Across Canada, independent tribunals administer labour legislation and regulate the affairs of employers, organized labour and members of trade unions. These tribunals make decisions of fundamental importance to people's jobs, businesses and lives. The composition of the Labour Relations Board ensures the interests of employees and employers are equally represented. Further, the legislation provides for an impartial chairperson and vice-chairpersons."

The association says the firing of legitimate appointees to such boards before their terms expire "for what appear to be political reasons" erodes public confidence.

"For tribunals to be able to interpret laws impartially and without fear of reprisals, security of tenure must be respected. The recent actions of the government have not only called into question the independence and integrity of the Labour Relations Board, but have raised a spectre of political interference in the workings of the tribunal essential to maintaining legal rights in the workplace," it adds.

"The Canadian Association of Labour Lawyers, an organization of more than 300 lawyers who represent the labour movement across Canada, decries this action as an affront not only to the Labour Relations Board, but also to the public and all stakeholders who rely upon the board to make decisions that fundamentally impact upon their livelihood and rights."

Now my idea, I guess, is I would not only question the

minister's ability in research but I wonder how, with all these use of the word democracy and trust and everything that we have heard, how he squares that with the letter that he received?

**Hon. Mr. Norris:** — Thank you very much for the rambling question. Again I appreciate that there were elements of legitimate nuanced inquiry there. There were also some unfortunate partisan quips that I guess come with the territory. That's fine.

I think what I'll do is address, there was a term that was used, if I captured it correctly, called regarding public confidence. And that is, with cases outstanding back to 2004 within the existing LRB, this Bill is meant to enhance public confidence, quite simply. We want to make sure that the LRB provides to this House on an annual basis a report of its activities. Frankly I'm stunned that the official opposition wouldn't have put this in place years ago — 16 years in power — something as basic and transparent as having one of the boards that you have just spoken about, how it could not report to this legislature.

So I guess one of the questions that will be asked of the official opposition is, do you oppose this? Do you oppose this step? That's going to be a key question. And maybe what we'll do is we'll actually put, we'll ask the members to speak out specifically. Do they oppose this amendment? As well maybe we should ask, do they oppose the idea that instead of allowing the LRB to have cases lingering back to 2004, that do they oppose that we should have six months, a six-month deadline on their work? That seems like a pretty fair question. Pretty fair question.

As far as the notion . . . And there are elements of the question that are fair and reasonable, and there are unfortunate kind of undertones. We can go back to pretty significant documentation of another time in transition. We can go back to *The StarPhoenix*, October 21, 1991, where the NDP [New Democratic Party] fired about 200 Crown corporation and government department employees. By Christmas of 1991, and that's from a December 23 article, we can go, and I'm happy to go in for the record, some of the language that was used and some of the rationale that was used. But it is to turn and say that the broader question, and probably a very legitimate question, relates to democratic theory. So I'm going to attempt to just address that.

As governments come in, governments of all stripes within Saskatchewan political history, obviously they're given a mandate — some a majority mandate, some a minority mandate. And part of that mandate relates to agencies, boards, and commissions.

So what can we say? We had a Labour Relations Board that is underperforming. A decision is taken to ensure that it has some new leadership. We have an additional amendment that will be coming forward in another Bill that turns and says Saskatchewan ought to have the option of having either one or two Vice-Chairs.

And what do we have? We have a letter that's offered and read into the public record, the Canadian Association of Labour Lawyers, obviously an organization that has its own partisan orientation. Fair enough. That's free and democratic society.

But for the record, it would seem this organization exclusively represents unions, it would seem.

So what would that say? What about the Canadian Association of Counsel to Employers, the Canadian Association of Counsel to Employers that wrote to me on February 20 in support of Bills 5 and 6? What do we have to say about that? Well we go back to this is part of a healthy civil society. That is, over the course of having the honour of serving as minister over the better part of the last five or six months, we can see that there have been opinions regarding Bills 5 and 6 that stretch right across the policy community. There are some organizations that have written in support of these Bills. There are other organizations that have written in opposed to these Bills. There are individuals. Overwhelmingly the questions I have, there are people curious about these Bills and seek greater information.

And what's to be concluded? What's to be concluded is that there is a mandate to govern. The mandate is based on securing the future. We're moving north of over 60 promises kept, and we anticipate, actually welcome a wide-ranging, informed dialogue and discussion straight across Saskatchewan — and in fact it extends well beyond Saskatchewan — about these two pieces of legislation, the one in focus today, Bill 6.

And so I welcome the member to read and appreciate him reading that into the record. I've read the letter myself previously. There are other letters. There are other letters. And what we can turn and say is the two elements that shape and define — if you can use the term characterize — this Bill, they relate to democratic workplaces. We promised secret ballots, and we intend to deliver on that, and greater accountability by the Labour Relations Board, and we intend to deliver on that.

The other piece, as far as offering a degree of . . . I'll choose my words carefully. I'll just turn and say, perhaps a melodramatic tone. That tone, when we look at the NDP record, Roy Romanow said if government employees are politically incompatible with an NDP administration, "it makes the person not competent to carry out the job." October 23, 1991.

There's been a shift to a new Chair. This is going to, the legislation is going to ensure that that new Chair and his colleagues have to report the activities of that board to this House. And I will ask it — and perhaps it will be taken rhetorically, but I don't mean it rhetorically — I just wonder how the official opposition would vote on that alone.

**The Chair:** — Members of the committee, it is an opportune time to take a brief recess. The committee will recess until 3:40.

[The committee recessed for a period of time.]

**The Chair:** — I will call the committee back to order and I will recognize Ms. Morin.

**Ms. Morin:** — Thank you, Mr. Chair, and good day to Mr. Minister and his officials again today.

There is a number of different thoughts I want to go with. Let's start with the issue the minister describes as . . . Or maybe I shouldn't try and use words that I'm not sure I have since they're not front of me in *Hansard*. But the minister is

concerned about a reporting mechanism by the Saskatchewan Labour Relations Board and therefore is wondering if the NDP opposition would be opposed to that. I'm wondering if the minister, where that concern is coming from, I guess, in terms of the reporting mechanism of the Labour Relations Board.

**Hon. Mr. Norris:** — I certainly appreciate the question. The concern is that what we've seen over the last several years is the buildup of a considerable backlog of work that certainly I would say right across the policy community a common sense of concern at least, frustration for some, on the length of time that it was taking for decisions to come out of the LRB.

So that's a key element. Now it's part of an approach, a notion of measuring results. In this instance the results . . . Actually quite simply this is a twofold element within the amendments. That is the first element being that there should be an annual report on the work that's been undertaken by the LRB, and the second element turning and saying, let's ensure that within six months the LRB is offering its decisions.

And again the view on this is about accountability. It comes from a notion of governance but it was again, I'll stand back from the word universal but I'll say this issue during the consultations and in receiving feedback from individuals received quite widespread support again from right across that policy community.

**Ms. Morin:** — It seems to me from what's been said and certainly from what's being presented from the government, the Sask Party government, that the implication is that the Labour Relations Board, the Saskatchewan Labour Relations Board to date has no reporting mechanism or hasn't done any reporting. I'm sure the minister is aware of the fact that the Saskatchewan Labour Relations Board, although not obligated under statute, not obligated through legislation, has been filing an annual report every year since 1998. So I'm kind of curious as to the implication that's being presented now that there is no reporting mechanism when clearly there has been on an annual basis since 1998 despite the fact that the Saskatchewan Labour Relations Board isn't even obligated to do so under law.

**Hon. Mr. Norris:** — This actually offers an element of continuity: (a) it's to ensure that continues; but (b) what's reported, you know, offers a snapshot of the activities. It's significant here and what I'll do is refer to The Trade Union Act and as we walk through this, the tabling of documents . . . Well what I'll do is I'll actually get Mr. Carr to actually just go through. Maybe you can contextualize, rather than me just simply reading, you can contextualize the significance of 21.2.

**Mr. Carr:** — Certainly. Thank you, Minister. The provision in the Bill sets out that:

In each fiscal year, the board shall, in accordance with *The Tabling of Documents Act, 1991*, submit to the minister an annual report on the activities of the board for the preceding . . . year.

The Bill then goes on to set out what the content of that report will be and in sub (3) it talks about:

a list of all matters filed with the board;

a list of all decisions rendered by the board;

with respect to each decision listed:

the date the matter was initially filed;

the date the matter was heard by the board;

the members of the board that heard the matter; and

the length of time between the last day of the hearing and the rendering of the decision; and

a summary, by member, of:

the number of decisions rendered;

the type of decision whether interim or final disposition; and

the average period between the last day of a hearing and the rendering of the decision for each type of decision”.

**Hon. Mr. Norris:** — If I can I'll just summarize to turn and say that the amendment affords for a much greater level of detail than the voluntary reports have provided to date. And so this is about accountability. And again the question remains, the question remains and it would be interesting to see, to see if we would get the support from members of the official opposition on this amendment. And I don't know, Mr. Chair, if there's a mechanism at the end of this, if one day there's a clause-by-clause vote, to actually do a recorded vote, to just see what that might be like.

**Ms. Morin:** — Well, Mr. Minister, we finally have the truth out of you . . . I should say the accuracy, which is that there has been an annual report filed on a yearly basis since 1998 versus the implications that the minister has been making so far that there has been no reporting mechanism by the Saskatchewan Labour Relations Board. And I have to say that that's a huge relief that the minister has now put that on record, that he is aware of the fact that there has been an annual report filed.

With respect to the newly appointed Chair of the Saskatchewan Labour Relations Board, the proposed legislation proposes to take away the discretionary authority of the board to determine if the support evidence filed with an application for certification is sufficient to certify a union. Why does it appear that the current administration and the minister has a lack of confidence in the newly appointed board or board Chair to be able to make that designation?

**Hon. Mr. Norris:** — Mr. Chair, for clarification, and if I'm off on this then I'd be happy if the member can help me. Are you making reference to six point one point two?

**Ms. Morin:** — I'm currently making reference to . . . Let me just check my own notes here.

I'm sorry. I've just forgotten the question because, you know, time drags on, and then we tend to do that as well. The question that I posed was with respect to lack of confidence in the current Chair to make a ruling if there is 100 per cent support

evidence or strong support evidence that a union should be formulated in a workplace and if the employer is not contesting it.

**Hon. Mr. Norris:** — The premise of the change is to ensure that individual employees have both a voice and a vote.

**Ms. Morin:** — Well that's not exactly what I was asking, Mr. Minister. I was asking why the discretionary privilege of the Chair has been removed to decide whether the support evidence is strong enough to not warrant a mandatory vote, and I realize the answer may be, well gee, we haven't had mandatory votes until now.

But the point is that the board could have also ordered a hearing if they didn't feel the support evidence was strong enough or could have decided that it was not warranted for support certification. So given that we are looking at mandatory vote legislation in Bill 6 with also having removed the discretionary privilege of the Chair to make a ruling based on support evidence, like I said, it seems to me that there's a lack of confidence in the current Chair to be able to make that decision.

**Hon. Mr. Norris:** — I reject the premise of the question and any association to the current Chair. Obviously the LRB's a quasi-judicial independent entity, and, you know, I think there's an element to your question that's very helpful but then to, you know, to suggest or somehow link the current Chair . . . This is about many things but it's not about the confidence of the Chair. It's about confidence in a process, confidence in a process. And the process is to ensure that employees have at once a voice and a vote. So any notion that this is somehow linked to an individual — it's a troubling question.

But I think where you're going, and the more interesting question, frankly, is about confidence in process. And the process that we have confidence in relates to a secret ballot. That's the process. So again I challenge this notion of confidence that you've introduced or that has been introduced into the dialogue. I take that one off the table.

It's an interesting question when we remove that line, and that is, you know, what is the intent? The intent here is actually to ensure that there's a process in place, and the process in place is founded on a pretty simple step, and the simple step is that every employee has the opportunity to have a secret ballot.

**Ms. Morin:** — Given the evidence that exists by various researchers that a secret ballot vote with respect to certification is quite different than, for instance, a secret vote in a democratic election, for instance, it is interesting that if we take out the wording then, perhaps confidence in the current Chair and simply say confidence in the Chair or the board together to have discretionary decision-making abilities to be able to decide whether there's enough support evidence to warrant certification, why is that being taken away from the board? Why is it that it must go to a mandatory vote, despite the fact the Chair and the board may decide that there is overwhelming support evidence to warrant certification?

**Hon. Mr. Norris:** — And I appreciate the question. It's a question of what does empirical evidence look like, and empirical evidence looks like the result of a vote. That's, I mean

that's the significance of going to a secret ballot. So that's why it's been written into the legislation as we see it. That is, go to a mandatory vote, secret ballots are allowed, and then the empirical results are quite obvious and explicit.

My colleague, Mr. Carr, can speak a little bit about secret votes generally within labour relations. And maybe you can speak to strike votes. And we can also talk about often leadership votes and some other examples so that this . . . I mean, I understand, and I appreciate the question. What you're saying is, is it's one thing to talk about, let's say, general elections. But Mr. Carr will actually, you know, he'll ground this and turn and say, you know, notions of secret votes are already pretty common within the labour relations environment.

**Mr. Carr:** — Thank you, Minister. That is certainly the case when it comes to many processes within industrial relations. There are votes, for example, with respect to strike that are often expressed by secret ballot. Certainly supervised votes are conducted in secret ballot processes. Ratification votes are often also conducted by way of secret ballot. There's also elections of officers within the trade union movement which are often conducted by secret ballot. The exercise of a secret ballot is certainly nothing new or unusual.

**Hon. Mr. Norris:** — Great, thank you.

**Ms. Morin:** — Okay. Well we are speaking of apples and oranges, so we'll move on to another topic. For instance, let's look at the film industry since we need some concrete examples.

Film industry is an industry that, where every day carries a hefty price tag in terms of a production shoot. So right now what this legislation is saying, that despite the fact that an employer on a film shoot has absolutely no reason or no willingness to contest a certification vote for that shoot, he is obligated — or he or she, I should say — is obligated to stop production and hold a mandatory vote because the Chair no longer has the discretion to certify that work site or that workplace.

**Hon. Mr. Norris:** — Great. No. Thanks very much for the question.

There is nothing here that detracts from voluntary recognition.

**Ms. Morin:** — Well the minister's legislation is clearly outlining the fact that there has to be a mandatory vote. Or am I misunderstanding that?

**Mr. Carr:** — The legislation does not interfere with the Labour Relations Board's historical opportunity to entertain applications where there is voluntary recognition. And in a voluntary recognition environment, certainly the employer and the trade union can come to an understanding, and in that circumstance they can bring application to the board and have a certification order granted.

**Ms. Morin:** — So in effect what's being said is that if there is consent by the employer to have that workplace certified, that a mandatory vote does not have to take place.

**Hon. Mr. Norris:** — Appreciate the question. I'll have Mr. Carr speak in more detail on this, but voluntary recognition and mandatory votes can actually sit side by side. And the process obviously relates to who and under what circumstances the approach is made to the LRB. Mr. Carr, I'll let you take it from there.

**Mr. Carr:** — Minister, that certainly reflects my understanding. There have been circumstances in the past under The Trade Union Act where employers and a trade union have come together, entered into a voluntary recognition agreement to deal with a specific set of circumstances. That agreement has been carried forward in application to the Labour Relations Board, and the Labour Relations Board has granted a certification. Nothing that is contained in this Bill changes that circumstance.

**Ms. Morin:** — Thank you for that. Considering that the majority of labour jurisdictions in Canada enable union certification when a union shows sufficient majority support by union support cards, what jurisdictions is your government trying to emulate?

**Hon. Mr. Norris:** — I think the term emulate is one that we would challenge. The process here is that the initiative is focused on ensuring that employees have an opportunity to have a secret ballot. And so again, and maybe there's a rephrasing, but this is a made-in-Saskatchewan amendment. There are obviously other jurisdictions — in our research we can walk through that — but regarding the word emulate, the answer is Saskatchewan's going to take a leadership role.

**Ms. Morin:** — Which other jurisdictions have this proposal in their legislation?

**Hon. Mr. Norris:** — What we've seen is, and it goes back to the earlier points, BC has mandatory votes, Alberta has mandatory votes; Ontario, mandatory votes; Nova Scotia, mandatory votes; Newfoundland, mandatory votes; and in a few days we hope that Saskatchewan will have mandatory vote.

**Ms. Morin:** — And how many of those provinces also have other nuances to the fact that they have essential services legislation, for instance banning replacement workers and things like that?

**Hon. Mr. Norris:** — There are a whole range. One of the questions that was asked earlier relates to methodology, and we can go through this documentation, and we'll just cross-reference here. The one set of documentation — and we've highlighted this — looks at the Canada Labour Code, BC Labour Relations Code, Alberta Labour Relations Code, Saskatchewan's trade union Act, Manitoba labour relations Act; Ontario, the Labour Relations Act; Quebec Labour Code, Industrial Relations Act of New Brunswick, Trade Union Act of Nova Scotia; PEI [Prince Edward Island] Labour Act and Labour Relations Board.

Now the question as it relates . . . Then what we did is we looked at communications allowed, mandatory vote, threshold of vote, definition of majority, length of agreements, unfair labour practice deadlines, decision deadlines, annual reports. Then what we can do quite easily is then cross-reference,

because part of the question goes back into Bill 5 and the essential service Act, and from there . . . If you'll just give us just one minute, we'll just be able to cross-reference here the tables.

Again I appreciate the question. The question here as we've . . . I mean there's suggested . . . The question, a fair, legitimate question, helpful question, about elements of essential services and mandatory votes. And obviously the essential services relates to services provided to the public, and mandatory votes makes reference to how bargaining units are formed.

And so we're able to answer these if they're, if we can drill down into that question, there may be more nuance that we can explore and analyze. But it is, I mean these are pretty well two separate tracks within the labour relations milieu. I mean this is . . .

The question related to jurisdictions that have mandatory votes and essential service legislation as I understood it — and if I'm not getting the question quite right then we'll come back over it — but the significance here is we can look, if I'm not mistaken, Mr. Carr, BC and Quebec as well. So there would be two jurisdictions.

Again maybe there's something more we can dig through the data and offer as part of this analysis. But at this point, I mean, there are two parallel tracks here. And, Mr. Carr, why don't you go into I guess some detail? I don't know. If we're addressing the question. If we're not, then we can just back up and . . .

**Ms. Morin:** — Yes. I think we'll just move on to another area. I had a question sent to me actually that I'd like to pose to the minister because I found it intriguing. And it was in terms of the proposed mandatory certification votes. Is the minister saying that the employer-controlled workplace is a democracy where workers are permitted to voice their opinions in favour of being unionized even when the employer is opposed? I found that very intriguing. And I thought perhaps I'd pose that to the minister and see what the minister's opinion was on that.

**Hon. Mr. Norris:** — Sure. I wonder if I might ask a question. On whose behalf are you asking?

**Ms. Morin:** — On an individual, and therefore I'm not going to release names.

**Hon. Mr. Norris:** — Oh okay. Sorry.

**Ms. Morin:** — Yes.

**Hon. Mr. Norris:** — No. No. And that's fine.

**Ms. Morin:** — Yes.

**Hon. Mr. Norris:** — You know, I think I'll refer this question to Mr. Carr. He's got a nice turn of phrase on this one.

**Mr. Carr:** — Thank you, Minister. The purpose of the Bill in terms of the mandatory vote is to ensure that all employees affected exercise a voice and a vote based on their individual conscience, in secret, without undue influence from any party. The exercise of threat, intimidation, guile, any process that

would create an undue influence on the casting of that individual personal decision would be offside the Act. And so the intention again is to ensure that when a certification campaign is under way, that all employees affected by that campaign have the ability to exercise their voice in the form of a secret ballot vote.

**Ms. Morin:** — Thank you. So I guess I would ask then, isn't signing a union card by a prospective union member the process in which they consult their own conscience, given that they are fully aware of what they're doing when they're signing a union card in terms of certification?

And given that that process has been in place in Saskatchewan since 1945 and clearly we haven't seen a huge scare to an ideology that would be opposed to unionism in terms of the rate of unionization, given that the minister himself has provided us with the numbers that in Saskatchewan, for 2007, 34.8 per cent of private workplaces were unionized compared to 31.5 per cent in the national average and that public sector coverage was 75.7 per cent in comparison with 75.5 per cent for the national average, so I'm wondering where the bogeyman is hiding in terms of where is the notion that someone is not being guided by their own conscience when they are fully aware of a card they are signing is to certify the workplace that they are working in.

**Hon. Mr. Norris:** — You know it's a great question about where the bogeyman is. It's a great question. If I have your numbers correct that you just quoted, you offered — within public sector union coverage by jurisdiction, 2007 — for Canada 75.5 per cent and Saskatchewan 75.7 per cent. I just want to make sure I'm making reference to the numbers . . .

**Ms. Morin:** — Well these were the numbers that the minister offered to us in committee a number of nights ago. And yes, it's 75.7 per cent public sector coverage, unionization, for the province of Saskatchewan for 2007 in comparison to 75.5 per cent as the national average. And for private sector it's 34.8 per cent for 2007 compared to the national average of 31.5 per cent.

So the rates of unionization are not out of whack with the national average for the most part. So like I said, I'm failing to understand why a system that's been in place since 1945 and has obviously worked very effectively and has not caused any major imbalances as we can see from the national averages, why it would now become a problem, especially since we know that the government is very excited — as is the opposition — about the fact that we have this booming economy and we have, you know, all sorts of needs for workers in the province, etc., etc. This is a time for everyone to be working together and find solutions going forward in terms of the labour pool versus creating acrimony in terms of the work environment in the province, the labour environment in the province.

What we saw today with the entire steps of the legislature and spilling out into the street of people who are deeply upset about these two pieces of legislation — I mean that has to speak to the government in some way, shape, or form versus the ideology that is simply driving this.

**Hon. Mr. Norris:** — Where do we start here? It's to turn and let's just go back. I've been asked, and I'm on the . . . Sorry.

**Ms. Morin:** — I'm just going to say I can get back to the actual question then because we did both ramble on a bit. But the question is simply, how is it that one does not, that the government doesn't feel that when a person is signing a certification card that they wouldn't be checking with their own conscience as to whether or not they would like to be working in a unionized workplace with that particular union being their representative?

**Hon. Mr. Norris:** — Yes you know . . . And I'll come back to the question. The notion that the premise of this is rooted in anti-unionism, I just challenge and reject. I mean the evidence is mixed. Some has been offered. I've offered some others. There's an explanation. To offer reassurance to your colleague, you know, this isn't something that I came up with.

This is Mr. Black and Mr. Silver's book. I mean they offer an alternative explanation about what's going on. And it's to turn and say okay, so the empirical data is mixed about what the results could or should be. Even in the former member's statements, he goes through a list and offers a whole series of different numbers about what those outcomes would be.

I simply posed a question. And I think it would be a valid social science question to turn and say, if the assumption is that a key variable relates to mandatory votes and levels of union coverage, then someone would have to account for the Alberta, British Columbia experience. So it's a valid question. It stands by itself. So I mean if we can back off from there to turn and say okay, we've got some outstanding questions, there are some differing explanations. Then to turn and say, you know, this is being driven by ideology, the ideology is focused on democratic workplaces.

Now the outcomes of that, we want to make sure that the people of this province, workers of this province have the opportunity to, under more controlled circumstances . . . and those controlled circumstances actually relate to being able to just simply cast a secret ballot. Then obviously again there would be rich stories around this within the academic literature, to turn and say, poor behaviour, if we could call it that. Poor behaviour has occurred by individuals. Poor behaviour has taken place within some private sector entities. Poor behaviour has taken place within some public sector entities, and, you know, poor behaviour has also taken place within some unions.

Welcome to the human condition. There's nothing revelatory about that. These aren't revelations. These are just . . . well hey, this is part of the human condition. So what can we do to help ensure a democratic workplace? And the answer — again drawing on comments from Mr. Carr in processes that you'll be familiar with, that is, within the labour relations milieu or environment — we know that secret voting or secret ballots already occurs, and simply this is an extension of that.

It's simply to say here's a process designed to insure that individuals have an opportunity to consult their own conscience and actually cast a ballot. If it can be done to select the leadership of organized labour, if it can be done on several occasions about whether to go on strike or not, then is it not fair to ask, through extension, why can't it be done as people approach that question about whether they want to participate or belong in a union.

I mean, we're working right within that labour relations or industrial relations model. It already occurs elsewhere. The premise that somehow this will affect rates of unionization, the evidence frankly is mixed even within the Canadian context.

How do you explain . . . I mean we can go down this. How would one explain that Newfoundland-Labrador with a union coverage of 37 per cent, union coverage of 37 per cent — and Newfoundland has a mandatory vote — is greater than Saskatchewan's at 34.8 per cent where there is at present no mandatory vote? There has to be some mechanism to explain that phenomenon.

And I posit, I offer, I turn and say, I don't think viewing this through the lens of mandatory vote is going to provide a sufficient explanation of what that distinction is. I think you can turn to different political cultures. That's a legitimate study. You can turn to . . . obviously there may be issues regarding socio-economic indicators. You could identify and hypothesize about any number of variables, but somehow you have to be able to turn and say, well if this holds, then Newfoundland shouldn't be at 37.7 per cent. But it is. Newfoundland, with a mandatory vote, is higher than Saskatchewan without.

And nothing on offer, respectfully, nothing on offer — as the official opposition has gone over this ground — nothing on offer accounts for the Alberta-British Columbia example and nothing on offer accounts for the Newfoundland-Saskatchewan model.

So I reject the premise that this is driven by an anti-union ideology. This is about empowering workers to ensure that they have the opportunity to express in, through secret ballot, their preference. That's what this is about.

And as far as helping to contribute to a growing economy . . . and I, you know, certainly share with you we'll see when it comes to the potash producer's Bill what the official opposition's going to do. If in fact, you know, there is this desire to help ensure that the economy continues, I mean, we'll see what the official opposition's going to do. We'll maybe, we'll call a recorded vote maybe, ask for one, and that way people can stand in their place and be counted.

But the evidence as presented, I challenged. I challenged with, not rhetoric, but with empirical evidence to turn and say, isn't this curious at least? Could we come to a consensus? The evidence is inconclusive. Would that be fair? I mean if we just turned and said the evidence as presented perhaps both . . . wouldn't it be interesting to do more work? But it's inconclusive. But the broader question, the broader question really is the amendments aren't about rates of unionization. They're about ensuring that workers have more democratic workplaces.

**Ms. Morin:** — Thank you. Well with respect to my notion — and I will say it's mine because I don't want to put words in the mouths of anybody else — of anti-unionism or ideology with respect to anti-unionism, is quite well founded. And yes, this is before the minister's time here, but I would like to make the minister aware of the fact that the Premier for instance on a radio program spoke of going to war with labour. That says to me that's a pretty strong anti-labour type of sentiment. And then

there's also the member for Biggar has stated in the legislature that unions are job killers. That's a pretty strong sentiment as well. So the minister can see perhaps where that notion of anti-unionism with respect to your party comes from.

And as for the evidence that the minister provides in terms of his rationalization, there is more than enough research evidence that's also available as to how undemocratic a mandatory vote in the case of certification is because it cannot be compared with an electoral type of vote. So I will provide the minister with some of those research papers because I know the minister likes to read. So I will share those with the minister, and the minister can peruse those. I will have to get them together, I mean gather them together for him.

But as for the question that I posed from the individual that sent it to my office and as for the questions that for instance I've been asking, perhaps I'll provide a little bit of background. I've been part of a process in terms of Labour Relations Board hearings. I've been part of the process of arbitration hearings, been part of the process in terms of mediations, contract negotiations. So this isn't something that I've just researched. This is something I carry with a wee bit of experience.

So when we simply look at what we think is empirical evidence, it may not always be in fact what it seems in terms of the viewpoint that's being taken. So when one takes into account for instance the actual research that's been done around the area of mandatory votes and whether or not they are actually democratic in the process of certification, it certainly sheds a completely different light on the scenario. And as I said, I will share those research papers with the minister.

So I'm curious though. The Saskatchewan Chamber of Commerce in its past representations on labour legislation didn't call for mandatory union certification votes. And so I'm curious as to why this government is intent on doing something that these major stakeholders haven't even asked for in the past.

**Hon. Mr. Norris:** — Well the Saskatchewan Chamber of Commerce is a, obviously a distinguished organization, just as the Saskatchewan Federation of Labour is. And I think in this particular context — Mr. Carr may even have some insights — is to turn and to reiterate. The platform that the Saskatchewan Party ran on, *Securing the Future*, is premised on how to fulfill the interests, objectives, needs of the whole province of Saskatchewan.

And it's actually an interesting discussion because it . . . I mean there are different notions of leadership, and part of the questions that the official opposition offer actually comes out of, you know, a certain school of thought. That is, there are interests and those interests dictate policy. Now I can't, I can't speak to whether that was the case under the last government or not.

What I can say is *Securing the Future* — the mandate that the people of this province gave to our Premier and our caucus with a very significant majority — the ideas contained here offer a notion that this is the mandate. We have fulfilled over 60 promises within this. And whether a specific chamber of commerce or a trade union may have issues with our government, that's part of it.



And this goes back to this notion of what is the relationship — and it's a very fundamental question — what is the relationship between state and society? And what we've said is, here's the mandate. That guides the policy direction that the Saskatchewan Party government is going to actually be taking. And the empirical evidence after six months is accumulating rapidly. Also accumulating rapidly is some pretty positive feedback.

But it hasn't been universal. If I'm not mistaken, I think the Saskatoon chamber of commerce, the Greater Saskatoon Chamber of Commerce gave us a C on the budget based on the model on offer. That is, there's a special interest or series of special interests that that doesn't make sense. Well it only makes sense because we're serving the people of this province to the very best capacity that we have as we are a new government, and we're doing it based on the feedback we're getting. We're doing it. We're consistent at least with what was promised, consistent with what was promised.

Now does that mean it's universal? And it goes back to your point earlier about the protest or rally today on the steps of our legislature. And that is, people in a free, democratic, dynamic, diverse society have a whole range of opinions. And they express those opinions within certain legal parameters, responsible communication. And that's just, it's reflective of a very healthy civil society.

But the mandate that we ran on, the mandate we ran on reflects the view and commitment we have to the province of Saskatchewan. And it's a notion of statecraft. There's a very rich literature on this about decision making, about public policy making. It's a notion of statecraft. And it's grounded in being able to define, articulate, and act upon the notion of a provincial interest within our jurisdictional context. Within a different context, it would be acting on the national interest.

And the literature on this . . . I mean, so what we have . . . I mean, I appreciate the question, and it offers us an opportunity to have this dialogue. A lot of the questions are rooted actually in a different school of thought.

What we're acting on and what we're undertaking is statecraft. Here's the mandate. The election comes; we fulfill the promises. And notions of how special interests come into this, there is engagement between state and society — obviously there has to be. That's why we're all elected.

But you know, specific reference to what the Saskatchewan Chamber of Commerce might have said about mandatory voting, the premise there, the premise is well it was the Saskatchewan Chamber of Commerce that was writing this. And it's the Saskatchewan Party, the Saskatchewan Party that has ownership over this.

**Ms. Morin:** — Thank you. The amount of people that had to come to the legislature today . . . I know the minister is aware of the fact that I mentioned in a previous committee meeting with respect to Bill 5 that there were four public forums that were held around the province, and there were invitations sent to the minister's government for either the minister or the Premier to appear or, at the very least, one of the officials. The minister is also aware of the fact that those four public forums — one in Yorkton, one in Regina, one in Saskatoon, one in Moose Jaw —

that no one appeared on behalf of the government. So the amount of people that came to the legislature today had to come here to voice their concerns because unfortunately they couldn't be heard elsewhere. So that would be part of it. I'm wondering if the minister went out to speak to the people that were here today at the rally?

**Hon. Mr. Norris:** — I appreciate the question. I guess in the preamble to the specific question, as the member would know, minister's offices and Premier's offices are full of activity and every effort to balance requests. And hence, to contextualize my remarks, it's to turn and say obviously I've done my best — not perfect — but my best to ensure that communication with organized labour has been undertaken.

The first letter sent from my office was to Larry Hubich. The invitation to the CUPE [Canadian Union of Public Employees] convention I responded to positively and went. Efforts were made to respond to some of the other invitations. I think the member knows quite well that on several of the evenings where the invitations were relevant, we were actually in the process of either these deliberations or deliberations relating to the budget.

And so it's to contextualize there was time in my schedule between about 11 and 11:20 today. As the member knows and, I think, would share with me in congratulations of the new president at the University of Regina, the appointment has been made public today. A previous commitment had been given that I would attend an event. The trade-off there was the actual announcement occurred about 10 o'clock this morning and because we were all engaged in our legislative duties, I had made a commitment that I would attend the lunch, and so certainly I was willing to. And I had turned and said — the media asked the same question — I said I was going to in the time frame that I had available after House duties but before going to this lunch. There wasn't much going on. I mean, we certainly . . .

But I did in the rotunda of the legislature, I certainly extended a warm hand of greeting to Mr. Tom Graham today. And so, you know, schedules, our balanced schedules are juggled. There was a window of opportunity. There wasn't much as far as activities out . . . This was before 11:30. And so the answer is, I was willing to. Schedules didn't allow that today.

**Ms. Morin:** — Did the minister instruct anyone to speak to the crowd on his behalf or speak to the people that had come from all over the province on his behalf?

**Hon. Mr. Norris:** — No, I didn't. The notion here was that, you know, I was willing to go out. I don't think my track record's in dispute as far as sitting down and meeting, having discussions and dialogue. In fact I think we're looking at a meeting coming up — it's not confirmed yet; we're still working with schedules; it may largely depend here on the executive of the Saskatchewan Federation of Labour — within the next couple of weeks. I've got a track record of going out. And certainly, as I said, it was my intention, had schedules allowed, to go out. But no, I didn't offer that instruction to anyone.

**Ms. Morin:** — Okay. Let's move back to the Bill and terms of clause 11(1). Clause 11, I guess. Can employer communications

interfere with union organizing drives?

**Hon. Mr. Norris:** — And it's just for clarification. It's just the notion with the word interfere. Okay. Can you just expand on that a little bit for me.

**Ms. Morin:** — Sure. Well clearly, I mean, interfere has a definition into the dictionary that we can all, we can all look up. But I'm curious to know whether the communications that an employer will be privileged to have under Bill 6, whether it can interfere specifically with union organizing drives.

**Hon. Mr. Norris:** — The existing provision frames it as an unfair labour practice — sorry; now I'm the one that's seizing up; there we go — unfair labour practice for an employer to . . . Maybe I'll just read it:

It shall be an unfair labour practice for an employer, employer's agent or any other person acting on behalf of the employer:

“(a) to interfere with, restrain, intimidate, threaten, or coerce an employee in the exercise of any right conferred by this Act, but nothing in this Act precludes an employer from communicating facts and its opinions to its employees”.

So it's clear. It's actually, it's stated right up front that to interfere with is considered to be an unfair labour practice. And it's written right within the amendment.

**Ms. Morin:** — Thank you. I'm just trying to get the intent of things, and that's why I'm trying to go through some of this. And so can employer . . . Why is it happening to both of us now?

**Hon. Mr. Norris:** — It's the . . .

**Ms. Morin:** — The air in the building perhaps.

**Hon. Mr. Norris:** — The balmy environment.

**Ms. Morin:** — Yes. So can employer communications restrain employees from supporting organizing drives?

**Hon. Mr. Norris:** — I'm just going to write this. I think what I'll do is I'll just make reference to again 11(1) with the amendment:

It shall be an unfair labour practice for an employer, employer's agent or any other person acting on behalf of the employer:

(a) to interfere with, restrain . . .

And that speaks . . . I believe that was the particular of the question.

. . . intimidate, threaten, or coerce an employee in the exercise of any right conferred by this Act . . .

And then it goes on to talk about what I would characterize as responsible communication.

So if the question as I understood it relates to restrain or restraint, it's highlighted and recognized specifically right within the amendments.

**Ms. Morin:** — So that would then be also be considered an unfair labour practice.

**Hon. Mr. Norris:** — Well it's the unfair labour practice. It says, “to interfere with, restrain . . .” Again, to go back up, 11(1), “It shall be an unfair labour practice . . .” and restrain is identified as an unfair labour practice. Yes, you know, obviously the LRB . . . And it could be fact-specific, but I mean it's written right here within the legislation.

**Ms. Morin:** — So that would be a yes then.

**Hon. Mr. Norris:** — Yes.

**Ms. Morin:** — Okay. As I said, I'm just trying to get to the actual intent of what the legislation is outlining. So can employer communications intimidate employees who are engaged in union activity?

**Hon. Mr. Norris:** — The principle of it, as I . . . And I won't continue to kind of go clause by clause. I'll just simply say, intimidate is there. Again it would be to the Labour Relations Board on a, you know, on a basis contextualized by a specific case, a hypothetical case. But, you know, the process is there. The term is identified under unfair labour practice. And so there's certainly scope for that under the LRB.

**Ms. Morin:** — So again, that would be considered an unfair labour practice. Am I reading that correctly?

**Hon. Mr. Norris:** — Well it's listed. Yes.

**Ms. Morin:** — So I won't go through each one of them individually since I've already got a bit of a feel for it. So then that would be the same for communications threatening or coercing employees if they want to engage in union activity as well.

**Hon. Mr. Norris:** — Yes. I mean, the parameters are set, you know, as far as what's legitimate behaviour under the Act. The parameters are there. Yes.

**Ms. Morin:** — Thank you. Now with respect to the issue of opinions, can employers give opinions which interfere with employees who are engaged in union activity?

**Hon. Mr. Norris:** — The heart of this will be — again, if there's a hypothetical case — this is a legal question, a question that would go to the LRB. That's an interpretive piece, you know. Obviously what the member's doing is carefully and consciously walking through — and helpfully, actually, walking through — and then turning and saying, how would that term, opinion, engage with these previous terms? And the answer is, that's an interpretive piece. And it would depend largely on the judgment of the LRB.

**Ms. Morin:** — So with respect to . . . Excuse me, here it goes again. With respect to opinions, employers giving opinions which “interfere with, restrain, intimidate, threaten or coerce,”

that would be subject to the Labour Relations Board decision-making process. Is that a fair statement to make?

**Hon. Mr. Norris:** — Yes. I think that's fair. I mean the LRB, you know — obviously, again, as we talk about principles on a case-by-case basis — looks at the context, looks at the facts at hand, and then will pass its judgment.

**Ms. Morin:** — But the essence that employers giving opinions which “interfere with, restrain, intimidate, threaten, or coerce,” the essence of that is that they would, if substantiated, be deemed an unfair labour practice. Is that correct?

**Hon. Mr. Norris:** — I think that's a fair question. And the response is yes, that's the intent.

**Ms. Morin:** — Thank you. I'm looking at the hour here going, hmm, what can I fit in, in four minutes instead of moving on to a whole new track here.

**Hon. Mr. Norris:** — We could reverse this. I could ask the questions.

**Ms. Morin:** — We might enjoy that actually.

I think this will probably be the last question because it's probably going to require a long answer. Can the . . . I think my colleagues are asleep actually. Just kidding. I think all of . . . [inaudible interjection] . . . No, no, I meant all of the legislative colleagues.

Anyways, can the minister point to any parts or sections of the current trade union Act that have been, that have been held by the courts to be unbalanced?

**Hon. Mr. Norris:** — I appreciate the question. The preamble — I can't believe that all our colleagues wouldn't be riveted by the dialogue and deliberations.

I think it would be fair to say that it would be uncommon, unusual for courts, legal practitioners, to take an evaluative blend of balance within their deliberations. So you know, I think the premise of the question as it relates to balance, that's not generally seen as being within the purview of courts.

**Ms. Morin:** — Well I guess what I was leading to, Mr. Minister, was there is a notion in terms of why the government has brought this Bill forward as to that it needs to be brought forward because there's this notion of imbalance. So what I'm trying to derive is where that imbalance exists and that's why I'm asking if there is a sense of imbalance in terms of the judicial reviews that have happened or other processes through the court where one has evidence as to where that imbalance exists.

**Hon. Mr. Norris:** — Great. No, I appreciate the question. I think there are two elements to this question, and I'm mindful of the time because, you know, I can probably take half an hour on the first one and 15 minutes on the second. But you know, I think there are two elements.

That is, a question, a question here that turns and says, can we identify some areas within the legislation where we can point

to, that is, colleagues within the legislature can point to or have a discussion or dialogue? Another relates to, have the courts recently had comment that may help to illuminate an element to this? And the answer I think to each question is yes, I think we can find reference to that.

And I'll only, for the sake of time, I won't do this as comprehensively as it could be done, but I'll turn and say the threshold for a vote, I think . . . Now individuals may have different opinions as far as how they could evaluate this, but we could turn and say the 25 per cent threshold that Saskatchewan currently has, it's an anomaly. It's an exception. It's a peculiarity. When we go down for the threshold to vote, across Canada, it's between 35 and 45 per cent. In Western Canada, it's a bandwidth of 40 and 45 per cent — 5 per cent — until we factor in contemporary Saskatchewan. And what we're working towards is within days this is going to change, and right now it's 25 per cent.

So we can turn and say, well there's a peculiarity there. And what would be the sense of balance? Well we feel between that 40 and 45 per cent in Western Canada, there's a balance that's comparative and competitive. There's one example.

I guess the other, another case, and to go to the second point, there was a recent Court of Appeal case. Here we are. United Food and Commercial Workers Local 1400 and the Tora Regina (Tower) Limited operating as Giant Tiger Regina. What we can see, and I mean I can read it but, and again in the interests of time, I will just simply say that there was the board's delay, so “We agree with the learned Chambers judge that the Board's delay . . .” And this is a quote, but it's just to contextualize they're talking about the Labour Relations Board: “. . . the Board's delay in dealing with the certification application in this case was inordinate and unreasonable.”

So there is a recent legal case, that again it's not to phrase it as balanced, but under a test of reasonableness, there is this recent case. And the case, Mr. Carr, that I'm sorry, I should have read the date in. This is very recent. This is March 14, 2008 when it was heard, and the written reasons, March 27, 2008. And the Hon. Mr. Justice Richards, the Hon. Madam Justice Smith, the Hon. Madam Justice Hunter offered that.

So again we can get into more details maybe next time on what that means, but it is to say arguably both within the context of the legislature and within the context of the courts, there have been some responses along that line.

**Ms. Morin:** — Thank you, Mr. Minister. We will continue on with that, and perhaps the minister would like to do some researches as to whether court decisions are out there that may substantiate the issue that we're obviously bringing forward today.

I'd like to thank the minister for answering all the questions, and I'd like to thank the officials again for appearing before the committee this evening and wish you a pleasant weekend. Thank you.

**Hon. Mr. Norris:** — I join in that. Thank you, everyone.

**The Chair:** — I would ask that a member move a motion of

adjournment. I recognize Mr. McMillan. Mr. McMillan has moved that this committee adjourn. Are the members agreed? Agreed. This committee stands adjourned.

[The committee adjourned at 17:03.]