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Vendredi 29 avril 2005

**Standing committee on
social policy**

Labour Relations Statute Law
Amendment Act, 2005

**Comité permanent de
la politique sociale**

Loi de 2005 modifiant des lois
concernant les relations
de travail

Chair: Mario G. Racco
Clerk: Anne Stokes

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Friday 29 April 2005

Vendredi 29 avril 2005

The committee met at 0908 at the Four Points Sheraton, Kitchener.

**LABOUR RELATIONS STATUTE LAW
AMENDMENT ACT, 2005**

**LOI DE 2005 MODIFIANT DES LOIS
CONCERNANT LES RELATIONS
DE TRAVAIL**

Consideration of Bill 144, An Act to amend certain statutes relating to labour relations / Projet de loi 144, Loi modifiant des lois concernant les relations de travail.

The Chair (Mr. Mario G. Racco): We are going to start now, if you can all have a seat, please. I want to welcome all of you to Kitchener. It is the riding of John Milloy, and he is here with us. Of course, Mrs. Witmer is from the next riding. But we know there are people here from all over Ontario, so we welcome all of you here to Kitchener.

ONTARIO FEDERATION OF LABOUR

The Chair: We're going to start our first deputation this morning. We are dealing with Bill 144, the Labour Relations Statute Law Amendment Act, 2005. It's our third day of hearings, the last of three days; the first two were in Toronto. Again, we welcome all of you to our meeting this morning.

The first one on the agenda—

Interruption.

The Chair: Sir, it's not on the agenda.

The first deputation is the Ontario Federation of Labour, Wayne Samuelson and Chris Schenk. Are you both here, gentlemen? You were in Toronto. I remember you.

Mr. Wayne Samuelson: Thank you. I remember you as well. Actually, I remember all of your committee. It's a pleasure to have a few minutes to talk to you about this legislation.

I should say right off the bat that I've had an opportunity that many people in the room haven't had, in that I've been able to listen to some of the presentations. As a result, while I am filing with you yet another brief on what we think labour law should look like in the province, I want to spend a few minutes talking about the issue in a broader context.

I find it interesting that as I sat and listened to the presentations, employer group after employer group sat here in this very chair, in this location at the table, to say how they were for democracy for workers and that they didn't think this legislation was good. Listen, my friends, if anybody in this room thinks that employers are ever going to show up at this table at any government committee and actually suggest that we introduce laws that make access to the fundamental right to join a union more fair, then trust me, you aren't living in the real world.

You shouldn't be at all surprised that employers show up here and try to make it harder for workers to join a union, to put in place barriers so they cannot exercise that right. I have an advantage that most of you don't have: I have worked at organizing. I've gone to workers' houses to talk to them about joining a union, and the reality is that once the employer gets hold of it, they intimidate them, they scare them, they threaten them. It's documented at the Ontario Labour Relations Board for many years.

The challenge for the Liberal government is to show that you're different from the Tories. When you ran for election, you said you were going to be different. You said to vote for change. Well, I'll tell you, if you bring in a law that enshrines in the Labour Relations Act provisions that have been in place—and I refer you to page 3 of my presentation—since 1950 and you don't have the guts to roll back the changes that the Tories brought in, then you're no different from the Tories. It's that simple.

Interruptions.

Mr. Samuelson: Shh. You're eating up my time.

The Chair: There is only 10 minutes.

Mr. Samuelson: We in the labour movement have lobbied hard. We have tried to convince the government and even the Tories—and the NDP, of course, which is a much easier challenge—that what you're doing is fundamentally unfair. You're not dealing with balancing a bunch of rights here, of balancing a bunch of interests. You might be, when you look at the Ontario Labour Relations Act around negotiating and collective agreements. But when it comes to organizing, what you're doing is ensuring that people have access to that right—access to the right. You're not balancing off the interests of Wal-Mart or any other employer and a group of workers. You're making sure they have access to the right. That takes a little bit of courage, because there are

employers out there who don't want unions—it's that simple—and they'll do anything to prevent it. You have a responsibility, I would argue, to make sure that workers have access to that right.

When we get up in the morning, most union people—most people—don't think about what it takes to certify a union. That isn't the first thing on their minds. But lots of people, mainly women and young people and new Canadians in the service sector, get up in the morning worrying about how they're going to pay their rent, whether they're going to have some dignity at work, whether their workplace is going to be safe. If you don't ensure that they have the right to come together collectively to protect their own interests, then shame on you. It's that simple.

Interruption.

Mr. Samuelson: You will hear lots of presentations from the labour movement, which I think will be very focused on the need for you to extend—I think it's a good thing that building trades workers have card-based certification; they should have it. But I also think every other worker should have it.

I want to leave a little bit of time in case there's any questions. But I just want to say to you, recognize where the comments from the employer community are coming from, and recognize the sincerity of workers who come to this committee asking you to ensure that everybody in this province has the fundamental right to join a union without the employer intimidating, harassing or paying them off.

Thank you very much.

The Chair: We have about three minutes left. We'll give one minute to each party. This morning, we start with Mr. Flynn. One minute each, please.

Mr. Kevin Daniel Flynn (Oakville): Thank you, Mr. Samuelson. I expected the presentation I heard and I appreciate the points you've made. You've made them before, and I think I understand them clearly.

My understanding is that you agree with all portions of the bill. The part that, obviously, you're asking us to extend is the right for a card-based certification outside of the building trades union as well. Should that not occur, is the bill supportable? Would you advise members of Parliament to support the bill without card-based certification extended to all unions?

Mr. Samuelson: I expected you to ask that question, because it's obviously the question you've been directed to ask. You've been asking it for the last week. So I have an answer. I think the Tories are going to vote against the bill, because they side with the employers; that's not rocket science.

Interruption.

Mr. Samuelson: I suspect—you're a politician; I'm just on the outside looking in—that the NDP caucus will vote against this bill, because it lacks fairness and justice for a whole whack of workers. At the end of the day—and Peter and Elizabeth know this—you could have passed this bill last fall if you wanted to. So don't try and

tell me that somehow it matters. The opposition is going to do what they think is right. I can tell you, if I was an MPP, I would not be voting for a bill that is so clearly discriminatory.

The Chair: Could I ask the public to please allow us to do our job. There is no need for applause or comments. Otherwise, we will just be wasting time, in my opinion.

Mrs. Witmer, please.

Mrs. Elizabeth Witmer (Kitchener–Waterloo): Welcome, Wayne. You've always been a very passionate advocate for the labour unions and the people, and I do admire and appreciate that.

My question to you is pretty simple: Why do you believe the government gave card-based certification to the construction unions and not to all unions in the province of Ontario?

Mr. Samuelson: I think the government lacks principles. I think they lack a commitment to ensuring that people have fundamental rights, and they took the easy way out. They're clearly influenced by Wal-Mart and those kinds of employers, as your government was. Rather than stand up for what's right, they took the easy way out and provided card-based certification for—what?—4% of the workforce? They just don't have the commitment to principles, a commitment to change, frankly. As a result, they took the easy way out and thought they could do this without upsetting the labour movement. Let me assure you, that is not going to happen.

The Chair: Mr. Kormos, please.

Mr. Peter Kormos (Niagara Centre): Thank you, Brother. I want to use your comments to say this, because you've provoked it on my part. I've gotten to know these four Liberal members over the course of the last year and a half. They are among the more capable and more committed members of their caucus. Make no mistake about it. None of them is dishonourable. I see them as young, new members of the Legislature in a position to make committee hearings work once again, to have listened to the public, to have listened to interested parties, to understand that if a building and construction worker's signature is valid in terms of indicating whether he or she wants to belong to a union, then surely any other worker's signature is as valid—

Interruption.

Mr. Kormos: So I call upon these people, because they are among the leaders in their caucus, to take that message back to their Premier and to use their power on this committee to support an amendment that would include all workers in the card-based certification. It's their power. They can do it.

The Chair: Thank you. The next presentation is—

Mr. Samuelson: I'm going to respond quickly.

The Chair: Thank you for your presentation.

Mr. Samuelson: You're not going to let me respond? Mr. Kormos talked away all my time.

The Chair: Sir, please. Allow us to do our job, please.

COALITION OF CONCERNED
CONSTRUCTION EMPLOYERS

The Chair: The next presentation is the Coalition of Concerned Construction Employers, Stephen Bernardo. Is Mr. Bernardo here?

Interruption.

The Chair: Sir, I would ask that you please allow us to do our job. There's no need for you to call anyone.

Interruption.

The Chair: Please proceed, sir.

Mr. Stephen Bernardo: Thank you, Mr. Chair, and ladies and gentlemen of the committee. We appreciate this opportunity to appear before the committee. My name is Stephen Bernardo, and with me are Denis Bigioni and Allan West. I'm counsel to and Mr. Bigioni is president of the Coalition of Concerned Construction Employers. Mr Bigioni is also the president of Dagmar Construction Ltd. Mr. West is treasurer of the coalition and vice-president of K.J. Beamish Construction Ltd. Both companies have over 50 years' history in Toronto.

0920

The coalition is an organization of companies that perform road-building, bridge-building and sewer and water main construction extensively throughout the province. We comprise over 50 companies, employing 7,500 workers, and are responsible for over \$1 billion of infrastructure work in the province annually. We are one of only two voices that we understand will be speaking to you as the voice of the non-union contractor in Ontario.

The coalition was formed as a result of member companies concerned about one particular element in Bill 144, where the government is seeking to impose special rules for certification on the construction industry. We will not speak for or against any other part of the bill. This proposed amendment would take away the rights of our employees to have a secret ballot vote conducted by the Ontario Labour Relations Board when a trade union applies for certification to represent them. The amendment discriminates against and marginalizes our employees. Employees in all other sectors of the economy retain the right to a secret ballot vote. Only construction workers are marginalized in this way.

The government has sought to justify this amendment by stating that employment patterns in the construction industry are of short duration and are transient. We wish to point out to you that this is not the case in our industry. Our jobs are typically six to 12 months in duration; our companies recall their employees at the start of each construction season, and they remain employed until the end of the season; and further, we rehire 90% of our workers from one season to the next. Truly, road-building, sewer and water main and heavy engineering contractors are not the type of employers targeted by this legislation.

If the amendment becomes law, you will have an anomalous and unfair situation where a 20-year employee of one of our companies working on a construction project all summer would not have a secret ballot vote in an application for certification, but an employee

who had been employed in a grocery store 30 metres away for two days would have such a vote.

In a card-based system, cards are valid for six months for the purpose of automatic certification, and even that process is open to manipulation, because cards can be collected undated and dated later at the time an application is made or filed, thereby making them effective in perpetuity. There is no evidence or information provided as to the circumstances under which membership documents were obtained or witness statements attesting to the fact that a witness knew the signee. There is no opportunity for the company or their representative to examine the cards. As well, there is no scrutiny by the labour board into the circumstances of signing and whether the cards are actually signed by the person indicated. Often, cards are collected by employees or mailed to trade unions. It is possible to have trickery, misrepresentation, forgery or coercion because it is all done in secret, and there will be no secret ballot vote which will allow construction employees to express their true feelings in a democratic way.

Interruption.

The Chair: Just go ahead.

Mr. Bernardo: If rhetoric is going to interrupt dialogue, then that's unfortunate.

Interruption.

The Chair: Excuse me. The gentleman has the right to speak, just like anybody else in this room. Would you please allow him to speak so we can move on with our meeting?

Mr. Bernardo: I'm going to put this in a different perspective. Imagine if your political opponent in a provincial election was permitted to come to a polling station on election day, drop 1,000 membership forms for his party on the table of the returning officer and say, "I want these membership documents recorded as votes for me because they indicate that these people support my party." You would undoubtedly recoil in wonder and anger and shout, "It is not fair. It's totally against the democratic process," and you would be completely correct. If the election were to be determined in this way, you would feel that the process and result were manifestly unfair. Our employees who did not want a trade union and our companies would, like you, feel that the process was unfair and did not represent the true wishes of the employees. Certification under such circumstances would more likely lead to subsequent difficulties between the parties.

A significant percentage of the workforce in the construction industry is made up of new Canadians and landed immigrants. Such a system would marginalize these people.

I want to talk to you a little bit about the nature of the construction industry already. If implemented, this element of Bill 144 will add to the unfairness of a system that already fails to recognize the employment rights of a long-term employee who may be absent on the day the union applies for certification. The labour board has, for many years, interpreted the act in such a way that

requires construction employees to be actively at work on the day the application for certification is filed by a trade union.

Therefore, using our previous example, if our employee who has 20 years of service with the company and who has worked every day during a current construction season is sick on a Friday or takes his child to a doctor on a Friday and an application for certification is filed on that Friday, this 20-year employee is not allowed to vote on this fundamental issue that will totally affect his employment. He's not allowed to vote. Miss one day on the day of application and you're toast. It's like you don't exist. That's the situation right now in the construction industry. Obviously this system gives unions an advantage, as they determine when an application is filed and, therefore, which employees will count.

It is the position of the coalition that, in the interest of democracy, Bill 144 must be amended to prevent the further marginalization of construction employees. To do otherwise would be a failure of democracy. A democratic vote cannot be considered a barrier to anything. Some have said that—

Interruption.

The Chair: Please, sir. Excuse me.

Mr. Flynn: Mario, why don't you call an adjournment for five minutes? We can't go on like this. This man has the right to make a presentation.

The Chair: I believe that the gentleman has less than a minute. Can I just continue and then we'll make a decision. Would you please continue for about a minute.

Mr. Bernardo: I'm turning it over to my friend Mr. Bigioni now, and I believe we should have more than a minute.

The Chair: Sir, you have about a minute.

Mr. Denis Bigioni: Thank you, Mr. Chair, ladies and gentlemen. As Steve said, I'm the president of Dagmar, a company with over 50 years of history, and I'm the third-generation president and also the president of our coalition.

Essentially, the rationale behind the justification for applying the card-based system to construction is flawed as it relates to road building, sewer and water main and heavy civil construction companies, as in the coalition.

As Steve has pointed out, there's already special recognition for construction. Further, the types of jobs we do are not short-term in duration, as the minister stated on the record. Our jobs are typically six to 12 months' duration. Finally, the minister stated that workforces expand and contract with great rapidity.

In our industry, these factors do not apply. We have over 90% rehire. It's detrimental to us to not rehire. Thus, we try hard to maintain a stable workforce.

What we would ask is that this portion of Bill 144 be revoked. If not, then we feel that it would be appropriate to allow time for the other significant changes to be addressed and considered before applying such a card-based system in this industry.

Finally, for the reasons stated, our industry is special and unique, and is not the target for the construction

sector that I think the government has in mind. We ask that there be an exemption for road building, sewer and water mains and heavy civil constructors.

The Chair: I thank you for your presentation.

0930

LABOURERS' INTERNATIONAL
UNION OF NORTH AMERICA,
CENTRAL AND EASTERN CANADA REGION

The Chair: We will move on to the next presentation, the Labourer's International Union of North America. Before they start speaking, could I ask everyone to please allow us to do our job. If you do intervene from the back or from this side, you're not going to allow the people to make their presentations properly and we are all going to lose. So there's no benefit for anyone. Would you please keep that in mind? I thank you for that.

LIUNA, please.

Ms. Carolyn Hart: Good morning. I'm here today on behalf of the Labourers' International Union of North America, a construction trade union. I'm actually replacing Mr. Daniel Randazzo, who is ill and unable to attend today. He sends his regards to the committee.

The first aspects of Bill 144 that I want to address are the remedial certification and interim relief provisions. These are two remedial provisions that go hand in hand, and both of them are essential to restoring fairness to the certification process.

As an in-house union lawyer, I've had considerable first-hand experience dealing with workers who have either been discharged or threatened with discharge during the course of an organizing drive. I know from experience that it's not uncommon for employers to fire people they know to be union supporters or to threaten to close down if they are unionized. I also know from experience what a devastating effect firings and threats have on workers seeking union representation.

When employers react to an organizing drive by threatening and/or implementing discharges, it is virtually impossible to reassure workers that they can continue to support a union without fear of reprisal. But you don't have to take my word for that. You can look at the decisions of the Ontario Labour Relations Board, and there are a lot of them that deal with allegations that employers have intimidated workers.

The board has said over and over again that when workers have been threatened with dismissal for supporting a union, they invariably conclude that voting for union representation means voting themselves out of a job, and because they need their jobs, they don't vote in favour of union representation once they've been threatened, even if that is really what they want.

The board refers to this phenomenon as a "chilling effect." The Labour Relations Act in its current form does not contain an adequate remedy for that chilling effect. The best remedy currently available to the board is an order for a second vote, and if that was an effective

remedy, you would expect the success rate on second votes to mirror that for regular votes, but it does not.

Since 1998, when remedial certification was taken out of the act altogether, there have been, I'm told by the chair of the Labour Relations Board, only six occasions when a union has managed to win a second vote. That's a testament to the powerful effect of threats to job security. The board can chastise employers for making threats and require them to post notices in the workplace reassuring workers that they have a right to choose union representation, but that has very little real impact. It's almost impossible to hold a free and fair election in the workplace once people have been intimidated, and there's absolutely no parallel with such an election to provincial elections. For that reason, the board needs to have certification at its disposal as a remedy for the most serious unfair labour practices.

The board has used this remedy sparingly and responsibly in the past and it's to be expected that they will use it sparingly in the future, reserving it for only the most egregious cases of employer misconduct. The wording of section 11 of the bill virtually guarantees this by stating that remedial certification shall only be imposed if "no other remedy would be sufficient."

I said it was almost impossible to hold a free and fair election once workers have been intimidated. In my experience, there is one remedy that may make workers comfortable enough to express their true wishes about a union after being intimidated, and that is interim reinstatement.

If workers see union supporters reinstated to their positions quickly, that can give them enough confidence to continue to support an organizing drive. That does not occur under the current system because unfair labour practice complaints take a significant amount of time to litigate, and with the board's heavy caseload, it's rare for such cases to be completed in less than three months. Often they can take six months or more. Seeing people reinstated after a prolonged delay just doesn't have the same effect. A discharge is a very traumatic experience and getting one's job back months later does not make up for all the stress and financial hardship that people undergo.

As the act stands now, the punishment does not fit the crime and many employers—I know every employer that's come before you says it's not them, but many employers deliberately violate the act by firing union supporters because they consider the lawyers' fees and back wages a relatively small price to pay for keeping a union out of the workplace.

The board needs the ability to reinstate workers on an interim basis during organizing drives in order to remedy and counter that chilling effect. If you look at the board's case law prior to 1995, you will see that when the board had this power it was used responsibly. The board was careful to balance the effect on employers against the effect on unions and on workers. The board only granted interim reinstatement when the union's pleadings made out an arguable case and only if it was convinced that

reinstatement would do more good than harm. Bill 144 adopts a similar balance-of-harm test. In fact, I think the test under Bill 144 is slightly stricter in that it refers to the need to prevent "irreparable harm."

Another important point that needs to be made is that, apart from being a good and fair remedy, it's also a significant deterrent to employers to committing unfair labour practices. Employers will be much less likely to threaten and intimidate their workers knowing that they can be forced to take a union supporter back or that they can have certification imposed on them.

I have to say that I understand the positions of people here who want card-based certification extended to all workers. We don't disagree with that; it would be ideal. But I believe it's a large step forward to bring it to the construction industry and I'm frankly shocked that any labour organization could appear before you and tell you not to support this bill simply because it doesn't go to that extent. Those remedial certification and interim relief provisions are critical to everybody, and they're available to everybody under this act. Those remedies are not restricted to the construction industry. They will be a huge benefit to all unions and all workers who want access to union representation, and for that reason we commend you on the bill.

If I have some time, I'll talk briefly about card-based certification. This was in place for almost 50 years, from 1948 to 1995, under Conservative, Liberal and NDP governments. It's tried, tested and true. I would point out that the last presentation you heard ignores the fact that the OLRB has an extensive body of case law aimed at ensuring that membership cards used in certification applications constitute a fair and accurate representation of employee wishes. There's a whole body of jurisprudence there that the board can return to in order to make sure that this system works, that there is no misconduct in connection with the cards and that it works fairly.

Card-based certification is particularly appropriate for the construction industry because of the mobile and transitory nature of construction work. I heard my friends previously say that they have a very stable workforce, that they bring back all their workers, but the fact of life in the construction industry is that it's very easy to introduce layoffs. Construction schedules wax and wane. It's not hard to impose a layoff when you want a layoff. And there is a lot of turnover; that's a fact of life.

Is that all my time?

The Chair: Thank you very much for your presentation.

UNITED STEELWORKERS OF AMERICA,
DISTRICT 6

The Chair: We'll move on to the next presentation, the United Steelworkers of America, District 6: Marie Kelly, please. Good morning.

Ms. Marie Kelly: Good morning. My name is Marie Kelly. I'm the assistant director for the Steelworkers in

Ontario. We met a couple of days ago. I'm back for the second part of our presentation, if there are any questions. When I did my presentation, I'm sure everyone was disappointed not to have an opportunity to question me.

I have with me Charlie Campbell, the head of our research department, who has some submissions.

0940

Mr. Charles Campbell: I have a somewhat longer written submission, but I expect to make some brief, focused oral comments, as Marie said, to allow some time for dialogue.

Specifically, I wanted to address some misconceptions that may exist about the likely economic impacts in Ontario of the changes to the organizing regime that we think would be fair and appropriate. Some of you may have been told that extending card-based certification to all eligible Ontario workers—not just those in one sector—could cause significant economic dislocation that the province can't risk. The argument goes like this: If employees could form a union simply by getting support from 55% of their co-workers, investment and jobs would flow out of Ontario to other jurisdictions where employers would still have the ability to wage anti-union campaigns during certification votes to intimidate the workers, fire union sympathizers, spread fear and, in general, carry on business as usual.

I want to take just a couple of minutes here to look at the evidence and perhaps allay whatever concerns there might be about the economic impact. Research does consistently show that unionization increases wages by a certain modest amount. In Canada, there is sophisticated research suggesting that it would be about 7% or 8%. It shows that this has a greater effect for wages on part-time and precarious work in those comparatively few cases when workers in those circumstances are able to overcome the obstacles and join a union.

The benefits are by no means limited to increased wages. In fact, union members in Canada are three times more likely to be covered by employer-sponsored pension plans than non-union workers and twice as likely to be covered by medical or dental plans. It's worth noting that those who do not have these benefits are more likely to put pressure on public resources for these things.

It's reasonable to say that with more balance restored to the rules, we could see an increase in the number and proportion of workers covered by union contracts and a real increase in their wages and benefits. This could well trigger a small decline in the proportion of GDP made up of corporate profits and a corresponding increase in the proportion made up of wages.

Would this lead to dislocation? Consider this: In 2004, corporate profits increased to almost 14% of GDP, which is the highest on record in Canada, whereas—and this isn't a coincidence—the proportion of GDP made up of wages, salaries and supplemental income has declined now to the lowest level on record. If a change to the labour law regime led to a return to the relative balance that we had in the late 1990s, that shouldn't be a disaster.

To go to the main question: Would a system of card certification be a disaster for the province of Ontario? For most public policy questions, the answer to these kinds of things is something of a leap in the dark, but in this case we have an actual historical record. For a 45-year period, Ontario operated under such a system under Conservative, Liberal and New Democratic governments. From 1950 to 1995, the province's GDP, adjusted for inflation, multiplied more than four and a half times, increasing by an average annual rate of 3.9%. That was significantly higher than the rate of increase for that same period of time across the border in the United States, where they operated under the other system.

Since the labour law changes of 1995, Ontario's GDP growth has been slower. There were some good years, some bad years and an ultimate balance of about 3.4%. We're not saying that the change to labour laws caused the slower growth, but we believe there's no evidence to reject a sound, tested, responsible, balanced approach to labour certification in Ontario on the basis of unfounded speculation about the possible economic impacts.

Thanks for your time.

The Chair: We've got four and a half minutes—one and a half minutes each. Mrs. Witmer, you're first.

Mrs. Witmer: Thank you very much for your presentation. It's good to see you. I'm going to ask you the same question. Why don't you think you got the card-based certification?

Ms. Kelly: I'll take that one, Mrs. Witmer. I think it's quite clear that this government understands that in order to ensure people have a right in an act and have the ability to actually enforce that right, the only way to do that is through auto-certification. We have a history of that in this province. We all know that if you really want to give people the rights that are set forth in the Labour Relations Act, the only way to do that is auto-certification. So this government has decided that, where they have friends and where friends have donated and fundraised for them, they're going to protect their friends, and they've given it to the construction unions. What they failed to do is give it to all workers because all workers have not funded the Liberal Party.

We're here to tell the standing committee that we will hold them accountable. We will hold each of the individual MPPs in their constituencies accountable when this law is brought in. If they vote for a law that's discriminatory, that's sexist, that's racist, that's against workers in this province. We will hold them individually accountable. It's time for them to stand up—individually, they ran in their ridings—and be accountable on this.

The Chair: Mr. Kormos, you're next, please.

Mr. Kormos: I used to be—I suppose I still am—a lawyer. I used to practise criminal law, which is probably highly appropriate for entering politics, especially in view of what's been happening in Ottawa. But you know, it strikes me as strange. I understand the building trades' enthusiasm about the bill. Of course, they would be damned fools to reject the bill. But to commend the gov-

ernment for it is like acting for three accused who have been framed on the most outrageous, trumped-up charges, and then being grateful to the judge because he only convicted two of them.

I understand the building trades' enthusiasm and we support the building trades' enthusiasm about the bill, but damn it, don't turn your backs on your sisters and brothers. It's one thing to say, "Yes, pass the bill." It's another thing to say, "We stand together in solidarity with our sisters and brothers, because just as we welcome card-based certification, damn it, we're prepared to fight like the devil to ensure that every other worker in this province gets card-based certification.

Ms. Kelly: Just in response to that, as a woman, I've lived 41 years in this province, and during my lifetime no one has ever said to me, as a woman, that my signature does not amount to the same as a man's signature on any document. I've read the history books. I understand the history of when there were women before me who had to have their husbands or their fathers sign on a document because their signature meant nothing. I will demand, and women of this province will demand, that we not go back and regress to the days when my signature didn't mean the same as that of any man in this province. I demand equal rights.

The Chair: Thank you. Mr. Flynn.

Mr. Flynn: I really enjoyed your presentation. I thought it was very measured. You were talking about how there could be a relation between unionization and economic health. If you look over the past 40 years, I think your point was that it was good for the economy, or it was at least neutral.

Mr. Campbell: All the evidence is that it was, on balance, good for the economy.

Mr. Flynn: Do you want to elaborate on that? The economy has changed during that period of time. Are there any up-to-date data that all members of this committee could avail themselves of that maybe look at the past decade?

Mr. Campbell: I'll try to gather some and point you to it.

The Chair: Thank you very much.

Ms. Kelly: I want to respond.

The Chair: The time to respond is over. It's 10 minutes for each group, you know, otherwise—

Ms. Kelly: Are you telling me you're going to cut me off when the Steelworkers have been asked a question—

The Chair: Please, the next presentation is the International Brotherhood of Electrical Workers.

Ms. Kelly:—and we have not finished the question. You'll cut us off. That's the kind of open hearings you're going to have in this room?

The Chair: Would you please allow us to—

Ms. Kelly: We've been asked a question and we want to answer that question. Are you denying us the right to answer that question fully?

The Chair: The time is over. Thank you.

Mr. Kormos: Chair, please, unanimous consent.

The Chair: Do I have unanimous consent, yes or no? Yes? Go ahead, please.

Ms. Kelly: We all know that having unions in this province, in this country, is beneficial. They have different laws in the US regarding unionization, and we know that during that period there have been companies that have come to Canada and which in Canada have been able to grow and survive. We also know that during this past period we signed NAFTA and a bunch of labour agreements that have put Canadian workers in competition with workers in other countries, competition that's unfair and that we cannot compete with.

We cannot compete with 25 cents or a dollar an hour with workers who are in Mexico or in China. Companies are moving away from Canada to go to those countries because of the economic realities of globalization. What's good for Canada and what's good for this province is having people who make a decent wage. I believe in the trickle-down theory when the trickle-down theory works, but when the tap is shut off, then there is no trickle down. A good economy has well-paid workers who are able to then put their money into the economy with their purchase power. I don't believe that providing unionized workplaces is a detriment to this economy. Quite frankly, if your government believes the problem is unionization, have the courage of your conviction, because you're putting in a piece of legislation that says, "We believe the people have a right to unionize but we're going to underhandedly not allow them to do so." If you believe unionization is a problem, stand up on your conviction and maybe listen to the people of this province more than you're listening to me right now.

0950

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

CONSTRUCTION COUNCIL OF ONTARIO

The Chair: Can we move on to the International Brotherhood of Electrical Workers. Brett McKenzie, please.

Mr. Brett McKenzie: Mr. Chairman, fellow panelists, thank you for the opportunity to come here today and speak before you on Bill 144. My name is Brett McKenzie. I'm a member of the International Brotherhood of Electrical Workers. I, like Brother Samuelson, have had the opportunity to organize in this province. I was an organizer for six and a half years. I have seen the changes. I began organizing in a period when we had card-based certification, and when things changed.

Once again, to reiterate, I'm here to endorse the proposed changes to the current Labour Relations Act. The overview shows us that the Conservative government amended the act seven times during their reign of terror, in which the rights of workers were diminished. Each change which that government brought in stripped away the rights of employees and transferred the power to the employers. Since 1950 in this province, we've had card-

based certification. In 1995, the Tories changed that. As an organizer, that created mass confusion. Card-based certification minimizes employer interference.

We've heard from employers here today how they care about their workers, how their workers are important to them, how they should get a vote. Being an organizer, it's difficult enough to get somebody to sign a card for organizing. Why should individuals in this province have to sign a card for organizing and then conduct a vote after that?

The vote procedure in this province gives the employer five days to intimidate, to coerce, to threaten and to punish their employees. There's no doubt about it. Anybody who's been an organizer will tell you that. The employers don't care about their workers, the majority of them. All they care about is profits. It's capitalism, it's pure greed, it's profits.

What we need in this province is card-based certification, allowing employees to exercise their rights, minimizing the impact of employers and the intimidation that goes on. As an organizer, I can give you numerous examples of employer interference. We've seen it all. At a company called Sure Electric, an application was filed by the IBEW. Four of the six individuals signed cards. The vote was held and the vote was 5-1 in favour of the employer. Do you think there was any intimidation there? Do you think there was any coercion there? Possibly, but then again, the employer cares about these people. He cares about the fact that they don't have benefits. He cares about the fact that they work for a substandard wage. He cares about the fact that he pays for the underground economy.

Through employer interference, numerous votes go awry for the unions. There are numerous glitches with the current system. There are numerous delays with the current system. We've had applications through the vote procedure that have been tied up at the Ontario Labour Relations Board since June of last year. Do you think that's fair, that the workers in this province who sign authorization cards for organizing have to conduct the vote and they're waiting 12 months to find out whether or not they can be a unionized worker? I think that's a shame.

I've been involved in many organizing drives in my years. I've seen the joy in the faces of the workers. I've seen the joy in the faces of their families. They're able to enjoy better wages, better benefits and, above and beyond all, better safety conditions. They work in a safe and efficient manner. On the flip side, I've seen the devastation on people's faces. I've seen it when they lose an organizing drive, when they're fired, when there is no interim relief. I've seen it all, and it's not easy. It's not easy being an organizer in this province and it's not easy making change, but now it's time for the change and I'm here to support Bill 144. I thank you for your time.

The Chair: Thank you. We have about four minutes, one minute each. Can I start with Mrs. Witmer, please.

Mrs. Witmer: Thank you very much for your presentation, Mr. McKenzie. Do you support this being extended to all of the unions in Ontario?

Mr. McKenzie: Yes.

Mrs. Witmer: Is your organization fighting on behalf of that?

Mr. McKenzie: I think we're trying to work hand in hand with the OFL and the other organizations.

Mr. Kormos: Thank you, Brother. Look, I couldn't agree with you more; what we need in this province is card-based certification. I understand that there are people who disagree. Mrs. Witmer has been consistent and clear as labour critic for her party in that regard, and I respect that. I have regard for that. One understands where she's coming from, and she has an argument to make, one that I fundamentally and profoundly disagree with. But I'm harder-pressed to comprehend the sucking and blowing of a party that says that card-based certification is a legitimate way of determining wanting to join a labour union for some workers but not for other workers.

The building trades would be damned fools not to want the government to pass this bill, because there's a lot at stake. Quite frankly, I expect to see all hell break loose in that industry once this bill passes. I want to see 20,000 new union members in the construction and building trades.

But I want folks to understand very clearly that I, as a New Democrat, will not attach my name to legislation that excludes the vast majority of workers from card-based certification, because if the roles were reversed, if it was the building trades that were being excluded from card-based certification, I would expect the building trades—notwithstanding that they're a smaller number of workers in this province—to expect me to stand up for them and not attach my name to a bill that excluded the building trades from card-based certification. I'd like to think I'd be prepared to do that. I think my history suggests that I would.

Ms. Kathleen O. Wynne (Don Valley West): Thank you, Mr. McKenzie, for being here. I have two questions. First of all, I'm assuming that you support the remedial certification, the issue of decertification posters and the interim reinstatement.

Mr. McKenzie: Yes.

Ms. Wynne: Those are good things?

Mr. McKenzie: Interim relief is a major thing. When you deal with organizing and you see a worker who's been laid off—in our opinion, fired—for organizing activities, which a sister talked about before with chilling effect, you need something to get those people back to work. We're dealing with individuals here. We're dealing with families. We're dealing with lives. When somebody gets fired for an organizing activity and they cannot get a job, these people still have payments. They still have mortgages and car payments. They have children and families. They're part of our communities.

Ms. Wynne: I completely agree with you, and I think it's a really important thing for us to do.

Just very quickly, one of my concerns is the intimidation that people keep raising. Can you help me—and maybe you can send us something later if you think about

this. What could we do to improve the way the votes take place and, at the same time, to improve the way the card certification process happens? How do we get intimidation out of there?

Mr. McKenzie: Make everyone in the province a union.

Ms. Wynne: But that's people's choice, right?

The Chair: Thanks for your presentation.

GREATER KITCHENER-WATERLOO
CHAMBER OF COMMERCE
ONTARIO CHAMBER OF COMMERCE

The Chair: We'll move to the next presentation, the Greater Kitchener-Waterloo Chamber of Commerce, Veronica Kenny, chair. Good morning again. You have 10 minutes total for your presentation. If there's any time left, we will allow questions. Start any time you're ready, please.

Ms. Veronica Kenny: Good morning. My name is Veronica Kenny. I'm here with my colleague Jo Taylor to make submissions on behalf of the Greater Kitchener-Waterloo Chamber of Commerce. Copies of our written submissions are currently being distributed to everyone. Due to a scheduling conflict, the Ontario Chamber of Commerce has not been able to make oral submissions in this matter so they've asked that we also speak on their behalf. Copies of their written submissions are also being distributed before you.

A healthy labour relations environment is critical for a strong Ontario. The ability to express one's opinion and exercise the right to vote is key to healthy labour relations in this province. This bill removes those rights and amounts to unnecessary tinkering with the existing labour relations regime. It's detrimental to both employees and employers, and essentially it's fundamentally undemocratic.

1000

First off, looking at the automatic certification provisions of the act, the proposed amendments to section 11 would permit the labour board to automatically certify an employer if an unfair labour practice is committed in the context of a union organizing drive. This is unfair to employees in that it robs them of their opportunity to voice their opinion through a democratic vote. It opens the door to a possible outcome like that which occurred in the Wal-Mart decision, where employees could become unionized despite the fact that a majority did not wish to be so.

Interruption.

Ms. Kenny: These provisions are unfair to employers in that automatic certification is a penal and—

The Chair: Excuse me, may I ask the gentlemen at the back to allow any one who has the floor to speak. There's no need for intervention by someone else. Please continue.

Ms. Kenny: These provisions are unfair to employers in that these proposed amendments are penal and not remedial in nature.

The act as currently written gives the labour board a broad jurisdiction to remedy any unfair labour practices that occur during a union organizing campaign. The board can undo any chilling effect that is caused by an employer's unfair labour practice by reinstating wrongfully terminated employees, posting board notices or reimbursing wasted organizing costs. The board has broad jurisdiction to do a number of things to undo any harm that is caused by any alleged undue influence by an employer. Once these remedies have been ordered and any chilling effect that has occurred on employees affected by an unfair labour practice has been reversed, then the employees' true wishes can be determined by a democratic vote. Automatic certification or penalty certification is not necessary to right these wrongs.

Further, automatic certification would unfairly impede an employer's right to free speech during an organizing campaign by promoting silence for fear of going too far and becoming automatically certified. This is detrimental to employees in that they may lose out on hearing their employer's opinion on the matter and would only get one side of the story during a campaign.

With respect to card-based certification in the construction industry, this is detrimental in that it also robs employees of their democratic right to vote. Employees opposed to an organizing campaign would have no way of expressing their opinion. Union cards during an organizing campaign are often solicited in secret, without the knowledge of known company supporters. With a card-based certification system, employers could become unionized without being aware that they were in the midst of an organizing campaign. They would not be given a chance to express their opinion and fight for their businesses before the deed was done. This is extremely dangerous in the ICI sector of the construction industry, given that these businesses become automatically bound to a collective agreement upon certification.

The practical fact is that card-based certification in the construction industry can actually be fatal to many small employers who could not compete if they became automatically certified and automatically bound to an ICI collective agreement. Automatically becoming bound to a collective agreement is fatal to these employers, because as soon as they become bound to a collective agreement, these collective agreements often contain wage provisions that are significantly higher than what employers are currently paying their employees. This sudden obligation to automatically pay these employees these increased rates often results in bankruptcy and the end of small construction companies.

Further, question the rationale as to why card-based certification is only being put forth for the construction industry and not for other sectors in this province. Provincial bargaining in the ICI sector does not allow employees and employers to bargain their own collective agreement. Certification in this industry has a more significant impact than in other industries. As such, if anything, this industry needs the protection of more, not less, democratic rights.

With respect to provisions regarding the decertification posters, again, this is undemocratic in that it prevents employees from obtaining valuable information. Depriving people of information about their legal rights is always harmful and never helpful.

Both the Greater Kitchener-Waterloo Chamber of Commerce and the Ontario Chamber of Commerce are concerned that this bill will have a serious chilling effect on our provincial economy. The loss of both employer and employee democratic rights creates an inhospitable business environment in our province. The loss of free speech and the loss of the right to express one's opinion through a vote stifles creativity and flexibility. Rather than opening the door and welcoming investment and business to our province, this bill will turn business away. In short, we're concerned that this bill is bad. It's bad for everyone: businesses, employees and employers.

Thank you. I'd welcome your questions.

The Chair: Thank you. There are about three minutes. We'll have one question each.

Mr. Kormos: Folks, thank you very much. I do appreciate your being here. I come from down in Niagara: Welland. It's a union town. I grew up there, and I knew where the Labour Temple was before I knew where the church was.

Look, you've got to understand that our town used to be very prosperous; it's in a decline now. But its prosperity developed when we had a whole lot of unionized jobs, with a high-wage economy and benefits and pensions. Small business was just flourishing and people were selling cars and vacations and furniture. All hell has broken loose now that we've lost those heavy industries because of electricity prices, among other things, and all we've got are low-wage, non-union jobs. Small business is collapsing all around us.

I hear what you're saying, but it doesn't tune in with my reality. Down where I come from, are we different from other parts of the world? The prosperity of the community was dependent upon a whole lot of union jobs and union workers making good money. They spent it at all those small businesses. Small business is going belly-up. We've got no union jobs.

The Chair: Thank you, Mr. Kormos. Mr. Flynn?

Mr. Flynn: Thank you, Ms. Kenny. I appreciated your presentation. Just so I'm clear, what you seemed to be saying was that you prefer the status quo, that the changes the previous government made to labour legislation are changes that you would support and you would not support the changes being put forward by this government?

Ms. Kenny: These changes are unnecessary and improper.

The Chair: Ms. Witmer?

Mrs. Witmer: Thank you very much, Ms. Kenny, for your presentation. I appreciate your courage in stepping forward this morning to make that presentation.

I do share one concern you've expressed, which I will paraphrase. In the global economy of today, I am concerned, because I have heard from individuals who were

planning investment or expansion in this province that this legislation will cause them to reconsider or perhaps make their investment in another state or another country. That's my concern, because at the end of the day, it means no jobs for the people in this province, and that's what concerns me today. The environment today is different than it was 10, 15, 20 years ago. I've had three situations brought to my attention. Are you aware of anyone who is postponing or reconsidering a decision to expand their business or maybe open up an operation?

Ms. Kenny: I can't make any comment with respect to any definite decisions that have been made, but I have heard the same concerns addressed by employers who were considering expansion in this province.

The Chair: Thank you very much for your presentation.

ONTARIO PIPE TRADES COUNCIL

The Chair: We'll move on to the plumbers and steamfitters.

I want to say thank you to those people listening. This presentation went without interruption, I believe. I thank you again.

Interjection.

The Chair: I'm sorry; there was one. It was an improvement. I guess that's what I should say.

Mr. Mark Ellerker: Mr. Chairman, standing committee members, my name is Mark Ellerker. I appreciate the opportunity to address this committee, as the issues affect my chosen trade, my fellow unionized skilled trades workers and those workers who do not belong to a trade union.

I have been a licensed steamfitter since 1999, after serving a five-year apprenticeship contract. I have been a member of Local 67 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada—UA—Hamilton, since 1994.

1010

The Ontario Pipe Trades Council, OPTC, created a provincial organizing division in 1993. I became employed as an organizer for the OPTC in 2004.

The UA represents workers in all aspects of the construction industry: in the industrial, commercial and institutional, residential, electrical power systems and pipeline sectors in construction, and in fabrication and manufacturing outside the construction industry as well.

The OPTC is a provincial labour council that promotes and represents the piping industry in Ontario. The OPTC represents over 15,000 men and women in the province of Ontario. Today, I am here representing those persons and the unions to which they belong.

The provisions in Bill 144 are viewed by the OPTC as a positive step whereby non-represented workers may be more freely able to express their true desire for representation. However, the proposed legislative changes remain problematic and incomplete, especially for com-

pulsory certified trades such as plumbing, steamfitting and electricians.

As an organizer, I find that filing applications for certification can often lead to a negative reaction by employers and, in some cases, by employees. Under the present legislation, since the repeal of the remedial certification provisions in 1998, there have been no meaningful penalties attached to the commission of an unfair labour practice that would truly discourage an employer from engaging in such misconduct. As such, many certification applications are routinely followed by an unfair labour practice complaint, with the net result being lengthy litigation and frustration of the employees' desire for representation. The proposed return of the remedial certification provisions are a good first step to restoring the effectiveness of the labour relations system. However, as the rest of our brief makes clear, many other steps are still needed to fully restore the balance in labour relations in this province.

In light of the tragedy of health problems and deaths encountered in Walkerton, one would expect that everyone would embrace the concept that anyone employed to install potable water systems for large or small populations should be required to be certified and licensed for the health and safety protection of citizens of Ontario. Similarly, one would assume that everyone would agree that those who install plumbing or pipefitting in our schools, daycare centres or hospitals should be certified and licensed. Indeed, the Trades Qualification and Apprenticeship Act mandates that they must be.

However, as discussed in more detail in our brief, in 2000, the Labour Relations Board decided that it would thereafter ignore that act when dealing with applications concerning compulsory certified trades because it does not see itself as an enforcement branch of the Ministry of Skills Development. The board has therefore decided that persons who are performing work illegally, without any licence or signed contract of apprenticeship, may still be allowed to participate in the formation of a bargaining unit of compulsory certified tradesmen, such as a unit of plumbers and pipefitters. This is wrong as a matter both of public safety and sound labour relations and needs to be addressed.

There are a number of elements of the bill which need to be addressed through further amendments:

—Apart from the expedited response time, there is no other statutory direction for the parties or the board to act expeditiously in construction industry applications.

—The bill should be amended to expressly provide for the assessment of union membership support based solely on documentary evidence, without regard to any petitions.

—No provision is made for the comparison of signatures on union cards to sample signatures provided by the employer, as was the case prior to 1995.

—Further, the bill does not explicitly confirm the power of the board to conduct status inquiries.

Delay in a certification context typically erodes union support. Where a vote is held, delay distorts the outcome,

usually to the union's disadvantage. Whether or not a vote is held, delay in the granting of a certificate by the board can only undermine union support and erode the benefits of collective bargaining. Finally, because of the sporadic and short-term nature of employment in the construction industry, labour relations delay is even more prejudicial in the construction industry context.

While deliberate padding of a list in order to defeat or delay an application might be the subject of an unfair labour practice, Bill 144 itself does nothing to discourage such conduct. In this regard, it should be noted that applicant trade unions must file membership evidence with the board, whereas employers need only provide information: section 128.1.

The list of employees should be supported by a declaration from a responsible employer official declaring that the individuals on the list were neither managers nor confidential employees, that they were actually employed by the employer and at work on the certification application date, and that they spent a majority of their time on that date performing bargaining unit work.

The employer should be required to provide, in a timely fashion and as a matter of course, additional documentary evidence in support of its employee list and declaration. That evidence might include employment application forms, time sheets and other records. Further, the board should be given specific remedial authority to provide for effective relief should an employer be found to have padded the list.

The board now has a greatly expanded jurisdiction, dealing with matters arising under the Employment Standards Act and appeals under the Occupational Health and Safety Act, and several other pieces of legislation in addition to cases under the Labour Relations Act. In other words, the board has fewer adjudicators to do more work.

Construction trade unions encounter substantial delays when litigating even the simplest issues. In non-construction certification applications, hearings are routinely and automatically scheduled to take place four weeks after an application is filed, and two consecutive hearing dates are then automatically assigned. By contrast, the board does not schedule hearing dates as a matter of course in construction industry certification applications.

This problem of delay is not just present in applications for certification. Unfair labour practice complaints, especially those filed in connection with organizing drives, need to be heard and dealt with promptly and effectively. At one time, the statute required that hearings into certain unfair labour practice complaints start within 15 days and continue on consecutive days until complete. Now it can take three or more months just to get a first day of hearing. Continuation dates can then take months longer. Hearings can stretch over weeks, months or years, such that the project or projects which were ongoing at the time of certification are long since completed by the time of the board's decision. Any decision that the board might eventually issue will be of little or no practical benefit.

Even though the board receives fewer unfair labour practice complaints, it takes far more time to dispose of them.

The Chair: You have 20 seconds.

Mr. Ellerker: Many trade unions recognize these limits and choose not to squander their scarce resources in this way. Going to the board is no longer a particularly viable option for many trade unions. The act should be amended to provide for a specific direction for the board to hear and resolve certification and associated unfair labour practice matters promptly, including specified time frames for the hearing and deciding of matters.

The reform promised by Bill 144 would be greatly strengthened by an amendment to include an explicit clear statutory direction in section 128.1 to hear and determine construction industry applications with dispatch. A return to consecutive day-to-day scheduling in certification applications, especially in the construction industry, is long overdue.

The Chair: Thank you very much for your presentation, sir.

Mr. Kormos: On a point of order, Chair: I trust the written submissions will be filed and form part of the record insofar as they're filed. This is one of the most complete and exhaustive analyses of the bill that we've received from the building trades' perspective. I want to commend Brother Ellerker and the people he is speaking for.

The Chair: Thank you, Mr. Kormos, and thank you for your presentation.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 804

The Chair: We'll move on to the next one, the International Brotherhood of Electrical Workers, Local 804: Rod Hilton and Mark Kuehl. Oh, just Mr. Hilton.

Mr. Rod Hilton: Good morning, everyone. I thank you for the opportunity to appear before this committee. My name is Rod Hilton. I'm a licensed electrician, a skilled tradesperson and a member of the International Brotherhood of Electrical Workers here in Kitchener, Ontario.

I am appearing before this committee to speak in support of Bill 144. I'd like to do this by sharing personal experiences that I've encountered throughout my career.

I began my career as an electrician in 1997 within the Niagara region in the unrepresented, non-union workforce of the electrical industry. The working conditions were poor, to say the least. The typical workweek was 60 to 80 hours. It was all paid at straight time, in violation of the labour standards act. Time was banked or not paid at all.

1020

Safety was never an issue. It wasn't something that was talked about, nor was it something that training was provided for. Riding in the back of a cargo van on a milk crate, with four to six co-workers, to get to a job on your own time was commonplace.

There were no supplemental health care benefits. There was no pension.

To raise any of these issues with my employer would have been like filling out my own record of employment; I would have been terminated immediately.

As a father of two young daughters, I realized that I had to provide more for my family and I then contacted the International Brotherhood of Electrical Workers union. After receiving information, I signed a union card and took charge of an organizing campaign of my employer.

After meeting with fellow employees during lunch hours and after work, I was able to get a number of union cards signed. After having done this, I was identified as the organizer. I was called to my employer's office and I was fired.

An unfair labour practice was filed by the union, which was fantastic, but despite having all of the conversation and my firing on audiotape, it would be nearly a year before the unfair labour practice would be heard and decided upon. My eligibility for employment insurance benefits was questionable, because my employer had marked the letter K, that I had been fired, so you're ineligible to collect employment insurance benefits.

So during that one-year time period, I was unemployed. Thankfully, I found alternative employment. Had I not, I would have continued to have remained unemployed, not being able to provide for my daughters and my family.

My co-workers rallied behind me. They donned union paraphernalia and were subjected to the same treatment that I was. Some were fired; others were just placed at job sites where they were isolated by anti-union supporters.

I wish I could say that my experiences going through the unionization process were the exception, but unfortunately, it's the norm here in Ontario.

In 1999, I commenced my employment as provincial organizer for the IBEW. I've witnessed dozens and dozens of workers subjected to dismissal, intimidation and threats. I've filed numerous unfair labour practices and spent countless days at the Ontario Labour Relations Board, fighting for these workers' rights.

Again, because of the transient nature and the mobility of the workforce, before these hearings come up, the job is over and done with, and that employee has gone without benefits or a paycheque for several months or years before the hearing comes to light. This definitely does have a chilling effect on organization drives.

Many of the workers with whom I have the privilege to deal are new Canadians, men and women who desperately need the remedial protections provided for within Bill 144. I'm specifically highlighting the interim reinstatement and the remedial certification process.

I feel that the need for legislative change is very urgent. I think the time for the legislative change is now. I believe that Bill 144 creates an environment that is fair

and equitable to both parties, both labour and management.

I think we all need to focus on the real issue here: It's not about labour and management; it's about the inherent rights of the workers to exercise their freedoms under the Ontario Labour Relations Act. They should be able to exercise their rights under the Ontario Labour Relations Act in a climate where they can show confidence and not fear being dismissed for their activities. Thank you.

The Chair: We still have three minutes for questioning. I believe, Mr. Flynn, that you are the first one.

Mr. Flynn: Thank you for the presentation. You were fired for trying to organize a union, basically. That was your message.

Mr. Hilton: That's correct.

Mr. Flynn: And the old rules allowed you to be fired.

Mr. Hilton: Well, not that it allowed for it to happen, but there was no remedial action, such as the interim reinstatement provided for in Bill 144.

As people begin to get fired or laid off, whichever the employer chooses to label it, the chilling effect is very present. Employees who wish to be represented by a trade union will not sign cards or continue to openly display their support for it, for fear of being released from employment and not being able to provide for their families.

Mr. Flynn: So for a short period of time you went through some hardship as a result of trying to implement what you thought was a right that you had in the province of Ontario.

Mr. Hilton: That's correct.

Mr. Flynn: With the changes that we're proposing as a government, had you taken that same move at that same time and attempted to enforce that right, do you think the result would have been different?

Mr. Hilton: I'm a person of conviction, and I would have stuck to my guns regardless, because I'm seeking a better way of life, but for people who don't have a strong conviction, at least it gives them some support. It may provide that extra encouragement to stick to their convictions, knowing that if they are wronged, there is a process to get their jobs back.

Mrs. Witmer: Thank you very much, Mr. Hilton, for being here today. I did appreciate listening to your personal story. I guess what we need to do is ensure that there is fairness and balance and opportunity for individuals, whether employers or employees, to always be able to express themselves freely. Thank you very much.

Mr. Kormos: Thank you, Brother. Yours is an incredibly valuable contribution, because it's not lawyers analyzing the innards—nothing against lawyers analyzing the innards of the bill—but it's real life; it's a real story. It's a very important story. And I know you. Here you are; you're educated and capable. You know your way around institutions and organizations. You're no pushover, because I know you from Niagara.

Take yourself and the chilling effect that your firing effect had on other workers. Replace you with a Vietnamese woman or a woman from South Asia, Sri Lanka, or any number of new Canadian immigrants, women who

clean other people's crap from the toilets in hotel rooms, and imagine how much more chilling the effect would be and how much more oppressive that would be. You'd take that union hat and it would be tossed so far—because you've got the background and the wherewithal, as you say, being a person of conviction. It's got to be tough for other workers who don't have your skills.

Mr. Hilton: It certainly is, and you bring up a good point, Mr. Kormos. For example, the decertification lists that were being posted: Most of these new Canadians don't realize their rights under health and safety standards or the Ontario Labour Relations Act as it relates to being able to join. So why is it there, demonstrating how to decertify, something that they don't even know how to get into?

The Chair: Thank you very much for the presentation, sir.

STEELWORKERS ONTARIO SOUTH CENTRAL AREA COUNCIL

The Chair: We'll move on to the next presentation, Mr. Gary Schaefer from the Steelworkers Ontario south central area council. Please have a seat. You can start any time you're ready.

Mr. Gary Schaefer: Good morning, Mr. Chair and committee members. I would like to introduce Wanda Power, who is the chair of the women's committee of the south central area council.

The United Steelworkers in Ontario: The United Steelworkers is an international union representing approximately 80,000 members in Ontario. The Steelworkers' south central area council represents over 7,000 members in Guelph, Cambridge, Kitchener and surrounding areas. As one of the most active organizing unions in Ontario, we are uniquely placed to provide insight into changes necessary to the current certification regime in Ontario.

Steelworkers' position on Bill 144: Our union was pleased when the Liberal Party committed during the last provincial election campaign to bring fairness back to workers' rights in Ontario. However, in the Steelworkers' view, the government has entirely failed to keep the promise to Ontario workers with the introduction of Bill 144, the Labour Relations Statute Law Amendment Act.

In particular, the decision to return card certification only to the construction sector is a fundamental betrayal of Ontario's most vulnerable workers. To be clear: We support the reintroduction of card-based certification to Ontario's construction workers. However, to exclude all of Ontario's other workers from the most important amendment represents, in our view, an inexcusable decision to discriminate against those who are most in need of protection. By excluding all non-construction workers from the right to a fair certification process, Bill 144 fundamentally discriminates against women and new Canadians who work in the lowest-paid sectors of our economy. As a result, we cannot support this bill, and we urge this government to extend card certification to all sectors.

1030

We acknowledge that Bill 144 contains several amendments to the Labour Relations Act, some of which are positive. However, the failure of the bill to extend card certification to all workers is such an omission that it neuters any positive effects the bill may have. Indeed, we feel that this issue is of such importance that we will restrict our submission to the extension of card certification to all Ontario workers. In our view, unless the basic discrimination contained in Bill 144 is removed, all of the other changes in the bill will do little or nothing to provide Ontario's workers with meaningful access to unions.

The result of the Progressive Conservative attacks on labour rights: What has been the effect of the elimination of card certification? The number of Ontario employees who have been allowed to exercise their right to join trade unions has plummeted. Not only are fewer employees joining unions, but the success rate of applications for certifications has also dropped substantially.

A further indicator of the unfairness of the current legislation is the dramatic drop in the success rate of certification applications. This dramatic drop in the number of new union members can only be explained by the Progressive Conservative attack on employees' rights. There is no reason to believe that these numbers reflect the fact that Ontario employees no longer want to join unions. Indeed, our experience suggests quite the opposite.

As employees have found it more and more difficult to organize, unions in Ontario are filing fewer and fewer applications and are only filing those applications that are likely to succeed. Notwithstanding the fact that unions are only filing stronger applications, the success rate is still dropping sharply.

In short, the previous government's attack on the right of Ontarians to join unions of their choice had a disproportionate effect on Ontario's lowest-paid, most vulnerable workers. These workers are often women and visible minorities. Hence, the current Labour Relations Act has the particular effect of excluding women and visible minorities from access to workplace representation.

It is particularly unjust, therefore, that the Liberal government should seek to remedy this problem by excluding these same workers from the most important change in Bill 144. The effect of Bill 144 is to maintain and reinforce this basic discrimination against women and visible minorities, who so desperately need union representation.

The need for card certification in all sectors: It is clear from the content of Bill 144 that the government has at least some understanding of the need for card certification. The decision to return card certification to the construction sector is proof of this understanding. However, we know that some employer groups in this province are strongly opposed to card certification. We understand that those forces are urging the government to maintain the current certification system. Most importantly, we suggest that these same forces have apparently

persuaded the government that it is not possible to return card certification to all Ontario workers. This view is profoundly wrong. On the contrary, in our submission, it is the present certification system that cannot be justified.

In our experience, the present system of union representation votes allows so great a level of employer influence, coercion and control that employees are not able to exercise this choice in a free manner. Currently, employees have to make that choice twice: first by signing a membership card and then by voting for the union. Further, the voting process is deeply flawed. Votes take place on the employer's premises in a context that provides the employer with far greater access to employees than is provided to the union.

The only purpose served by making mandatory representation votes the only path to union certification is to give employers the opportunity to coerce employees into abandoning their support for the union.

Those who insist upon mandatory certification votes justify their position on the basis of democratic values. However, representation votes are profoundly undemocratic. They are simply a licence for employers to interfere in the democratic selection of a trade union. Furthermore, as a tool of progressive public policy, card certification procedures promote healthy relationships between employers and employees by helping to avoid a pitched battle between management and employees. In certification votes, voting in favour of the union is characterized by the employer as tantamount to a vote against the employer. Therefore, card certification procedures promote healthier labour relations in the workplace by avoiding the workplace polarization that often results from anti-worker campaigns that naturally arise from a vote-based system.

These benefits, however, can only be achieved if card certification is extended to all Ontario workers. Bill 144 will only serve to exacerbate the increasing gap between the predominantly male unionized construction sector and those sectors, such as the service sector, where workers are poorly paid and receive no benefits. It is the predominantly female workers in the non-construction sectors who need unions the most, yet they are precluded from the most basic right that has been partially restored by Bill 144.

Ms. Wanda Power: Conclusion: Bill 144 discriminates against Ontario's most vulnerable workers. There is no precedent in the labour relations history of this province for discriminating against workers in the manner contemplated by Bill 144. While it is true that the construction sector has been subject to a different statutory regime, those differences have largely revolved around the need for different bargaining unit structures in the construction sector. These differences are, to some extent, necessitated by the often short-term nature of construction work. However, it has never been the case in Ontario that the certification procedures have been completely different in different sectors. As such, Bill 144 breaks new ground by drawing a fundamental distinction between the construction sector and all other workers.

There is simply no justification for this discrimination. It is simply not true that the particular nature of the construction sector requires card certification. If anything, the reverse is true. Organizing is most difficult in non-traditional sectors where union density is low. It is in these sectors that employers are most likely to unlawfully intimidate and coerce workers during organizing campaigns.

The construction sector is highly organized and highly paid. Large construction employers work in partnership with construction unions who enjoy province-wide bargaining units for large projects. But it is not these male workers in the construction sector who most need the benefits of card certification. It is the service sector workers, like the thousands who work for Wal-Mart, who most need access to unionization. It is the women in the nursing home sector or the low-wage security industry who most need unions. It is the visible minority workers earning \$9 an hour in small, non-union manufacturing businesses who most need unions. Yet Bill 144 does virtually nothing for these workers. Worse, it treats them as second-class citizens by denying them their basic right to join a union, free from illegal intimidation and coercion by their employer.

If the Ontario government is truly concerned about nurturing and protecting employee free choice and permitting employees to choose to join a union of their choice, the card-based certification system must be reinstated for all workers. We must be very clear on this point: A decision to maintain the current vote-based system in the non-construction sector, even with some improvements, can only be seen as an explicit choice in favour of an inherently unfair and undemocratic system. In other words, if the government chooses not to make this basic and fundamental shift back to a card-based system, it can only be seen as having made a choice in favour of employers over employees, in favour of the rights of capital over labour and in favour of the continued erosion of employee rights in Ontario.

1040

We thank you for taking the time to review these submissions. No issue is more important to our union than the right of Ontario workers to democratically join the union of their choice. It is an inherent part of a democratic society that those democratic rights we cherish, including the right to unionize, be granted equally to all citizens.

In our submission, Bill 144 fails this most basic test. Therefore, we urge the Legislature to extend democratic card certification to all Ontario workers.

The Chair: Thank you very much for your presentation.

CLEANPAC

DALY CONSTRUCTION LTD.

The Chair: We'll move on to the next presentation, from Cleanpac. Good morning. Please start any time you are ready.

Mr. Nigel Botterill: Good morning. I'm Nigel Botterill from Cleanpac in Cambridge, and I have my colleague Jim Daly, who intends to speak briefly after me.

I speak today as a local employer from Cambridge, Ontario, having moved from the UK just 11 months ago to set up in business and employ persons from the local community. More importantly, I also speak as representing the Brethren, of whom I am sure many of you here today would have heard and had contact with.

Being one of the Brethren myself and seeking to walk a pathway of separation as set out in the Holy Scriptures, "No one going as a soldier entangles himself with the affairs of life, that he may please him who has enlisted him as a soldier"—2 Timothy 2:4, and also it says, "Strive diligently to present thyself approved to God, a workman that has not to be ashamed, cutting in a straight line the word of truth"—2 Timothy 2:15, on the basis of just these few words alone, I could not entertain the idea of being part of a trade union organization or allow such an organization to have any part in my business.

Having recently learned of the proposed legislation, Bill 144, it appears there is no provision for persons such as ourselves, which is rather horrifying for me after leaving the UK where I employed 11 persons and there was provision for this by the government. I believe it is so in Australia and New Zealand too. If Canada were a Communist country, I could understand that such provision would not be made, but as this is not the case and surely we are looking for strong government in this country, in fact we pray regularly for government and men in power, then we would expect at least a conscientious objection clause. This is essential for persons such as ourselves; otherwise the consequences could be serious. There are many Brethren employers throughout Ontario, all of whom would be affected by this bill, and the options, if unions are allowed into our businesses, are just not there. We would either close down or sell the company. This could be with the loss of jobs, which would add to a raise in unemployment levels which, as we know, costs the government money.

I am not here today to speak against persons who are involved with trade unions exactly, but I do feel obligated to say that such a body is not of God and I have seen, especially in the UK, that it results in dissatisfaction and disruption—

Interruption.

The Chair: Excuse me. I did ask earlier—there is no need for such intervention.

Interruption.

The Chair: Sir, please.

Mr. Botterill: —where the master and servant relationship is turned around. If a person is hired at a fair wage in good working conditions, he or she signs a contract to accept these conditions. Why should anybody be allowed to come in between that relationship between employer and employee? A trade union association comes between the employer and his employee and causes disloyalty, which does not make for good working conditions.

Let's take a look at the Constitution of Canada and the Canadian Charter of Rights and Freedoms. One of the first things mentioned is freedom of conscience and religion—how does that fit into this proposed legislation?—and then freedom of thought, belief, opinion and expression, freedom of peaceful assembly, freedom of association. There must be a definite amendment to this bill in the event of it not being totally scrapped in order to even come into line with the charter, let alone to allow God-fearing persons to continue to make an honest living with a good conscience before a holy, righteous and sin-hating God.

To make our position as Brethren clearer, we do not belong to any association of men whatever—business, sports, personal. We do not have fellowship with those we do not partake of the Lord's Supper with, as we are associated with Christ and seek to hold ourselves for him. The scripture says, "Be not diversely yoked with unbelievers; for what participation [is there] between righteousness and lawlessness? Or what fellowship of light with darkness? And what consent of Christ with Beliar, or what part for a believer along with an unbeliever? And what agreement of God's temple with idols? For ye are (the) living God's temple; according as God has said, 'I will be their God, and they shall be to me a people. Wherefore come out of the midst of them, and be separated,' saith the Lord, 'and touch not what is unclean, and I will receive.'" 2 Corinthians 6.

Every man and woman should have the right as before God to stand on their own two feet in relation to their employment without intimidation from union workers and peer pressure from work colleagues to join an association which they may hardly know anything about. We all know it happens, and this situation will get worse with the acceptance by government of Bill 144.

So with a heart which I can humbly say that has been won by Christ and with a sense of duty toward my fellow men, especially those who have accepted Christ as their saviour, I would appeal to the powers that be to think carefully—as scripture says, "Think so as to be wise"—about this proposed legislation and ensure that a way is left open for those who cannot and will not give up a pathway of separation to belong to an association of any form.

The Chair: Any other comments? We can have questions, of course, if you have no comments.

Mr. Jim Daly: Sure. I have a few things I could say.

The Chair: Mrs. Witmer, would you mind? Thirty seconds each.

Mrs. Witmer: I think the gentleman said he did have a few things to say.

The Chair: Go ahead.

Mr. Daly: Like Nigel, my friend here, I'm a practicing Christian. I seek to be a practicing Christian in the world that we know today. Personally, I'm an employer from Cambridge. My family has been in the construction business since 1946 and have employed personnel since then.

Firstly, I'd like to point out that we're not public speakers and we don't represent any organization as

such. We're individuals, and a lot of the individuals that are Christians in this part of the country and in this city are persons that you wouldn't find at a forum like this or would speak, although I believe that we do represent a large body of persons who do have a Christian background that goes back to conscience. There are certain things that we do not do and will not do. As Nigel pointed out, many of us have lost employment because the workplaces have become certified. Many have had to change their work because of compulsory associations that have arisen. So this is the reason why we would like to see a conscience clause installed in whatever legislation comes to pass here. We disagree with the principle of collective bargaining. Of course, we're hearing a lot of the other side of the story here.

I'd just like to say that in the province of Quebec, we've been hearing persons speak about unionizing the lower-wage sector. This sounds very good and honourable, but in the province of Quebec, the construction industry itself has been largely unionized, probably 95%, right down to the residential end of construction, and in that province, what's happened is there's a great underground industry that has sprung up, which is tax-free. The government doesn't know how to draw the tax back.

The Chair: Thank you. That's 10 minutes on the nose. There is no time for questioning. Thanks very much for both presentations.

1050

WATERLOO REGIONAL LABOUR COUNCIL

The Chair: I'll move to the next presentation, which is the Waterloo Regional Labour Council. Is someone present, please? Please start, sir, whenever you're ready.

Mr. Rick Moffitt: I'd like to thank the committee for giving me the opportunity to make this presentation on behalf of the Waterloo Regional Labour Council. The labour council has more than 26,000 members affiliated in the Waterloo region, and they represent workers from both the public and private sectors, working in both blue-collar and white-collar jobs.

I'll start by apologizing for my crack about Wal-Mart, but it's very difficult for people involved in the union movement to listen to somebody have the gall to sit in a public place and defend Wal-Mart, one of the most notoriously nasty employers on this planet—a company that has chosen to shut down a store that was unionized in Quebec after six months of refusing to come to the negotiating table to try and negotiate a deal. For somebody to stand up and say somehow that proposed changes to the labour law are unfair to Wal-Mart is as outrageous a thing as I have ever heard. Some of the other things that were said by the same speaker were positively Orwellian. Penalty certification: I have never heard anything like this in my life. It's really incredible to hear something like that.

The time has come for the Liberal government to rebalance Ontario's labour laws, as they promised in fact

during the election campaign. The proposed legislation, Bill 144, doesn't begin to go far enough down the road to restoring balance between the interests of workers and employers. The new government, in my opinion, is doing the absolute minimum to allow themselves to claim that they have reformed the labour laws.

This legislation doesn't begin to address the needs of workers in this province and doesn't begin to reverse the draconian changes the Harris government implemented. It is unacceptable to advertise yourself as an agent for change and then follow that up by doing so very little. The slash-and-burn tactics of our previous government are being followed by the tiniest incremental changes that we could imagine. The Conservative government of Mike Harris rolled back the state of labour relations in this province 30 or 40 years, and this government is now proposing to roll them forward 30 or 40 minutes.

The legislation has been rushed without adequate consultation and without adequate reference to the changes made by the previous government. Organized labour is of the opinion that it was rushed to deny workers the ability to mount a serious lobbying campaign aimed at forcing amendments that would properly reflect the rights of all workers.

The 60-hour workweek, for instance, has yet to be eliminated. It has in fact been enshrined by flawed legislation that this government brought out. All a company has to do now is apply for permission to the Ministry of Labour to have a 60-hour workweek. It is shocking that any sane member of a modern society would suggest that this is acceptable. Employers maintain the right to average hours of work and deny overtime pay to employees, all provisions that were brought in by the previous government. Who does this affect most? Our most vulnerable workers: women, recent immigrants, part-time workers, casual workers and students.

The government has agreed to hold hearings belatedly, and this government committee has not toured the province, as is the norm. They have not gone out across this province to allow citizens an opportunity to make presentations: two hearings of two and a half hours in Toronto and one day here in Kitchener. You have denied the citizens of the rest of the province the capacity to attend these hearings.

It's significant to examine who presents at these hearings. It's also significant to look at and think about who doesn't attend these hearings. People unable to commute to one of these two locations were unable to address their concerns, and they're our most vulnerable workers. They're unable to secure time off during the workday because of socio-economic and cultural workplace barriers that are already in place.

It appears that the government is doing everything in their power to court business interests with an eye to future elections. Obvious examples that need to be addressed, in our mind, quickly, are proper card certification and the reintroduction of anti-scab legislation in this province.

Card certification is a process whereby union organizers ask workers to sign cards seeking union cer-

tification for their workplace. Historically, if a union succeeded by getting 55%, they were automatically certified. The right to card certification is not some new, Communist-inspired policy objective of organized labour. It has a long history in Canada; it has a long history in the province of Ontario. First introduced in 1944, we've had Liberal, Conservative and NDP governments in power. It has in fact been a cornerstone of labour policy, not only in Ontario but across this country. Card certification has provided a framework for the federal and provincial legislation across this country.

The government has refused to this point to restore full card certification to all citizens. It has proposed restoring a card certification process for construction unions and denying it to all other workers in the province. It's hard to comprehend how democratic rights and a fairness in process are to be restricted to merely one sector of the workforce. The provisions in Bill 144 patently discriminate against all other workers in the province, and this must be addressed before it becomes final.

It is difficult to look at the workers in the construction industry and not suggest that the legislation is at least discriminatory in their favour and discriminates against other workers. I respectfully suggest that many will go further in their descriptions of this. I believe that workers in the building trades should have the protection afforded them in this proposed legislation precisely because I believe all workers in Ontario should have those same protections. Those workers most in need of protection are those who are afforded the least amount of protection.

Other flaws in the legislation: The legislation must help the underemployed become employed. It must put limits on term contracts that are used by companies, to ensure that workers who stay with a company beyond a fixed period of perhaps six months are considered permanent employees. Companies are using term contracts to create an underclass of workers in this province.

Anti-scab legislation must be restored in the province, quite simply because it works. Let business put aside their ideological beliefs and examine the facts. Anti-scab legislation forces both parties back to the negotiating table, where all collective agreements must be completed. Anti-scab legislation worked in Ontario for five years. It's still working in Quebec after 20 years. If you look at the amount of time lost to strikes, you'll see that it has in fact worked.

I need to point out that a number of the people who are labour activists have left this hearing. That's because they've all gone down to Ingersoll right now. They have headed down to the IMT plant, a plant that is busing in scab labourers. These workers have come up from the United States. They've brought these people from the United States into Canada as scab workers to keep that plant going. That company has now gone to court to get injunctions to stop the CAW and other unions from showing up there to protest and picket and support people who are out of work.

If people think that the community of Ingersoll is happy about that, they're wrong. Those workers have been removed by small business owners who don't want

them in their hotels. There are restaurant owners down in Ingersoll refusing to serve these people. All of the small business owners in Ingersoll are looking in horror at what is going on in that community and they are disgusted by this. They don't want these people's business. They want the people who live and work in their communities in good-paying jobs, back on the job, spending their money in their community and supporting their community.

The government and business would do well to remember that there are two parties that own the collective bargaining agreement. Both employers and workers benefit from well-balanced labour legislation. Workers do not seek workplace disruptions, nor do they enjoy the loss of wages or time away from their work.

Ontario's voters, in the main, voted to choose change, and the Liberals were certainly right about one thing: It was time for a change. There's still time to change Bill 144. Let's get this right, please.

The Chair: Thank you very much for your presentation. There is no time for questioning.

ONTARIO SHEET METAL WORKERS' AND ROOFERS' CONFERENCE

The Chair: We'll move to the next presentation, the Ontario Sheet Metal Workers' and Roofers' Conference.

Mr. Kormos: On a point of order, Chair: Could this committee, during its lunch hour, please join those workers on that picket line in Ingersoll? I'm seeking unanimous consent.

The Chair: Do I hear unanimous consent?

Mr. Kormos: Agreed. Unanimous consent for this committee to join those striking workers whose jobs are being stolen by scabs.

The Chair: Thank you, Mr. Kormos. We'll move on. You can start any time you're ready, gentlemen.

Mr. Tim Fenton: Good morning. My name is Tim Fenton, business manager of the Ontario Sheet Metal Workers' and Roofers' Conference. To my immediate left is Mr. Jerry Raso, our legal counsel, and to my far left is James Moffat, our training and trades coordinator.

1100

The Ontario Sheet Metal Workers' and Roofers' Conference is very pleased to be appearing before the standing committee on social policy with respect to Bill 144, An Act to amend certain statutes relating to labour relations. We are the Ontario provincial employee bargaining agency for ten ICI local unions of the Sheet Metal Workers' International Association in Ontario. The conference represents approximately 8,000 unionized roofers and sheet metal workers in the ICI sector of the construction industry.

The Ontario Labour Relations Act and the proposed amendments are extremely important to our members and our union. Being active in representing our members in the construction industry, we are appreciative of the opportunity to share our experiences and insights with you on this important bill.

Our union has always supported the right of workers in Ontario to have unions certified and representing them by way of automatic certification through a card-based system. We believe this right should be extended to all workers in Ontario, not just construction workers. By excluding non-construction workers, Bill 144 does not go far enough with respect to certification through a card-based system. With this in mind, however, the conference endorses and supports Bill 144 and urges the government to pass each and every proposed amendment to the act.

I'll now turn the technical portion over to Mr. Raso.

Mr. Jerry Raso: Thank you. Just one comment before I start, with no offence to the previous speakers from two before me, I too am a practising Christian and I strongly support the right of workers to join unions. I didn't bring it with me, but if there's any question, I refer this committee to the late Pope John Paul II's encyclical on work, in which the Catholic church affirms the right of workers to join unions.

Like the previous speaker, we support Bill 144. We believe it's a good step. There's a lot more damage done by the Harris regime that could be undone by this government, but we believe this is a good first step, and we strongly support the measures that are contained in Bill 144.

Specifically, I'm going to talk about the certification provisions, with respect to taking out anti-union propaganda and not requiring unions to reveal their salaries. We support that, and there's really nothing to say.

In terms of the certification provisions, we support it because, number one, it's good for workers, it's clearly more democratic than what we previously had with votes, and it reduces opportunities for unscrupulous employers to interfere in the process and cause intimidation and fear and fire workers to prevent them from exercising their democratic right to join a union. It's good for the industry as a whole, because these provisions will or should reduce conflict and instability during the certification process, and that's good for the construction industry. Reducing instability and conflict is good for everybody. It's also good for the province as a whole and the economy as a whole, because hopefully what will result, or what should result, is increased unionization, and unions are good for the province.

The first thing is occupational health and safety. Unions actively work to promote health and safety. We police job sites. We make sure our health and safety committees are working. We make sure companies have health and safety reps. We police jobs sites and we actively work to enforce the act.

The second thing that makes this good for the economy as a whole is that it will help to reduce or eliminate the underground economy. You will find the underground economy exists in the non-union sector. Unions make sure their workers, their members, have their Workplace Safety and Insurance Board premiums paid, they make sure their EI premiums are paid and they make sure that CPP and income tax are paid. So if you want to

eliminate the underground economy, promote unions in Ontario.

Specifically, the three provisions we strongly support: restoring automatic certification where an employer commits an unfair labour practice and the true wishes of the workers can't be ascertained by a second vote; restoring interim orders to the Ontario Labour Relations Board, and in particular, giving the board the power to reinstate workers fired during an organizing drive. Interim means that they can do it on an expedited basis rather than what takes place now at the board, where it can take six, seven, nine months, even up to a year, to get a worker back to work. Thirdly, restoring the card-based system in the construction industry. Again, as Mr. Fenton said, we believe this provision should be for all workers in Ontario, not just construction workers, but at least give it to construction workers. The key here is the word "restore," because there's nothing radical here. What we had with a card-based system, what we had with automatic certification, takes us back to the 1950s. That's when these provisions came in. We had them from 1950 to 1995, until the Harris regime took them out.

The reason is that, as I said, it's good for workers and it's good for the industry. First votes and second votes don't work. They're not democratic. Every time you have a second vote or a first vote, you have an opportunity for an unscrupulous employer—not all employers do this, but some do—to get involved, intimidate and instill fear into the workers, and to give them the message, "You're going to lose your job if this union comes in, and that's why I want you to vote against the union."

A second vote doesn't do it because the damage is done once the employer gets the message through. Our union had a case once with a company called Maverick Mechanical. We had 100% of the workers sign cards. The company circulated an anti-union petition and got the word out that they didn't want a union there. At vote number one, we had zero workers show up to vote. We lost nothing-nothing. We went to the board and had our hearing. We got an order for another vote. What happened? Again, not one worker showed up for the vote. Why? Because the damage was done.

The second point is in terms of interim orders reinstating workers. That's extremely important. When you fire a worker, you have got the message out to all workers, "This is going to happen to you." It instills fear and puts a complete chill in the organizing drive. It sends the message to everyone, "Don't support this union," and again, it's unfair to the individual worker who has been fired for exercising his or her democratic right to join a union.

Having said that, in terms of the positive benefits, our union has a few constructive suggestions for amendments, and they all centre around the concept that justice delayed is justice denied. In our brief, at around page 8, there is a quote from the Supreme Court of Canada in a case called *Dayco (Canada) Ltd. v. CAW-Canada*. It states very firmly that you must have quick resolutions to conflict in labour relations, because conflict in labour

relations is bad for everyone. If it takes a long time, if you have justice happening a year or two years down the road, you have justice denied. I refer you to that quote. The problem we have with Bill 144 is that there are no provisions to make sure that what it provides for occurs on a timely basis.

There are three things we request: First, put some time provisions in the act. Again, this is restoring it to pre-1995 and the Harris regime. For expedited hearings and applications for certification, we believe there should be a hearing within 15 days of any dispute. The labour board should hear the dispute consecutively, on a day-to-day basis, until it's resolved, then issue a decision within two days. Again, if you go to the board and you get a decision or a hearing one or two years down the road, it just doesn't do the job.

Secondly, the bill, we believe, prevents anti-union petitions from being involved in the process. The problem is lawyers. It's silent and there may be room for argument, so we believe anti-union petitions should be explicitly removed. The labour board has never been successful. All they are is an opportunity for employers to interfere in the process.

One final point: When you put in an application, the union organizer has to sign a declaration verifying that the evidence the union is submitting is true. When an employer submits a response, they're not required to do that. All they have to do is list workers they believe have a right to vote. We believe a declaration should be required for employers, where employers explicitly have to declare, "This is an employee of the company; they were at work on the day of the application, and they are entitled to vote because they're engaged in bargaining unit work."

Those are the three suggestions to avoid and reduce delay. If this process goes on for a year or two years, as it is now, none of this will be accomplished and Bill 144 will be meaningless.

The Chair: Thank you very much for your presentation. There is no time for questions.

CANADIAN LABOUR CONGRESS

The Chair: We'll move on to the next presentation. Barry Fraser, please. Please start any time you're ready.

Mr. Barry Fraser: Before you start running the clock, I want to make a correction on who I am. My name is Barry Fraser. I'm a past president of the Ontario Provincial Building and Construction Trades Council, not of the Canadian Labour Congress.

The Chair: OK. The record will indicate that. Please proceed.

1110

Mr. Flynn: You got a promotion.

Mr. Fraser: That would be a demotion, I think.

The other issue, of course, is that I and my colleague here are both representatives of the Canadian Labour Congress in Ontario.

The Canadian Labour Congress fully supports the card-based certification. I don't have to go into the history. There's probably five decades of why it came about, and it came about by a Conservative government.

In the last elections, when the Tories were in, they rescinded Bill 40. It was the most progressive legislation that the province of Ontario ever had in its history. We had anti-scab legislation. Labour disputes and collective agreements and organizing were working well and making the entire province a more prosperous and fair province for workers.

Having said that, the Canadian Labour Congress has about three million members, but I want you to be clear that we represent all workers: those who are organized and those who are not. It's the Canadian Labour Congress and our subordinate bodies and affiliates who have always fought to improve the minimum standard of living, against all odds, and that benefits all workers: health and safety, education, and so on.

We fully support that the building trades have the card certification system, but they're 5% of the workforce. The other 95% need it every bit as much. The building trades unions have a certain advantage: If they go out and sign up 30 members and lose the certification, they can still bring those 30 members into their union and in that way capture the market by having control of the labour force. Other unions do not have that affordability.

The 95% of workers who cannot join because of the intimidation that exists out there—and I hate to say it in a free society, but today, in most cases, if you sign a card and the employer finds out, you will be fired: maybe not today—it might take a couple of months—but somehow you'll be weeded out of that employer's workplace, especially where some employers are very anti-labour.

So it's incumbent upon this committee to make sure that the wishes of workers are truly known. The present secret ballot that exists now does not work. There are many, many cases, which I won't go into, where they don't work, where unions sign up 100%, and when it goes to the vote, they sometimes, as was said, lose the vote because of the intimidation and coercion.

Yesterday in Ontario and across Canada, and in many countries in the world, we celebrated the Day of Mourning for workers killed and injured on the job. I say that because when we get out there and can organize and bring education and assistance to workers, we do a lot to bring those numbers down. I think it's important that we have a society where workers can freely join unions without that intimidation and coercion that exists with some employers. I say "some" because there are some who are much more enlightened.

With that, I'll pass it over to my colleague.

Ms. Sandi Ellis: My name is Sandi Ellis, and I am a Canadian Labour Congress representative for south-western Ontario, a territory from Guelph to Windsor.

I would just like to comment that two days ago I was on that picket line at IMT in Ingersoll when the federal leader of the New Democratic Party joined us for a short time. There were scab buses both going in and coming out, of course with blackened windows. I understand

from the local union there that there are approximately 40 people working inside the plant doing their work. There were three buses. Now, why does it take three buses to take 40 people into and/or out of a workplace that's on strike? I ask you, who is intimidating whom? The employer? Yes, in that case, and it's just another reason why anti-scab legislation is so badly needed in the province of Ontario.

I'd also like to say that I'm amazed at how we can manipulate words, and as a word fanatic, I love to hear when people use, abuse, misuse and maluse either words that are written, like the Bible, and/or words that are written in collective agreements or constitutions or anything. I too want to say that I do consider myself a Christian. I'm not a member of the Christian Reformist group or the Family Coalition, but I do support the Christian values that call for social and economic justice for all.

One of the previous speakers said that there were many Brethren employers in Ontario that might leave because of this legislation, and they talked about the relationship between the master and the servant. Well, let me tell you, ladies and gentlemen, that that's exactly the concern of many employees, that they are treated like servants: servants who must humble themselves before their masters and take whatever form of discipline, be that any form of discipline, that gets meted out to them. That could be intimidation. That could even be physical intimidation and discipline.

The construction trades' concerned employer representatives spoke about their work being kind of permanent at six to 12 months, and then they hire the same people back again. They're not temporary, they say. I ask you, in all of your parties, what do you consider a job that lasts six to 12 months? Is that a permanent full-time job? I also ask you, for that other period of time that they're not working in those short-term jobs or seasonal jobs, where do those employees go? Since they are able to hire them back each and every year, they must not go anywhere else, except on our other social programs that we as workers, and people as employers, actually pay for. They, then, are abusing the very social programs that they themselves decry as being too generous, too expensive and too great a tax on their payroll. They are the ones who are abusing it. People don't lay themselves off; they get laid off. People don't walk away from work, not in the 21st century. They lose their jobs. They don't want to be on those programs any more than anybody thinks they want to pay those payroll taxes.

You need to extend card-based certification back to everybody in the province of Ontario, and you need to bring back anti-scab legislation. We had the best peaceful period of time in labour relations during the period in which we had anti-scab legislation and we had card-based certification for all.

The Chair: Thank you. There is one minute. Mr. Kormos.

Mr Kormos: Thank you, Sister Ellis, Brother Fraser.

It's clear that, look, a building trade rep has got to—and the sheet metal workers were, interestingly, very

careful. They said they urged the government to pass this act. I can't and won't, as a New Democrat, endorse a bill that excludes the vast majority of workers from card-based certification. The last thing I'm interested in is the Minister of Labour standing up and saying, "Well, Kormos supports giving card-cert only to the building trades," and that's absurd.

Now, I put to you that we've got some of the most progressive members of the Liberal caucus here. They are. They are clearly on the progressive wing of that caucus. I put to you, and to them, that it is their job—I've been a backbencher in a government where I had occasion to vote against my government, and I did it because it was the right thing to do. I put it that it's their job to accept amendments to this bill which extend card-based certification to every worker in this province.

Will they have done their roles justice by doing that?

Ms. Ellis: Exactly.

Mr. Fraser: Absolutely. And you, representing the party you do, will be fully expected not to support legislation that doesn't protect all workers.

The Chair: Thank you. Mr. Flynn.

Mr. Flynn: Just so I'm clear on that point, then, because certainly I think we're starting to get down to the essence—and I enjoyed your presentation. I thought it was very balanced, and I understood it quite clearly.

We've brought in interim reinstatement. We've brought in remedial certification, or we're proposing to, for outrageous behaviour on both sides, either union or employer. We're bringing card-based certification in for the construction sector. We're taking away the decertification posters, taking away salary disclosure. We've had suggestions that the process needs to be speeded up, and that no post-application petitions be allowed to decertify.

Now you're telling me that if we can get all of those things, except at this point in time card-based certification for the rest of the unions, we should not support this legislation?

Mr. Fraser: Correct.

The Chair: Thank you for your presentation.

Mr. Fraser: I have a gift for each of you. It's a Day of Mourning pin, which represents April 28, and the Canadian Labour Congress pin, which will help you draft the right legislation.

The Chair: Thank you. The clerk will receive it on our behalf.

1120

SOUTHWESTERN ONTARIO
STEELWORKERS AREA COUNCIL
WOMEN AND HUMAN RIGHTS
COMMITTEE

The Chair: United Steelworkers, Ms. Lesley Raposo. You can start any time, ladies, please.

Ms. Lesley Raposo: My name is Lesley Raposo and I'm representing the Southwestern Ontario Steelworkers

Area Council, women and human rights committee. This is Carrie Robinson, another Steelworker sister.

In total, the council represents about 5,000 members and administers 50 collective agreements in the south-west region between Woodstock and Windsor. Our members are employed in almost every facet of the economy. We would like to direct our comments today to the sectors that we feel are most affected by the government's inaction, those being nursing homes, credit unions, public sector, call centres and retail.

Although Bill 144, the Labour Relations Statute Law Amendment Act, contains some positives, taken as the minister suggests, as a bill that seeks to reach balance and fairness, one vital point alone undoes any attempt in this direction, that point being the lack of a return to card-based certification. Because of this fact, we will limit our comments to this fundamental flaw.

Card certification had been a cornerstone of the Labour Relations Act from 1950 to 1995. At that time, an anti-union-driven government took office and pushed labour relations back to the 1930s. There is some indication that the minister recognizes the imbalance, but yet this bill stops short of addressing the problem.

At first sight, Bill 144 dismayed those of us seeking to represent the retail, nursing home, credit union, call centre and public sector workers. The deeper we looked, the more we felt that this bill is cynical and discriminatory. Most of the above occupations are filled by women and new Canadians, and yet the bill only extends card-based certification to mostly white male, highly paid construction workers.

In the minister's statement to the Legislature on November 3, 2004, he claims the construction sector is "unique" because they are "characterized by workplaces that change constantly and a workforce that's both very mobile and can change size constantly."

Personally, I'll never forget the experience I had while organizing a call centre in Sarnia. A woman, who was a single mother, wanted to sign a union card, but was terrified of the repercussions, so she had asked me to come to her house at 3 a.m. Once I arrived and explained to her that there was still a vote after the process of signing the card, her hands were literally shaking while she signed the union card.

While we don't deny the uniqueness of the construction sector, we submit that extending card certification to them alone and not to the most vulnerable must be viewed as discriminatory. That is our problem. When we attempt to organize a retail outlet or a call centre where the employees are mostly women and/or new Canadians, we will show you a workplace that is constantly changing, a workforce that is very mobile and that can change constantly. Where does this leave the minister's argument?

Again, from the minister's November 3, 2004 statement to the Legislature: "The government's role during a certification or de-certification campaign is not to favour one side or the other but to ensure that the choice made is an effective, informed choice and, to the extent possible,

free of undue pressure.” Lofty sentiments indeed, but without access to card certification with and a five-day delay between filing for certification and the vote, the vast majority of Ontario’s most vulnerable workers will be denied access to representation. Why? Because in today’s reality, only a very few employers live up to the sentiments that the minister proclaims. There is, as a matter of course in most cases, an active anti-union campaign put on by employers. In fact, we can predict all the tactics of an employer, which include increasing coercion, threats and intimidation until the employer, in most cases, can subvert the vote.

We know the people we are trying to organize, and we know that many vote results do not represent their wishes.

The government’s problem is how to make the discrimination in Bill 144 appear otherwise—a tall order indeed.

Let’s be clear: With the new direction the government is taking with Bill 144, we will not support nor stand by while there is an attempt to discriminate against women and new Canadians. The construction sector is highly organized, highly paid and predominantly male. There is simply no justification for this course of action. Labour peace and building trust and confidence in government can only be solved by extending card certification across the province in all sectors. End the discrimination; end the problems.

I thank you and I would like my sister Carrie to take an opportunity for you to hear her story.

Ms. Carrie Robinson: I will just very quickly address the comments of two of the past speakers.

I too am a practising Christian and I know that a fundamental belief of any church or religion is to ensure that the most vulnerable in our society have a voice and that their needs are addressed. Bill 144, as it stands, does not give working women a voice; it does not address their needs. We are vulnerable.

I need to tell you briefly where I come from to help you understand why I’m here today to implore that you extend Bill 144 to include women in Ontario and, in fact, all unorganized workers. You see, I know, as a woman, what it feels like to go to work each day, not knowing if it was the day they were going to fire me. And it was not because I was not a hard worker and it was not because I was not a good worker. I did a good job for my employer day in and day out. They wanted to fire me because a supervisor didn’t like me.

As a woman, I know what it feels like to not make enough money to feed myself and my son, even though I was working full time. I would go days without eating so there would be enough food on the table for my son. As a woman, I know what it feels like to work Monday to Friday and then Saturday and then Sunday, working two jobs to try and give a better life for myself and my son. But then I also know, as a woman and as a mother, what it feels like to never see my child—to only see my child to say goodnight, because I was always working. As a woman, I know what it feels like to not have enough

money to even buy bus tickets to get to work. So I would walk five miles to work and five miles home, often not having eaten that day. I know, as a woman, what it feels like to be sexually harassed in my workplace and have my supervisors turn their backs on the harassment.

Sadly, as a woman, I know that my story is not unique or special. I know that there are thousands of other women in Ontario who have the same struggles day in and day out that I had and the same obstacles. They still have them. Many of them actually have much more horrific stories than I do.

I was very fortunate to eventually work in a unionized workplace, and as a result, my working life and my family life changed dramatically for the better. As a woman, I then had job security, better wages and, most importantly, I had a workplace free from harassment. I could go into work and feel safe and comfortable when I went to work.

If you only extend Bill 144 to a select group of people—white male construction workers—you are sending a clear message to the unorganized women in Ontario that they don’t matter, that their families don’t matter. You are telling them that they don’t deserve the same opportunity as a white male construction worker to organize their workplace and possibly have the benefits of a better working life and, subsequently, a better family life. You are telling them that because they are women, the bar that the white male construction workers have to meet to be unionized will be set so high for women that in most cases women will not be able to jump over that bar.

Statistics show that women make up 52% of our workforce in Ontario. Women have fought so hard and so long to be treated as equal human beings in our workplaces and in society. You are the leaders of our society and you need to lead by example. I’m asking you here today to do the right thing, the fair thing and the humane thing.

1130

My 73-year-old mother is here with me today, and she tells me of a time when her signature did not mean enough by itself to buy a car or to buy a house or to buy anything of large value. I’m asking you, don’t take a discriminatory, sexist step backward to a time my mother talks of. Take a fair and equitable step forward and show the working women in Ontario that they deserve the same opportunity as men. Extend Bill 144 to include all women and in fact all unorganized workers in Ontario.

The Chair: Thank you for your presentation.

SHEET METAL WORKERS’ INTERNATIONAL ASSOCIATION

The Chair: The next presentation is from the Ontario Pipe Trades Council. Please have a seat.

Mr. Chris McLaughlin: My name’s Chris McLaughlin, and I’m with the Sheet Metal Workers’ International Association, actually. I’m taking over Mark’s spot; he

was on earlier. I want to thank you, Mr. Chair, and the members for the opportunity to speak.

I stand here in favour of Bill 144, but I agree with many others that it doesn't go far enough; it should cover all workers.

I want to go back to a time about 10 years ago, when I was a fifth-year apprentice. I was working non-union. I had been with the same company through my whole apprenticeship. I was just engaged and ready to get married. Everything seemed to be going well, until we got a letter one day in our paycheques from the employer, saying that there were financial problems within the company and we were all taking a \$3-an-hour pay cut, which didn't go over very well with anybody. So the guys started talking. I had some friends in the sheet metal workers' union, so I contacted them. They said to speak to a guy and I started talking to some of the guys at work. I was actually scheduled to go to school that fall, and my employer told me to defer my schooling because we were too busy. But after the union talk, I got laid off, two weeks before I was going to be married. My fiancée wasn't too happy at the time, but we got through it.

A couple of months later, I got a job with another company. It was actually for about \$6 an hour less than what I was used to; I had worked the previous five and a half years to ascertain a good living. An organizing drive started there, which I was in support of as well. I helped spread the word and get guys to sign cards. I was active. I got laid off there. I was reinstated, only to come back to a very cold workplace. We had been working out of town, about an hour's drive from Kitchener. Typically, all the guys were put into a van, sitting on milk crates, and you'd go to the job. But when I was brought back—they were told they had to hire me back—I had to start taking my own vehicle, only to find out when I got there that nobody wanted to talk to me. I ended up having insulation glue put all over my car and my tires were flattened. It was not a nice situation.

I just wanted to speak about the intimidation, the fear factor. In this particular drive, about 80% to 85% of the guys had signed cards, but by the day they had the vote, it went through by just over 50%. When you have that many people who were interested and then they see what the employer can start to do to you, it's definitely a chilling effect.

Interim reinstatement is a must, and remedial certification should be brought back as well.

I now am an organizer within the union, and I've seen what happens to guys when they're centred out. When there's a drive going on, the employer does his best to find out who's involved. They're pretty smart in the way they go about things now, especially in the construction industry, because our work fluctuates; it goes from place to place. It's very easy to lay a guy off and say, "We've got a work shortage right now," and then just hire other people in a couple of weeks. You have no recourse. It really hurts when you're working to try to help somebody—another person like me, with a family and children—and you can't help them. It's terrible.

Thank you.

The Chair: Thank you. Any other comments?

Mr. James Moffat: Yes. My name's James Moffat. I'm with the Ontario Sheet Metal Workers' and Roofers' Conference. I never had an opportunity to make a few remarks when we did our presentation.

I've been a trade unionist since I joined our local union in Toronto in 1969. I've been actively involved in protecting workers and representing members since that time. When the Tory government got elected in 1995 and introduced Bill 7—I think it took them 10 days to ram that bill through—they literally decimated the trade union movement and wiped out 50 years of history that had been in place until that time. In 1998 they introduced the workplace democracy bill, another bill that took away a lot of the rights of workers in this province.

There have been comments made with respect to why the construction industry has got this card-based system and why it was not extended to workers across the province. As we alluded to earlier, the Ontario Sheet Metal Workers' and Roofers' Conference is in support of extending these rights to all workers in the province of Ontario.

I was glad to see the tail end of Mike Harris and Ernie Eves when they left. It was the people of Ontario who defeated that government and elected this government. I understand how the political process works down at Queen's Park; I spend a lot of time down there. I've listened to Peter, and rightfully so. It's very difficult for the NDP to vote in favour of this legislation if it doesn't extend to all workers. I can understand that.

I can appreciate the Liberal caucus members as well. They have made a step in the right direction toward restoring some sort of balance in labour laws in this province. I commend them for that. I would hope they would rethink it and extend it to all workers. If the caucus members sitting here could bring that message back to the Premier and to the minister, it would be well appreciated by all of us here.

As far as the Tories are concerned, their message is always the same. They support the business community. We all work for businesses. We all work for employers. However, it was quite clear during the Common Sense Revolution that they didn't want the unions to have a say and the power they think we have.

Anyhow, with that, I thank you very much for allowing us to do this presentation.

The Chair: There's time for one question. Mr. Flynn, one minute maximum, please.

Mr. Flynn: Thank you very much for that summary. You really hit the nail on the head about the position that all parties may find themselves in on this bill, given the history of labour legislation in this province.

You were fired twice for organizing, and you were reinstated once. I didn't get the years that you were fired, and who was in power and what labour legislation—

Mr. McLaughlin: It was right when Bill 7 was just starting to go through and be talked about. It was in 1995.

The first time I was let go was in the summer of 1995, and then again around September or October of 1995.

Mr. Flynn: For asserting a right, you were fired as a result of legislation that came from Bill 7.

Mr. McLaughlin: I was reinstated at that time. I was brought back before, because our counsel from the sheet metal workers, Jerry Raso, had me reinstated under the provision. I don't think the bill—

Mr. Flynn: I'm trying to ascertain which labour legislation was in place that allowed that to happen to you.

Mrs. Witmer: Bill 40.

Mr. McLaughlin: Bill 40 was in place then, I guess. Sorry, it's going back a few years.

Mr. Flynn: That's what I'm trying to do; I'm trying to get a feel for that.

The Chair: That's all the time we have. Thank you again for your presentation.

1140

BOB SMITH

The Chair: We'll move on to the next presentation: Bob Smith. Mr. Smith, you have 10 minutes. You can start whenever you're ready.

Mr. Bob Smith: I would first like to thank this committee for granting me the opportunity to speak before them. I'd like to point out that I too am a Christian. Hearing some of the others speak, I would point out that there are many different beliefs among Christians. One member spoke of what the Pope had quoted. Not all Christians would have regard for what the Pope quoted in terms of labour. This community here in Kitchener has a large Mennonite community, which wouldn't speak here. As citizens of the country, I feel they should have every right to be recognized, as everyone else.

The concern that brings me here today is the exclusion of any allowance for conscience in Bill 144. I'm married with children. I own a small business in this province and seek to raise my family according to the scriptures. I cannot, according to my beliefs, put myself in any association with persons of a different faith. This would include things such as group pension plans, group insurance plans, ownership of shares in publicly traded companies, trade associations and trade unions.

I point this out to make it clear that I'm not pointing a finger at the unions and saying that they are the problem in this case. The difficulty with Bill 144 is that power is given to an unelected and unaccountable body, where it doesn't belong. The power belongs in the hands of the government, the government that was elected by the people of this province.

It's been a long time since I was in Queen's Park, at the opening of a session of Parliament, but the last time I was there, scripture was read before any other procedure. I think this points out that the government of this province should at least recognize that there are persons who live strictly in accord with these same scriptures.

These persons believe that the rights of God must be recognized above all else.

The rights of God must be recognized above all else, and then there are the rights and freedoms that belong to every Canadian, the rights and freedoms that this country is universally known for, the rights and freedoms that my ancestors fought for in both world wars. The Charter of Rights and Freedoms states that every Canadian has the right to freedom of religion and also freedom of association. This also can be translated as disassociation, which means I have the constitutional right to refuse to belong to a union.

The idea behind changing an existing law is to make it better for the citizens of the province. These proposed changes will make it easier for union officials to force their plans on unsuspecting workers and business owners and, at the same time, completely disregard the rights of everyone who does not want to have any part in it. If an employer does something that the Ontario Labour Relations Board interprets as an unfair labour practice, this bill would give them the power to impose a union on a workplace without any vote, even where the employees have voted against unionization. A small business owner who is not an expert in labour laws could end up with an imposed union that neither he nor his employees want.

As it's currently written, Bill 144 removes the right to a secret ballot on whether the workplace becomes unionized. Perhaps it could be explained to me why the members of Parliament, selected by the people of this province in a secret ballot vote, are stripping away the right to a secret ballot in regard to how we earn a living. All citizens have a democratic right to choose if they want to belong to a union or not. Why is this government taking away democratic rights? I respect government as a terror to evil works, but they can't place their responsibility in the hands of an unelected body.

This is not a union issue; it's a human rights issue. This is an issue that involves the Charter of Rights and Freedoms. It is imperative that some amendments are made for the conscience of the Brethren and many other religious groups and persons who reside in this province. We must make laws that are clear and easy to understand so that decisions are not left up to a partisan labour board that is not accountable to the people for the decisions they make.

I would like to relate an experience of a business acquaintance who had a manufacturing facility and employed about 12 people. He was doing a job that had to be installed in an airport. He was told he could not have his men install the job because they were non-union workers, so he hired three union installers. As management, he personally explained to the installers what had to be done and helped them get started. Soon after he left the job site, a union representative came by and suggested they hold a vote to certify the company that had just employed them. As they were the only employees on the job at the time, the vote was 100% in favour of unionization. The rest of the employees were unanimous about not having a union in the shop, but they were not

present at the vote, so they were out luck. The last I heard of this case, it was still in court. This type of practice is not at all fair and hardly what we could call democratic.

In closing, I would like to make some recommendations to the committee for amendments to Bill 144:

(1) That if an employer has a conscientious objection, he is not required to join any organization of employers.

(2) That a representative of a trade union is not allowed to enter a business premises if the employer has a conscientious objection to unionization.

The Chair: Thank you for comments, sir. Mrs. Witmer, any questions? About a minute.

Mrs. Witmer: Thank you very much, Mr. Smith. What two changes are you asking for to the legislation, just so I'm clear?

Mr. Smith: Just that in my workplace, if a union representative comes and wants to talk to my workers, he doesn't have allowance to enter because I have a conscientious objection that, because of my beliefs, I cannot have a union in my workplace.

Mrs. Witmer: So you're looking for that. Was there another part as well that you were looking for?

Mr. Smith: Again, that I'm not required to join any organization of employers.

Mrs. Witmer: So you want some sort of conscientious objection clause, similar to what we've been asked for this morning?

Mr. Smith: That's correct. I just know that even in this community here in Kitchener-Waterloo, which you are from—is that correct?

Mrs. Witmer: Yes. I live in this community.

Mr. Smith: You would know there are a lot of Mennonites, and they won't appear here. I know they hold the same thing as me.

Mrs. Witmer: Thank you very much for your presentation.

The Chair: Ms. Wynne, one last question.

Ms. Wynne: Mr. Smith, a number of Brethren have appeared before us, as you know. My understanding is that many of you have owned businesses in the province for some time. My confusion is that your businesses had run under a system that had many of the provisions in this bill until 1995, and the provisions will be in place again. So I don't understand why there is a problem now, when there hasn't been a problem for years. What's new?

Mr. Smith: Well, if a union representative went to my workers' homes and got them to sign a card, if I were in the construction industry, my business would be forced to be unionized.

Ms. Wynne: I'm having a hard time understanding—before 1995, before the Tories changed the rules, there were businesses run by Brethren in the province. Now we're putting back many of the protections that were in place before 1995. So what's different now than—

Mr. Smith: There was never a conscientious—

Ms. Wynne: So you've always wanted this protection for employers, is that right?

Mr. Smith: That's correct.

Ms. Wynne: OK. Thank you.

The Chair: Thanks very much for your presentation.

OPEN SHOP CONTRACTORS ASSOCIATION

The Chair: We'll move to the next presentation, Open Shop Contractors Association, Mark Baseggio. Nice seeing you again today, Mr. Baseggio.

Mr. Mark Baseggio: Good afternoon, and thank you for this opportunity to speak again before the committee. I'm here today on behalf of local businesses in the Kitchener-Waterloo area. I'll get right into it.

The Open Shop Contractors Association now represents contractors from all over the province. We've grown to be the only credible voice for the some 70% of construction employers whose employees have chosen to remain un-unionized. In fact, some of our members even do hold collective bargaining agreements with trade unions but do not believe that tendering should be restricted on that basis.

As we have only a short time to present our views, we'll now get into our thoughts on the bill.

1150

The bill concerns the Open Shop Contractors in three major ways: card-based certification; the definition of "non-construction employer," which Mr. Smith actually mentioned at the end of his presentation; and another very important one is, who gets counted?

It is important to note that much commentary has been heard by this committee on the value of organized labour's contribution toward social programs and policy, both in Ontario and Canada and abroad. While we admire these contributions, they have no place in the context of these consultations. These values are admirable. However, what is truly in question is simple: Are employees' real wishes being accurately reflected by the labour laws of Ontario?

This is precisely why the Open Shop Contractors Association has stated that the powers of interim remedies and remedial certification are fair and in fact positive additions to the act. If an employer intimidates employees, then he or she must face the consequences. However, we feel these powers have been added without adequate clarity, leaving a large grey area and potential for them to be abused. As stated by the minister himself, we must strive for balance. In that effort, we ask the committee to pay special attention and explicitly outline when and how these powers should be used.

Now to address the crux of our issues with Bill 144.

The first one is card-based certification, as I mentioned. The minister has justified the addition of card-based certification to the construction industry by asserting that it is required due to transient workforces. Transient employees are actually much more typical of unionized contractors that hire out via union hiring halls. Open Shop employers actually tend to have much more stable workforces.

The second argument for card-based certification is centred around the fact that for approximately 40 years it worked. Quoting the minister, from an earlier meeting that our association had with him, "Buildings still went

up.” Well, the simple fact is that times change. What worked over 50 years ago doesn’t work today, and the climate of employee-employer relations certainly has changed. Stating that “buildings went up” says nothing to the issue of an employee’s true desire to be part of a union, and that is what we’re talking about here.

Taking the vote away from employees in the construction sector will do nothing to ensure less harassment or a more accurate representation of their wishes. In fact, we know that employees use cards to avoid harassment from union officials, relying on the vote to put forward their true intent in an unfettered manner.

Reverting to this system of certification in the construction sector will not only lead to less accurate representation of employees’ true wishes but also reintroduce litigation caused by counter-petitions and then counter-counter-petitions introduced by unions. The costs of this litigation will unfortunately be placed on the back of Ontario small business owners, with employees being the unfortunate bystanders of flawed legislation.

Next, I’d like to speak about the “non-construction employer” definition. When the government introduced Bill 144, it was branded as a balancing of labour relations. If the bill truly did introduce a balance, it wouldn’t have ignored several critical issues, the first of these being the definition of “non-construction employer.” Twice before, the Legislature of this province has amended the Labour Relations Act to remove school boards, municipalities, banks and retailers from the construction section of this act. For the most part, employers who had become caught up in what is best described as a technical loophole of the act have been successful in terminating bargaining rights with construction trade unions where they clearly do not belong. However, the labour board has so narrowly interpreted the current definition of a “non-construction employer” that two unfortunate municipalities and several employers remain locked into these agreements. They need your help.

It is unfair that public work is not biddable by all qualified contractors. It is in fact a charter violation, showing favour to those who have chosen to associate with one group—the freedom of association also guarantees the freedom not to associate—not to mention that it also costs tens of millions of dollars because municipalities are often unable to achieve competition in tendering processes.

The second of these oversights is the definition of a bargaining unit. If, for example, a contractor normally employs 100 employees but operates a skeleton crew of, say, three people on a weekend, holiday or other day, and the union decides to file an application on that day, these three individuals decide the fate of the entire 100-person workforce. This process is obviously flawed and can best be described as ludicrous. If the act were to truly introduce balance, amendments must be made to fix this problem. I hope we can all agree that an employee having no say is something that no one wants.

In closing, we’ve heard comments and strong indications coming from the minister’s office that many of

these changes will not be implemented, that the bill will stay largely the same. It just feels like these proceedings have been a big charade, if that is the case. We hope this committee will put forward some positive changes to the bill and will listen to these sincere concerns from all our members and also the Coalition for Democratic Labour Relations, which presented some very good amendments to this bill. Thank you very much.

The Chair: Thank you. Mr. Kormos, up to one minute.

Mr. Kormos: Thank you kindly. You can tell your principals that you’ve done an effective and articulate job of representing their interests. I’m not afraid to say that, and you can report back in that regard.

However, clearly you don’t believe that card signing is a legitimate way of determining an individual worker’s real interest in belonging to a union, and that’s what the Tories advocate as well. I presume that the Liberals disagree with you. I presume that they believe that a card signed demonstrates a legitimate, real interest on the part of a worker to join a union. My question to you is, why wouldn’t they extend that right to all workers if it’s, from their perspective, a legitimate way of a worker demonstrating their interest in belonging to a union?

Mr. Baseggio: I’d like to turn that question back to the Liberals, because I have no way of knowing what the Liberals are thinking.

Mr. Flynn: May be I can help you in that regard.

Mr. Baseggio: Yes.

Mr. Flynn: I don’t think these proceedings are a charade. I think we are listening; certainly I’m listening. There’s starting to be a clear pattern in the proceedings. There are people or organizations coming forward and saying that the proposed legislation goes way too far in favouring business. There are those coming forward, like you—well, I’m thinking you—saying that it’s going way too far in favouring labour. Then there are people coming forward saying, “It’s a good piece of legislation. It’s not all we want, but it’s an excellent start.” Where would you put yourself? Is it going so far that the bill’s not supportable?

Mr. Baseggio: If these changes are not put into the bill, we would like to see the bill defeated.

The Chair: Ms. Witmer?

Ms. Witmer: Thank you very much for your presentation, Mr. Baseggio. I guess you’ve made it pretty clear that you cannot accept the bill as it is. Are you saying that all the issues you spoke about would have to be either withdrawn from the bill or amended?

Mr. Baseggio: We would like to see them amended to reflect our opinions. Even with such an issue as the 55%: If the bill does go forward, 55% is far too low.

The Chair: Thank you very much for your presentation.

ONTARIO PUBLIC SERVICE
EMPLOYEES UNION

The Chair: The last presentation before break is from the Ontario Public Service Employees Union, Local 228,

Eduardo Almeida. Please have a seat. You can start any time you're ready.

Mr. Eduardo Almeida: Thank you for the opportunity to recommend serious changes to Bill 144. My name is Eduardo Almeida. I am a correctional officer at the Hamilton-Wentworth Detention Centre, and I sit on OPSEU's executive board.

I want to speak about a few sections of the bill that OPSEU and many others have pointed out as grossly deficient. I'll address these concerns through the many years of service I have in correctional services.

The front-line public sector workers I represent truly hope the committee appreciates the shortcomings in this legislation. We hope you are prepared to craft the necessary fairness so that when Bill 144 passes there will not be two or three different classes of workers in this province.

First, a few comments on the amendments in Bill 144 that extend card certification provisions under the Labour Relations Act exclusively to the building trades.

If signing up 55% of all non-management employees is insufficient to be granted collective bargaining rights, what level of support would truly represent a majority interest in unionizing? Is it 65%? Is it 75%? Has any government caucus ever achieved this level of support before assuming all the powers of the state?

1200

Bill 144 offers card certification rights to one class of mainly male workers but denies the same right to thousands of women in public sector transfer payment agencies and elsewhere. This is hardly the progressive and equitable change that the Liberal caucus campaigned on. OPSEU urges the government not to engage in blatant discrimination. Don't base our rights to organize or to reorganize a union on the cutbacks in rights made by the previous government. Instead, as a guide, use the previous 50 years of hard-won reforms to the act.

Reinstate and extend card certification universally. This will help rebuild Ontario and will result in safer workplaces and more stable public services.

There is another way in which Bill 144 would regrettably reinforce different classes of rights in different workplaces. The bill contains no amendments to the Colleges Collective Bargaining Act. Change to this act is badly needed to remove the discriminatory exclusion of part-time staff from the two province-wide college bargaining units. Discrimination against Ontario's part-time college staff is unique in Canada. In no other province are they so vulnerable, with poor working conditions, no job security and lower wages, despite doing the same work as their full-time co-workers in both the support staff and faculty workforces. OPSEU urges the committee to take this opportunity to put an end to long-standing statutory discrimination against the thousands of part-time college workers who help students to succeed.

A third area of discrimination that Bill 144 should address is discrimination against the government's own workforce. Bill 144 fails to reinstate successor rights to crown employees. Because of this, our negotiated collec-

tive agreement does not survive when government services are privatized. We urge the government not to enshrine in law this part of Mike Harris's assault on public employees. OPSEU and other crown employees had successor rights for over 20 years. It emerged in 1974 under a Conservative government. It prevailed through the life of subsequent Tory, Liberal and NDP mandates.

Let me remind committee members of two things Premier McGuinty said to those of us in the public service. First, while in opposition he said, "I will restore successor rights to crown employees.... [They] should have the same rights as those in the private sector."

Mr. Kormos: I remember that.

Mr. Almeida: I remember too, Brother.

Later, on election night in October 2003, he said, "I have a special message I want to send to Ontario public servants. I value your work. I look forward to working with you so we can provide better service to our public."

We had reason to believe both of these messages. But with Bill 144 and the deep staff cuts now emerging, here's what the Premier appears to have really meant: "I may value your work, or at least some of it. But I plan to see it done more cheaply by the for-profit sector, preferably by employees who have no union to represent them." That is what is before us in Bill 144, if amendments are not forthcoming.

You'll notice that I referred a minute ago to the right to reorganize a union. OPSEU is perhaps unique among Ontario unions. We have no successor rights in the Crown Employees Collective Bargaining Act. We bear the burden of repeated, lengthy and expensive efforts to reorganize former public service employees whenever services are off-loaded to the private sector. These reorganizing efforts entail a card-signing campaign, setting of demands, and lengthy and often bitter negotiations. All this has to happen to get back for our members what they had and what has been taken away from them. This is the case wherever divestments cause our contracts to disappear. Every such reorganization campaign is actively resisted by profit-driven employers. In the absence of successor rights, every such campaign to regain our rights leads to chaotic labour relations and detracts from the quality of vital public services.

Take Ontario's divested young offender facilities as one example. The Syl Apps Youth Centre in Oakville is a secure facility where 150 skilled staff care for and supervise young offenders. These public employees lost their OPS contract when the centre was divested from the public service in 2001. With no successor rights, what happened at this 80-bed facility that houses disturbed and sometimes violent young offenders? Two bitter strikes in four years, one lasting over seven months. The new employer cut staffing levels, imposed wage cuts and threatened and intimidated its employees, who were exercising their right to unionize.

This is the hostile labour relations reality that characterizes young offender facilities across Ontario that have been divested. Staff turnover rates are often deplor-

able. There are too many compromises in the proper care, supervision and community safety that professional public service workers deliver.

This is no way to operate Ontario's public services. The young people in YO facilities, who need care, are the ones who suffer most when labour relations chaos prevails and when the public interest comes second to the private sector's bottom line.

If successor rights for the public service are re-established, as with card certification, we can start to return to less confrontational labour relations. An important step toward equity will be taken if part-time college employees are no longer banned from the right to bargain collectively.

So I urge the committee to address these obvious forms of discrimination. Take the time to reshape Bill 144. If you do, you'll be helping to rebuild a more equitable and prosperous province. Thank you for your time.

The Chair: Thank you for your presentation. We have about three minutes left for questions. I'll start with Mr. Flynn; one minute.

Mr. Flynn: Thank you, sir, for your presentation. It was very clear. I understood it well. And I know Syl Apps very well, it being in my riding.

You've suffered through—well, you haven't suffered. That would be a mean way of putting it. You've had experience with all three parties, obviously, in the past decade in labour legislation. You've had such things as the social contract. You've had Bill 7 to deal with. Now you're dealing with us. We're putting forth some legislation that hasn't got everything you want but has a lot of what you want. Is it still the message from OPSEU that this legislation should not be supported? You're clearly saying that you prefer to see card-based certification, but are you saying that if that's not in there, then you turn down the remedial certification and the interim reinstatement as well?

Mr. Almeida: I believe what we're saying is that it needs to be tweaked.

The Chair: Ms. Witmer?

Mrs. Witmer: Thank you very much, Mr. Almeida. I really appreciate your coming forward and expressing the views of those individuals you represent.

Mr. Almeida: Thank you, Ms. Witmer.

The Chair: Mr. Kormos?

Mr. Kormos: Thank you, Sister and Brothers, for coming. Listen, you don't begrudge building trades card cert, do you?

Mr. Almeida: No, I don't.

Mr. Kormos: And you don't treat with disdain this modest restoration of the rights that labour won, for instance, under Bill 40 with the New Democrats?

Mr. Almeida: No.

Mr. Kormos: It's a far cry from Bill 40 though, ain't it?

Mr. Almeida: Yes, it is.

Mr. Kormos: Look at you. I'm hard-pressed to think that some boss goon is going to intimidate you or, quite frankly, some of my building trades brothers over there,

but think about the Chinese woman, five foot tall, doesn't speak English too well. Think about the woman from the Sudan, a new Canadian, or the South Asian or the Sri Lankan woman who's got goons intimidating her. If somebody comes on to you like that, you'd probably knock them out.

Mr. Almeida: I think I would coerce them out of that thought.

Mr. Kormos: You see, the folks we're talking about are the ones who aren't getting card-based certification. Those are the folks for whom that kind of intimidation is going to continue to work.

Mr. Almeida: Yes.

The Chair: Thank you very much again for your presentation. The time is over.

We are going to break, but before we break, there are a couple of things to clear up. Ms. Witmer, please.

Mrs. Witmer: Chair, I'm a little concerned, and I want to get my concerns on the record. I have very much appreciated hearing the different views that have been expressed on Bill 144. That's why we're gathered here, so we can respectfully listen, and hopefully it will influence people to make changes to legislation.

I will tell you, as an MPP, I am very concerned that this committee, which is an extension of the government of the province of Ontario, was not able to guarantee an environment this morning that was totally provided for free speech and, I believe, was not totally free of some belittlement and intimidation. I hope we will make every effort in the future to protect the right of all individuals to appear before this committee and that they will not have to fear belittlement or intimidation.

The Chair: Thank you. I'm going to hear the three sides, and then I'll make my own comments. Mr. Kormos and then Mr. Flynn. If we can keep it short, please.

Mr. Kormos: Chair, you're entitled to make comments, I suppose, as is Ms. Witmer. I simply want to say that you, as Chair, have conducted this committee through what has been, from time to time, a contentious community in this room this morning. Look, there are passions around this issue, but I'm saying to you that you utilized discretion from time to time that in fact contained those passions rather than inflaming them or aggravating them. I appreciate Ms. Witmer's concerns, but I say to you that I think you handled a difficult situation in an exemplary way. And that's coming from me, so take that for what it's worth.

The Chair: It's doubly appreciated.

Mr. Flynn: Thank you, Mr. Chair. I know you were put in a tough spot this morning, but I would like to say that people in the province of Ontario, regardless of what they feel about labour issues, should have the right to come forward and make their case to the government without fear of intimidation. That's got to be made clear. We've all been talking about the threat of intimidation, from both sides, in this legislation. I think you handled it well, sir. What I'm saying is that a person should be able to come before that microphone, whether they be pro or

con or neutral on the issue, and state that case without being verbally harassed by either side.

The Chair: First of all, let me say that I thank you for raising the issue, because I also had a little concern. I certainly appreciated what Mr. Kormos said, and also what Mr. Flynn said.

At the end of the day, there are people who feel very strongly about what we're discussing, and in my humble opinion, they overreacted. I tried to contain it, and I think we did. At the beginning, it started to worry me, but by the end, we were able to limit it to one comment. I appreciate, though, that some people may have left the meeting feeling uncomfortable, and that's not fair.

I think we all agree that we are discussing intimidation—that's what Mr. Flynn said—and we should respect the others before the others should respect us. If we can keep that in my mind, I think we would do a better job.

Nonetheless, I think we heard the comments and I think we can bring those comments to Queen's Park, where we should. But I do thank you for raising the issue and I thank all of you for your comments.

The presentation at 1:10 has cancelled. Do we wish to come back at 1:10 instead of 1 so we can pick up another 10 minutes for lunch?

Mr. Kormos: Chair, are there any issues around timing this afternoon? This afternoon is all wrapped up?

The Chair: Yes, it is.

Mr. Kormos: If it's wrapped up, it's in the Chair's discretion as to what time we adjourn.

The Chair: Can we come back at 1:10, then? On time please.

The committee recessed from 1212 to 1310.

VICTOR ALLAN

The Chair: Good afternoon. We are going to start our afternoon session by asking Victor Allan to please come forward and make your deputation. We have 10 minutes. Our apology. We started 10 minutes later because we finished 10 minutes later before, plus our next presentation won't be coming, so we thought could borrow the first 10 minutes. Thank you for waiting; you can start any time.

Mr. Victor Allan: Good afternoon. My name is Victor Allan. I live in Perth, Ontario. I am 37 years old and husband of one wife, Jennifer, present with me, and we have four children.

Firstly, I would like to thank you for this opportunity to express my concerns and make a submission.

I am a believer in the Lord Jesus Christ and convicted of my obligation before God to live my life in accord with the Holy Scripture. I have a conscience before God disallowing me to join or in any way be involved with a union. To explain simply what this means, I draw this allusion: If you go to the store for some merchandise, your conscience would not allow you to leave without paying for it. It is the same with my conscience against union involvement. I cannot do it, and there is no other choice for me.

I have worked in the electrical trade since my high school days and have been a journeyman electrician since February 1989. The last nine years, I worked at a company in Ottawa. Early on in the time of this employment, the employees arranged for a vote to unanimously establish their desire to remain non-union. I did not participate in this.

According to reports made to me, things began to change just over one year ago. An employee approached the union business manager to ask the assistance of the union. This employee no longer works in this union and is a full-time firefighter. When approached, the union business manager requested that the employee gain 100% representation for the union. At this initial point, the business manager was informed that there was one employee who would never join a union. A campaign was then started to change the company. This at one point resulted in threats of violence that shut down a job site for the remainder of the day.

On May 17, 2004, a vote was held, which resulted in a 12 to 5 vote in favour of the union, out of 19. I did not participate in the vote. We called the OLRB and were informed that there was a provision for exemption, but that it was a long process and that it would be better to attempt a private agreement with the union. When I informed my employer of this, he immediately contacted his lawyer and was prepared to go to reasonable expense to make provision for me. His lawyer acknowledged that the act contained this provision.

However, my employer did first try to negotiate an exemption with the union rep. The union rep needed to involve others from the union for this, and I was left without an answer until the evening the employees signed on with the union, at which point I was told that the union would not make any provision for me but that they would accept an exemption if the board ruled it. This left me with no time to file an application while still working, since I was not allowed to work until an application was in place. It cost me three days of work while I completed an application. This was complicated by the fact that the union was working with an expired collective agreement and certain information required from a current agreement was not available to me.

Response to the application was filed on July 5, 2004. This masterpiece, a copy of which is submitted to you with this submission, professionally exposes the technical defects regarding the current provision for conscience in the Labour Relations Act, as it is now written.

Briefly, the argument used is that the provision in section 52 does not apply to the construction industry. Should anyone like to congratulate the author of this composition, he is Ron Lebi, of Koskie Minsky, not far from Queen's Park. I understand he served on the OLRB for over 10 years.

After incurring over \$4,000 in expenses for legal counsel and having been refused a hearing in Ottawa, I resolved it to be unfair for an individual to require a lawyer in this cause, the costs being estimated at between \$10,000 and \$30,000, and decided to attend the hearing

without one. Simply stated, under the provisions of the charter of our country, no individual should have to go through this simply to adhere to their beliefs.

A hearing was not set for my case until the union lawyer requested the case status from the board, and then it was set for December 17, 2004. This hearing I attended with my wife. It was then six months since the application was filed. Today, more than four months later, I have received no decision on the matter. I am unemployed. I am not unsympathetic with my employer for attempting to escape the situation.

And now, after all this, I am hoping to start a business of my own to provide for my family. I ask you, will I and my family again suffer these pressures and be stripped of our livelihood because the government does not administer responsible protection for conscience in a God-fearing individual?

The Ontario Labour Relations Act, 1995, is currently under careful review by the Legislative Assembly, in view of its improvement. Bill 144 addresses a large scope of the act. Included in this is an enlargement of the Labour Relations Board's authority to certify a trade union. My respectful submission is that along with this, there needs to be full protection for someone with an enlightened conscience before God that would not allow them to join a union and that the Ontario Labour Relations Board, an unelected body in whose hands this provision lies, be made suitably accountable for administering this.

Included in the fundamental freedoms of this country are the freedom of religion and the freedom of association. These freedoms are indeed acknowledged in part by section 52 of the act.

As the act is arranged at the current time, there is scope for argument as to the technical wording of this provision with regard to the construction industry, in that it is attempted to convey that the fundamental freedoms of this land as found in the charter are not respected by the Legislative Assembly in relation to the construction industry. This has resulted in undue consternation for the labour board and has retarded decisions that are critical to affected individuals.

It is not right that a trade union can be certified in two weeks, but a man with a conscience before God waits six months for a hearing with the board and then is left hanging without a decision indefinitely.

Now is the opportunity to make balanced amendment. For whatever reason, legislation is proposed that favours the unions. There is no better time politically to instate full provision for conscience before God in the Labour Relations Act. This will advance legislation in Ontario to compliance with the Charter of Rights and Freedoms.

I respectfully appeal that: (1) the religious exemption for employees be clarified as to its application equally to all trades and be expanded to reflect full provision for conscience; (2) provision for conscience before God be instated to protect business owners, as would now be my position; and (3) stipulation be placed on the OLRB as to time limits regarding hearings and decisions, to protect

individuals from the consequences of delayed administration.

I indeed appeal for these provisions, but respectfully, it cannot be denied that my experience shows the demand for them. I ask that these changes be recognized for the blessing of all Ontarians.

In closing, I again thank you for your time and interest.

The Chair: Thanks very much for your presentation. There is less than a minute. Mr. Kormos, do you have any comments?

Mr. Kormos: I appreciate your material. I'm reading it, because several other presenters have made reference to Ephesians. I'm reading, "Bondmen, obey masters according to flesh, with fear and trembling." To be fair, is that, in however simplified a way, the nugget of your perception of the relationship between a worker or a servant and his or her master?

Mr. Allan: Definitely.

Mr. Kormos: With fear and trembling?

Mr. Allan: Yes.

The Chair: Thanks very much for your presentation.

INTERNATIONAL UNION OF PAINTERS AND ALLIED TRADES

The Chair: We'll move on to the next presentation, from the International Union of Painters and Allied Trades, district council 46, Dermot Lynch. Please proceed.

Mr. Joe Russo: Good afternoon to the members of the committee. My name is Joseph Russo. I'm the general counsel with the International Union of Painters and Allied Trades. Sitting here with me is Mr. Dermot Lynch.

Our organization proudly represents over 7,000 men and women employed throughout the province of Ontario with local unions in Toronto, Hamilton, Ottawa, Kingston, Kitchener, Windsor, London, Sarnia, Sudbury and Sault Ste. Marie, as well as Thunder Bay. Our members work in both the ICI and residential sectors of the construction industry, performing work such as painting and decorating, drywall finishing, glazing, plastering and stucco, lead abatement, asbestos and mould removal, sandblasting, waterblasting and fireproofing. In addition, we represent many industrial units, where our members perform work such as sign designing and building, glass, skylight, curtain wall and aluminum storefront fabrication, as well as door and window frame fabrication.

Our membership has a proud and dignified history in the province of Ontario. Our membership clearly and closely mirrors the multicultural diversity of the citizens of this province. Our members speak English, French, Italian, Chinese, Japanese, Portuguese, Croatian, Spanish, Vietnamese, Polish, Turkish, Korean, Russian, Urdu, Somali and Punjabi, as well as several other languages, and we are here today to speak in support of Bill 144.

1320

Ever since the former Conservative government amended the Ontario Labour Relations Act, the number

of employees successfully organized in this province has dropped dramatically. In 1994-95, the Ontario Labour Relations Board certified trade unions to represent 32,116 employees in Ontario. In 2002-03, that number dropped to 13,708 employees, a whopping 57% decline. The reason for the decline is abundantly clear: The Conservative amendments to the province's labour laws swung the labour law pendulum unfairly to the side of management. Passage of Bill 144 is essential to return a fair and balanced approach to labour relations in this province.

A key component of Bill 144 is the return of card-based certification as an option in the construction industry. I believe that the reason that the card-based certification option was limited to the construction industry under Bill 144 is that the construction industry is unique.

First of all, the Labour Relations Act itself has over 40 sections that relate only to the construction industry. Secondly, construction workers are mobile. They move from project to project and from employer to employer. They are employment nomads, if you will, who basically follow the work. Thirdly, construction projects, and thus employment in the construction industry, are time-sensitive. An employee may be working on smaller construction projects for only a matter of days, which means that he or she may only be employed by that employer for a matter of days. This contrasts significantly with our industrial members, who typically work at the same plant for the same employer for a number of years.

Some have argued that limiting card-based certification to the construction industry is discriminatory. This simply is not true. As I have stated, our membership is as culturally diverse as the citizens of this province. Our union proudly accepts members free of discrimination on any ground. Our members include those who are black, Native Canadian, Latin American, Middle Eastern, Chinese, Japanese, southeast Asian and European. In addition, we also have 43 female members working in construction, particularly in the painting, decorating and drywall finishing trades, and I'm pleased to report that more and more women are inquiring about joining our trades as apprentices. As a matter of fact, currently, in our Toronto painting apprenticeship class, 20% of the students enrolled are female. In addition, we also have members who work with disabilities, such as those who are hearing-impaired.

Although we do not feel limiting card-based certification to the construction industry is discriminatory, we would be in favour of expanding it beyond the construction industry so that industrial and other workers of this province could benefit from the fairness that this option would return to the certification process.

Bill 144 also returns remedial certification in cases where the true wishes of employees regarding union certification can no longer be determined. This amendment is absolutely crucial. The vast majority of our organizing drives over the past 10 years were defeated due to unfair labour practices committed by employers during our organizing drives.

In our own experience, we have had employees who were fired for supporting the union prior to the date of the certification. We had one employer threaten workers by saying, "Vote no or you go." We routinely had employers threaten workers' jobs or threaten that they would shut down operations if the union was successful in certifying the company. Although such threats are illegal, they were commonplace under the current legislation, as the penalties for committing such unfair labour practices were simply not effective. The only way to stop unscrupulous employers from making such threats while workers attempt to exercise their legal right to join a trade union is to make it clear to them that if they break the law, the union will be certified, period.

One amendment which we feel should be made to Bill 144 is to clearly disallow for the filing of any petitions which purport to express change-of-heart employee wishes after the certification application date. Although Bill 144 does not expressly allow such petitions to be filed, it doesn't ban them either. So long as they are not expressly banned, it will no doubt be argued that such petitions should be allowed and that they should be considered by the Ontario Labour Relations Board. Not only could this potentially delay the certification process, it will undoubtedly be used by some employers to try to force employees to sign petitions to indicate that they no longer support the union after the certification application has been filed. This simply should not be allowed, as the determination of union support should be made at the date of the application.

In closing, Bill 144 is essential in order to return a fair balance to the construction industry. However, we feel it should be amended to allow card-based certification to be available to all workers in this province and to disallow petitions to be filed after the certification application.

Again, we support this bill and thank you for your time today.

The Chair: We have three more minutes. Mr. Flynn.

Mr. Flynn: Thank you for the presentation. I enjoyed it. I thought it was very balanced. If you hadn't said it, I was going to raise it at some point, but thank you for pointing out the 43 women who have made the courageous move into non-traditional work for women and are working in the construction trades. I wanted to point that out.

Also, you have raised something that no one else has raised to date, and that is card-based certification as an option in the construction industry. That would mean that at some point in time card-based certification may not be the way you would want to go.

Mr. Russo: Absolutely.

Mr. Flynn: Could you expand on that a little?

Mr. Russo: It's presented as an option right now. In other words, the construction unions have the option of going under the current legislation, which is the vote-based system, or going under the card-based system. I believe that under the card-based system you would have to have a greater number of support in order to apply for that option. If the number of support is not there, we

would still go under the vote procedure. It is solely an option. I don't even know if we're going to do it. I think the way we are going to approach it is, we will try the card-based certification on some points to see how it works, and if we find that it's working successfully, we will continue to do it. If it doesn't, we always have the other option of returning to the vote system.

Mr. Kormos: Thank you, both of you, Brothers. But you're eager to see this option restored?

Mr. Russo: Absolutely.

Mr. Kormos: Because Bill 7, of course, stripped it away.

Mr. Russo: Absolutely.

Mr. Kormos: I appreciate that you talk about the peripatetic nature of workers in the trades, but you're not suggesting that somehow signing a card is of any less value in terms of the legitimacy of that worker's commitment to the union than his or her vote, are you?

Mr. Russo: Absolutely not. I would say that signing the card—to me, once a worker signs a card, that's a legitimate vow, if you will, that they do want to be represented by a union.

Mr. Kormos: Look, I understand the building trades' enthusiasm about the bill. They'd be damned fools not to want the bill passed. Let's not kid ourselves.

Mr. Russo: Absolutely.

Mr. Kormos: But I think you've been very honest and frank and clear, and in your last comment—do you agree that card-based certification is important for all other workers as well?

Mr. Russo: I would say that it is. I think it is something that was there prior to the amendments that were made.

Mr. Kormos: Hell, it was there since Leslie Frost.

Mr. Russo: It was there since the 1950s.

Mr. Kormos: He weren't no radical.

Mr. Russo: It was the 1950s as far as I'm aware. I can only see that it was taken out was because of an agenda of the former government. I'd like to see it returned. I mean we're a construction union. We're happy as hell to see it in construction. We also think it's unfair that other—

Mr. Kormos: Now both of us have offended some people in the room.

The Chair: Thanks very much for your presentation.

Mr. Russo: Sorry about that.

DON LEWIS
ANDREW STEEN

The Chair: The next presentation is from Don Lewis.

Mr. Don Lewis: I would like, first of all, to thank the members of this committee for allowing me a few minutes of their time to listen to my views as a small business owner. My name is Don Lewis, and I live in London.

Eight years ago, my brother Ben and I started our own light manufacturing business here in Ontario. We feel it is only right and a matter of principle that we seek to

operate our business in accord with the laws of this province. Having said this, the reason for submitting to the laws of the land are clearly based on scripture: that government is given of God.

It is with great urgency that I have come today to voice my concerns as to the proposed Bill 144. It is my simple appeal at this time to ask this government for a clear-cut provision for my conscience to be included in an amendment to this bill. As a believer in our Lord Jesus Christ, and a member of a worldwide fellowship known as Brethren, I'm not free to be linked with any association that I do not partake of the Lord's Supper with.

As an employer, I have a very great responsibility to fulfill my righteous requirements before God. This also is supported by scripture, "Masters, give to bondmen what is just and fair, knowing that ye also have a Master in the heavens." That's Colossians 4:1. As an employer, all I am asking for is a provision for my conscience, namely, that I will not be forced to enter into a collective agreement with any third party, such as a union, and that the Labour Relations Act would not allow an unelected body to impose a union on my company, which would be against my God-given conscience.

Is this not a country that has flourished under democracy? Have not our freedoms been protected and upheld by the Canadian Charter of Rights and Freedoms? Could it truly be said that Bill 144 allows for an employer's freedom of conscience? Does Bill 144 allow for a democratic vote?

1330

I would appeal to you that it be made more clear that the government of Ontario really cares for all of its working people.

At this time, I would like to introduce an employee of mine, Andrew Steen, who felt compelled to voice his concerns. Thank you.

Mr. Andrew Steen: To begin with, I would like to thank this committee for their time and for providing us this opportunity to speak.

I am Andrew Steen, and as a member of the universal gathering of believers known as Brethren and in obedience to my God-given conscience, I cannot and will not be joined in any association of persons with whom I do not partake of the Lord's supper. This includes, but is not limited to, labour unions.

I have worked as a shop employee for Don and his brother Ben for almost six years now. I can say that in that time I have never had a legitimate complaint against the way I have been treated or paid. The unions' two most common points raised concerning employees welfare are health and safety and wages and benefits.

Firstly, in my employment for Don, I have been provided by the company with numerous safety programs. These include forklift training, propane handling training, WHMIS training and other machine-specific, hands-on training, as required to operate all of our equipment safely. To sum this up, I have always felt safe at work and would have no hesitation to bring any questions concerning safety directly to my employers.

Secondly, in regard to wages and benefits, I feel that I am paid more than fairly for the work I do. The feeling I get is that if I work hard for this company, they are willing to reward me for it. What more, really, can any reasonable person ask for?

I am sure that this committee is now well aware of our position and what we are seeking in the way of an amendment to Bill 144. We are seeking a strengthening of section 52 as it relates to employees and the addition of a provision for exemption from union participation for employers on the basis of a conscientious objection. We feel that not only is this a reasonable request, it really is a right that is already established under the Canadian Charter of Rights and Freedoms.

The reason that I have related my past work experience to you is very simple: I am presenting myself as living proof to you that in allowing for employers to be union-exempt, you are not compromising the safety or welfare of employees.

I feel that it is important for the members of all political parties present to be comfortable with this fact, and in view of gaining the support of all members of Legislature, who I understand will vote on any amendments suggested by this committee, I suggest that the employers who are eligible for union exemption based on a conscientious objection be limited to those of small businesses. This limitation of business size is in view of presenting a reasonable request that all members of the Legislature would be willing to support. It also reflects that the relationship between employers and employees of small businesses are often more informal and friendly than those of huge corporations. This alone lends itself to better working relationships between the two parties.

One very important fact to keep in mind when considering our request for an amendment is that for us, either as an employee or as an employer, entering into a collective agreement is not an option. If our business was certified by a union for any reason, I would have to quit my job, and Don, as my employer, would have to close his business. In the light of this, I would ask you as members of this committee to view our request for an amendment as a reasonable request. I would simply ask all members present that, although you may not agree with our position on this issue, please recognize it as a legitimate recognition of conscience that is held as such by many active, productive and legal residents of this province.

Again, thank you for your time. It has been an honour to speak before this committee.

The Chair: There are a few minutes left. Mr. Kormos, you may wish to—

Mr. Kormos: Thank you, gentlemen. I'm wondering, though, if the research officer could provide us some of the case law around section 52, which has been referred to by these participants and by the previous participant, Mr. Allan.

The Chair: We'll record it.

Mr. Flynn?

Mr. Flynn: Thank you for the presentation. I don't pretend to know anything about the Brethren, but it's

always fascinating, you always learn things. Would you be allowed to work for me, as a Roman Catholic? If I wanted a house built, could you build it for me?

Mr. Lewis: Certainly.

Mr. Flynn: Could you hire me, as a Roman Catholic?

Mr. Lewis: Certainly.

Mr. Flynn: But I couldn't—

Mr. Lewis: Eat with me.

Mr. Flynn: I couldn't eat with you. OK.

Mr. Lewis: I don't know if that puts it any perspective.

Mr. Flynn: There's no sense in my asking you for lunch to talk this out, is there?

Mr. Lewis: No offence, if I could just—

Mr. Flynn: I'm just trying to understand this. The rules at this point in time don't allow for the exemption based on the conscience of an employer. It may be a cumbersome system. They allow for employees but not for an employer, and you're asking the government to allow that. So you have opened a business in the province of Ontario, knowing that the laws weren't suitable to your conscience, but are now asking that the laws be changed. Is it fair for me to say that?

Mr. Lewis: I don't really exactly follow your question, but—

Mr. Flynn: When you started the company, when you opened the company, you knew what the laws of the province of Ontario were. And now that you know what they are, you think, in order to accommodate your conscience, that the laws should be changed?

Mr. Lewis: I wasn't aware at the time of starting the business that a union could come in.

Mr. Flynn: This isn't a trick question, by the way. I'm not trying to trip you up here. I just want to understand it.

Mr. Lewis: I guess that all I can say is that my convictions haven't changed any. We just seek to go on faith that something will be provided.

The Chair: Thanks very much, sir, for your presentation. Thanks to both of you.

UNITED FOOD AND COMMERCIAL WORKERS

The Chair: We'll move to the presentation, which has been changed. It will be the United Food and Commercial Workers. Are they present? That replaces the South Central Ontario Area Council of Steelworkers. Good afternoon. You may start any time you're ready, sir.

Mr. Andrew Mackenzie: Good afternoon. Thank you very much for giving me time here. My name is Andrew Mackenzie. I'm an organizer with the United Food and Commercial Workers Canada. I'm also the organizer who's heading up our efforts to organize the most anti-union employer in North America, a company called Wal-Mart. I do want to focus a bit on that specifically.

First of all, we are against this legislation for the obvious reason: the lack of card-check certification for all workers in this province, especially for those who are in

the most vulnerable positions and easiest to intimidate—women, minorities, young people. You know what? That's the general makeup of your employees at a Wal-Mart store.

The Charter of Rights and Freedoms protects the worker's right to freedom of association, yet we turn a blind eye to employers who will do everything in their power to deny them that right. I just want to quickly read you a little something. This is taken out of "Labour Relations and You" at the Wal-Mart distribution centre: "Staying union-free is a full-time commitment. Unless union prevention is a goal equal to other objectives within an organization, the goal will not usually be attained. The commitment to remain union-free" also has a price. "Unless each member of management is willing to spend the necessary time, effort, energy and money, it will not be accomplished. The time involved is a day in, day out, 365-days-per-year application of the union-free standards and the obligations and responsibilities imposed upon the management team."

So don't get yourselves wrong, folks. In a Wal-Mart store, one of management's number one jobs and responsibilities is to ensure that the union is crushed at the first step, and the first time they hear wind of it. It's one of the managers' number one responsibilities.

Wal-Mart will even take the next step. You're all familiar with a store in Jonquière, Quebec, where workers exercised their legal right to join a union. When the labour commission in Quebec announced that they were sending that first contract off to binding arbitration, guaranteeing those workers in that store a first collective agreement, what was Wal-Mart's response? "Let's close the store and put those workers out of work. Not only that, let's inform"—the original statement announcing that they have to now consider closing that store was put in the pay envelope of every single one of the 60,000 workers of Wal-Mart across this country, an implicit threat to every worker that if you try to exercise your right to join a union, this is what's going to happen to you.

Which brings us to the week of a vote: I just went through a week of a vote at a Wal-Mart store, and I need a lot more than 10 minutes to tell you what goes on.

1340

Intimidation and harassment: Wal-Mart has been found guilty four times in the last three years in different provincial jurisdictions for intimidating and harassing its workers during their organizing campaign. In the week of a vote, they will have as many managers in that store from Bentonville, Arkansas, and everywhere across the country, so that on a night shift, you almost have a manager for every single employee who's working in that store. They walk around the store all day long: "How are you today, Andrew? How's your job today, Andrew? How are things going?" That manager walks away, and five minutes later, a different manager is up asking me questions. It goes on all week.

Strangers show up out of the blue to start an anti-union committee. All of a sudden, petitions and buttons and all

these things that cost money show up in the workplace. Workers who may be favourable to the union—all of a sudden one person finds themselves doing the job of four, or all of a sudden you're taken off your night shift and put on another shift. Or if you dare to cross an aisle to talk to a co-worker, you're coached. That's what they call discipline.

I want to make this point, because this all happens in the week of a vote, folks. Some will say, "Well, we'll provide remedial actions so that if the employer does all these things, we can automatically certify the workplace." That happened at this Windsor store before. After a vote was lost because of the employer's intimidation and harassment, the labour board used its remedial actions to certify that store. But you know what? That didn't stop the employer's activities. The anti-union group continued.

In fact—and it's a case before the board now—an employee received a fax machine at home with instructions on what to do when the union was holding meetings. An employee received envelopes in her mailbox with cash to get buses and stuff to take people to meetings, to ensure that the union never got its first collective agreement. Even with those remedial actions, that case dragged on for close to three years, with all the unfair labour practice charges and everything else, and finally the workers or the anti-union group get their way and a decertification petition is put in place.

And you know what? Sometimes, it even makes you question your own government, because in this case, when the Premier's office of the day decided they needed some people to be the poster people for their legislation to strip away the remedial powers under the act, they knew where to call. They knew to call this Windsor Wal-Mart store and they knew to ask directly for the women who led the anti-union campaign. In fact, they paid their way down—flights and hotel accommodations—to be at their press conference, to proudly display that they fully support workers and companies who want to thwart the union from getting into the workplace. In fact, these folks submitted receipts for their meals, their travel and their taxi chits, in the neighbourhood of \$100. Each of them received a cheque in excess of five times the receipts they had submitted to the government. It makes you think how deep Wal-Mart's pockets go. They got the government to change the legislation. We all know it as the Wal-Mart amendment, yet we even find out that they're giving these folks money. I really think a public inquiry should be called.

Card check is the only fair way to let workers exercise their rights, free of intimidation and harassment. The week of the vote creates chaos in the workplace. It creates confrontation in the workplace. You would eliminate the vast majority of unfair labour practice charges that are a result of organizing campaigns if you got rid of that week of the vote and gave workers card check certification. We're calling on that. We're calling on that fairness for all workers.

The last point I want to make on this is that there is another thing missing, and I'm going to skip off my Wal-

Mart rant for a moment. There is a whole group of workers in this province who are denied the right to have a union, and those are agricultural workers. They're working in big mushroom farms and big greenhouses. These aren't family farms, people. Some of them have in excess of 300 workers working in those workplaces, getting injured on the job, getting cheated out of the benefits and wages they deserve. They deserve the right of union representation, and the day has come to give it to them. Quit making us go to the courts to fight on their behalf. Give them the right they deserve. Thank you very much.

The Chair: Mr. Flynn, one minute, please.

Mr. Flynn: I just want to thank you for the presentation. We've met before, as you reminded me today. I knew I'd seen your face before, and the message remains the same.

Mr. Kormos: Look, we know that the building trades didn't persuade the government not to include Wal-Mart workers in the card-based certification. They didn't. The building trades, to the final union here, have said they believe card-based certification should exist for all workers. What are they supposed to do, reject it? They're not going to cut off their nose to spite their face. So what are you suggesting? Are you suggesting that this Liberal McGuinty government is as susceptible to the influence of Wal-Mart and similar bad bosses as the Tories were?

Mr. Mackenzie: I've been a union organizer for over 12 years now. I would just have to say that I would always be concerned. These are the most vulnerable workers, in some cases, out there. These are sometimes low-educated workers; there aren't a great number of jobs and abilities for them to get. Sometimes people have to get a job at a Wal-Mart. These are workers who, probably more than ever, need the ability to have union representation. I would just have to question why you would ignore these workers and give those same rights to other workers. That raises questions to me.

The Chair: Thank you very much for your presentation.

DAVE CHURCH

The Chair: We'll move on to the next presentation. Is Dave Church here? You have up to 10 minutes, sir. You can start any time you're ready.

Mr. Dave Church: My name is Dave Church, as you've already heard. I'm a business owner employing nine people. I know you've heard many presentations on this subject already, so I'll keep this one short.

I'd like to begin by thanking this committee for the privilege of speaking today. I suppose we really must be thankful that we live in a country that recognizes many freedoms, including thought, belief, opinion, religion and conscience; a country founded upon principles that recognize the supremacy of God and the rule of law; a country that gives us the freedom of peaceful assembly and the freedom of association—or disassociation. I added that bit. It's the freedom of conscience and asso-

ciation that I would like to speak about today. I feel that these freedoms will be seriously compromised by the proposed Bill 144 amendments.

I am a believer in the Lord Jesus Christ. I enjoy the Lord's supper, also known as communion, every week. I believe that the Bible is God's great moral book for man. This book tells me not to be unequally yoked with unbelievers. That's 2 Corinthians 6:14. It tells me to give what is just and fair to my employees. That's Colossians 4:1.

My conscience will not allow me to go against 2 Corinthians 6:14, keeping me from joining any federation of business bureaus or trade associations, including trade unions. It keeps me from including myself in mutual funds, shares in public companies, group insurance or medical plans. I also believe that, knowing I also have a master in heaven, I must give my employees what is just and fair, so that they should never have a need for a trade union.

Therefore, as you can see, to continue as a believer in the Lord, Jesus, I feel that this Bill 144 must at the very least have a provision for conscience that would give conscientious objector exemption to both employees and employers such as me in a conclusive way.

If the Ministry of Labour were to impose a union on my business for any reason, I would be forced to choose between closing my business, therefore losing my livelihood, or going against my conscience and my family, as well as my Brethren. I can assure you that I will choose the first. I therefore appeal to you at the very least to amend or support an amendment giving conscientious objector rights similar to those found in Australia, New Zealand and Great Britain to both employees and employers.

1350

I would also like to read from scripture, because it came up earlier—you asked a question about it. As to fear and trembling, it says, "Bondmen, obey masters according to flesh with fear and trembling in the simplicity of your heart, as to Christ, not with eye service." Further down it says, "And, masters, do the same things towards them, giving up threatening, knowing that both their and your Master is in heaven, and there is no acceptance of persons with him." I just thought I'd clarify that.

The Chair: Thank you. A couple of minutes each. Mr. Kormos.

Mr. Kormos: I suppose one of the distinctions of exemption from membership in a union is that you are one of many, whereas there's one boss or employer. In that regard, perhaps legislative research could provide us with some information on these references to Britain, Australia and New Zealand. Are those the three jurisdictions?

Mr. Church: That's right.

Mr. Kormos: I'd appreciate seeing those references, and would appreciate your interpretation of "bondsmen." The other reference in Mr. Allan's submission was in Revelations, where they talk about bondsmen and free-

men. Presumably bondsmen are different from freemen, so help me in terms of bondsmen. How would you interpret “bondsmen” in contemporary language?

Mr. Church: Hopefully, we’re far beyond the idea of having slaves, but I suppose that at one time, when this was written—

Mr. Kormos: That’s why I asked the question. My sense is that a bondsman is a slave.

Mr. Church: And a Christian should treat them just and fair. I am applying that to my life. I have people who work for me, and people who could possibly be frightened of me because I’m the big bad boss—

Mr. Kormos: Are you?

Mr. Church: —but I treat them just and fair. If they come to me with an issue, if they need a different dust mask or anything of the sort, it’s provided.

What I want is provision for conscience for an employer, as well as an employee, because I couldn’t enter into a collective agreement.

Mr. Kormos: I understand that request.

Mr. John Milloy (Kitchener Centre): Thank you very much for your presentation. To follow up on Mr. Kormos’s question, I’m assuming that your faith has other branches throughout the country, and I just wonder what their experiences have been with labour laws in other provinces, if this issue has come up in terms of legislation or perhaps through court cases or tribunals or such?

Mr. Church: I’m not exactly sure. I could look for that information and get it to you. We are a universal fellowship with members throughout the world. None of us anywhere would join or enter into a collective agreement with a trade union.

The idea of provision of conscience is an old one that’s been fought for for a long time. I actually have a copy of a letter to George Pitman in 1948 which granted conscientious objector rights to three employees. What we want to be sure of is that it also includes employers.

Mr. Milloy: Excuse my ignorance of your faith group, but do you have employees who are not part of your faith? I was just confused, with some of the other presentations, about how that works.

Mr. Church: Yes. I also have three employees who are actually of the Mennonite faith, but I would be free to hire men and women of other faiths. I would definitely not use as a threat, as I’ve heard earlier, that if you join a union I will have to close the doors. But it is a fact anyway that I would have to close the doors in relation to my conscience.

Mr. Khalil Ramal (London-Fanshawe): When you talk about medical insurance, are you not allowed to be part of OHIP, for instance, which is government insurance for everyone?

Mr. Church: We are part of OHIP; it is the idea of joining myself with a group of people as being common to them as being part of a club or an organization. I wouldn’t even join a gym club.

The Chair: Thank you very much for your presentation.

CARPENTERS UNION, LOCAL 785

The Chair: We’ll move to the next presentation, the Carpenters Union, Local 785. Good afternoon.

Mr. Gregory McMahon: Good afternoon. My name is Gregory McMahon. Mr. O’Dwyer is not able to attend, so I came in his stead. I hope you’ll accept that.

The Chair: Yes, we do.

Mr. McMahon: I’m a business representative organizer. I have been in this capacity for 18 years. I have worked across the Dominion of Canada, so I have what I would consider relevant knowledge of activities in British Columbia, Alberta, Saskatchewan, Manitoba and parts of the east coast. Unfortunately, I’ve never been active in Quebec.

The legislation that is being proposed, from my experience, is long overdue. The mistake that happened years ago—I call it a mistake because any reasonable man would know that the act of freely signing a card, and it is freely, is a dangerous precedent for a worker today. Each worker who looks at that card thinks about the benefits of collective bargaining, which we know is the foundation of the middle class of this country. It promotes wealth back into the economy, which pension funds do, which health care plans from unions do—the benefits to our families, notwithstanding the health care crisis in Canada. We would say that we are part of that backbone, because we provide a pool of funds through a collective bargaining process to help and aid the health of our people and of our children to come.

But signing this card is not a free act any more; it’s a threat. Workers today know without a doubt that they can be left in the lurch and that unions are powerless because the act does not give legislators the power to impose the rights of workers. Companies, corporations and employers have equal powers—powers not necessarily in the charter, such as the act says, but they’re there behind the screen. They are the things that are unseen. They are the unseen economic camera, which we experience in the trade union world quite often. As recently as today, before leaving my office—the reason Mr. O’Dwyer is not here is because 18 of our people were canned a week ago because they supported a union and they are known to be supporters. There’s no hiding it on the job site. Sooner or later it comes out.

What happens to those people? We rush to put out the fires, to calm them, to console them. We take calls from their wives, asking, “What are we going to do, now that the job is gone?” Happily, I can report, having worked around, that we do shuffle those people. We pull them out of that fire and try to address the concerns, often to no avail. I say “to no avail,” not because there’s no resolving it in some sense in the future, but because by the time it gets done, the damage is done. They don’t have freedom, because freedom is never really in people’s minds. It is spoken of, but quite truthfully, to be honest, all freedom comes through sweat, blood and tears. In this case, these people have tears. Their cheques are no good. The employer has that power. Termination is done im-

mediately. There's nothing anyone can do. There's no provision. We can cry and we can come to you, and you will go by your legislation.

This legislation is paramount. Should you not perceive it in that light, then you do yourselves and the youth and the people in this country an injustice. This is a free country. Many wars have attested to it. Much of our society today enjoys what the past has done. One of the things in the past was to protect freedom, and this card says you freely signed. If he knows or she knows that when that's done and the boss finds out, the job is gone, the threats start and the division starts, then there's no freedom here, folks.

1400

That's why I'm here to implore you to do what you've got to do. This legislation is balanced, it is fair and it's about time that the draconian practices of the past were put under the carpet—nailed shut in some coffin and buried forever. The damage that this activity has done in the past—not here, but even in the great province of Alberta, one of the wealthiest, people live in fear. You cannot have freedom if fear rules. If there are victims and no one can address them, then you have allowed fear to permeate. Workers are scared shitless out there. They see their bosses as kings and themselves as servants, which truly means we live in an economic society. They need that paycheck, and when it's gone, they get the message about who's running the show.

You don't come to my office, but if you wish to, I will show you the names, the lists. Call them yourselves. Come and look at a piece of paper called "When the Empire Strikes Back," a right-wing piece of junk dreamed up in some Nazi mentality of control over people. I wanted to bring a copy, but my partner asked me not to. When you read this, it coaches employers on how to destroy a union, how to destroy the will for a union, how to destroy and divide people. It would make you sick. It was written years ago. We transcribed it verbatim, to the best of our ability at the time. It was a right-wing shock put on for archaic employers who still want to think that they are gods of the Earth, and they are not. They are men who have a duty to serve their employees in an honourable way, as these men said before.

I'm certainly not as righteous a man; I'm probably the best of sinners. But I do know what justice is, and I implore you: Think about this hard, not just for the building trades; there's no doubt that they are unique. They go from job to job and live from hand to mouth. They do not have a project everywhere the next day. They work for multiple employers, a revolving door. However, I believe in this for all workers. I will not stand back nor aside to say that the building trades people are racist—that garbage. Our organization represents 20,000 carpenters in this province. Women are in our organization, black people, red people, yellow people, people of all religions. But I've heard some things lately that, frankly speaking, I find detestable.

I come in Mr. O'Dwyer's stead to tell you that if you can't protect them, then put the labour law into the

criminal law and we will do it for you, because there's a major difference between evidence of criminal law and evidence of inference for a labour board. Somehow or other, the message isn't getting through to you, but it sure has to workers. There is nobody to protect them but us and you, if you make that step today. I have nothing more to say, and I thank you very much for listening to my emotions.

The Chair: Thank you. Of course, everybody has his own opinions, and this is a forum for people to express their opinions without offending other people's opinions; I think that's what we have to understand. You've used the whole 10 minutes.

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 837

The Chair: The next presentation is from the Laborers' International Union of North America, Local 837. Good afternoon, Mr. Bastos. You can start at any time.

Mr. Manuel Bastos: Good afternoon. Local 837 is a local within the Laborers' International Union of North America, covering the counties of Halton, west of Highway 25, Wentworth, Niagara, Lincoln and Haldimand. We represent 3,000 members; 2,400 in the construction industry and 600 in the industrial sector. To break that down further, 2,250 are male and 750 are female, 2,400 are Caucasian and 600 are of various visible minorities, including blacks.

Beyond that, Local 837 owns and operates two nursing homes in Hamilton, known as Queens Garden and Regina Gardens, one downtown and one on the mountain, with 256 nursing home beds, employing 320 health care workers represented by a sister local of our union. Local 837 also owns or operates 640 non-profit housing units in Hamilton, Burlington and Niagara. We own and operate two banquet facilities in Hamilton and Stoney Creek. To some of you who may know them, they are Liuna Gardens, and the old train station, called Liuna Station. The capacity of these facilities is over 3,000 people per function. We also employ over 300 people at these functions. We own a sizable real estate portfolio, including our training centre. We can say that Local 837 is a very versatile local and well qualified to speak on matters of labour relations, not only from a union perspective, representing workers, but also from an employers' perspective, employing a sizable number of people.

We wish to thank the committee for providing this opportunity to comment on the proposed amendments to the Labour Relations Act contained in Bill 144. We heartily support these amendments. Most of it is written, and I'm not going to bore you by reading it.

On the card-based certification—simply to glance over and comment on that—we agree with this, construction being what construction is: mobile, multi-employer, very different from other unions. This perhaps could be adapted to other unions, but for the construction industry it's a must, and it's a must that we bring it back to what it was

in the 1940s. The idea of this is not only to bring it back, but to bring it back to the centre. With all due respect to Mr. Kormos and the NDP—the NDP did a great thing with Bill 40, and we agreed with and supported it—we believe in our mind that it was maybe a little too far to the labour relations side. The way that the Mike Harris government brought it back to the right side—there's too far a swing back and forth. We believe that this is balanced and it should be adopted.

We agree with automatic certification. There have been previous speakers who have spoken on this eloquently. However, in the second-last paragraph on page 3, I believe that these provisions for automatic certification are balanced against threatening, intimidation and coercion by the union against the employees. Intimidation and coercion can go both ways. It can be done from the top down or the bottom up; it can be done by the employer or by the union. If the union uses force, coercion or threat, then it's only fair that the union application be thrown out. We are saying that now it's balanced. If the union uses intimidation and coercion to get the favour of the workers, and the employer uses the same thing, now it's balanced. If one uses it, it's out, and if the other uses it, there's got to be a penalty. I agree with that wholeheartedly. On interim orders, I believe in them, and they follow the same parallel as automatic certification.

To conclude, Local 837 supports the amendments of the act contained in Bill 144. Through Bill 144, the government is bringing the pendulum of labour relations back to the balanced position, and the government isn't doing the clear harm to workers and labour relations created by the Mike Harris government, which swung the pendulum too far to the right. Bill 144 restores fairness and balance to labour relations in Ontario. Even though Bill 144 goes a long way to restore fairness and the balance of power in Ontario, it could go further. However, by going further, the balance of power in labour relations in Ontario might be swayed too far to the left. Local 837 encourages this committee to refer Bill 144 back to Queen's Park for third and final reading so that these important protection provisions for workers can be enacted as soon as possible.

The rest is for you to go through, so I won't bother reading it. If you have any questions—

The Chair: Thank you, Mr. Bastos. Mr. Kormos? Mr. Flynn? Peter. Ms. Wynne; then I'll come back to you, Mr. Kormos.

Mr. Kormos: We've both been pre-empted.

The Chair: You were not quick enough this time.

Ms. Wynne: It disturbs me that you're not the first person who has said that there's intimidation in these processes on both sides; it happens. I guess one of the things I'm looking for is—I understand the arguments that have been made about card certification, but is there anything we could do that would start to remove some of the intimidation, especially from the voting process? I think the provisions we're putting in place in terms of remedial certification are really important, but it is re-

active. I guess I'm wondering if you think there's anything we could do to get some of that intimidation out. It is 2005, and some of the tactics that I hear about really disturb me.

1410

Mr. Bastos: From a union point of view, it's not easy for us to intimidate. It's card-based. "Voluntarily sign it or not sign it. If you're not comfortable, think about it. We'll come back." From the other side, there's too much at stake for intimidation not to take place. We heard it. I heard it. I couldn't believe it. "If my place is unionized, I'll close the business down." That's intimidation. You heard it.

Mr. Kormos: Brother, I hear what you're saying, and you and I are going to disagree on the politics of this for the rest of our lives, I'm sure, because you're the first member of the labour movement who has spoken of Bill 40 as too far to the left. You wouldn't believe how disappointed I was when that government watered it down in concessions that it made to the corporate world. The NDP government was so nervous about appearing too radical and scaring off Bay Street, which of course was never with it in the first place. But fair enough too.

But you see, what happens is—in part of your opening comments, you said, "Well, you know, it's a good thing we have balance in the bill, because bosses can intimidate, but so can unions," but then when Ms. Wynne asked you, you were hard-pressed to come up with an example.

Mr. Bastos: Oh, I could give you an example.

Mr. Kormos: She wants to hear it. She wants names.

Mr. Bastos: There's a company—

Mr. Kormos: No, of union intimidation.

Mr. Bastos: That I've never heard of.

Mr. Kormos: Well, there you go. You've never heard of it.

Mr. Bastos: I've never seen it done.

Mr. Kormos: But you came here and said, "Just as there's intimidation by bosses, there can be..." So what's happening here?

Mr. Bastos: There's a potential that it could happen. There's the threat of union organizers threatening the worker not to sign a card. There's a potential. Where there's two human beings—

Mr. Kormos: They can't lose their job. They can't take the job away. In any event, you and I are going to disagree on this one. However, we both agree that card-based certification should be an option for workers.

Mr. Bastos: Definitely.

Mr. Kormos: End of story. If it's good enough for building trades workers, by God, it's good enough for the worker at Wal-Mart.

The Chair: Thanks very much for your presentation.

Is the Central Ontario Building Trades present? Jay Peterson? Is Jay Peterson in the room? No?

Mr. Milloy: What about the CAW?

The Chair: Well, they are pulling their presentation together, so in a few minutes.

MILLWRIGHT REGIONAL
COUNCIL OF ONTARIO

The Chair: Is Millwright Regional Council of Ontario present? Would you like to make the presentation now? We'll go back to the Canadian Auto Workers after. You've got 10 minutes total to make your presentation. If there is any time left, there will be questions, potentially, or comments from the members.

Mr. Ronald Coltart: In the brochures that are being handed out, you'll find six pages in the back that will basically outline the gist of this presentation. The reason you have these lovely technicolour brochures in front of you is that I didn't think most people here would know what a millwright does. By the time you've browsed through that and the CD, you'll know what a millwright does.

Good afternoon, everyone. My name is Ronald Coltart and I am here today to speak on behalf of the Millwright Regional Council of Ontario. The Millwright Regional Council of Ontario, its eight member locals and their 3,500 members and apprentices wholeheartedly support Bill 144, the Labour Relations Statute Law Amendment Act, 2005, and we applaud the minister for taking these steps to return democracy and fairness to the certification process for the construction Industry.

Who we are: The United Brotherhood of Carpenters and Joiners has had millwright members in Ontario for over 100 years. We presently have affiliated locals in the cities of Kingston, Toronto, Hamilton, Niagara Falls, Sarnia, Windsor, Sudbury and Thunder Bay, Ontario

Today, all millwrights in Ontario who are part of the United Brotherhood of Carpenters and Joiners of America are represented by the Millwright Regional Council of Ontario. Our members are primarily construction millwrights or apprentices, with many of them having obtained secondary qualifications, such as welding certificates, or CWB-certified.

What we do: The Millwright Regional Council of Ontario supplies the Association of Millwrighting Contractors of Ontario Inc. and other contractors with the highest-skilled millwrights that can be had throughout Ontario to meet the needs of industry across this province, whether the job is at a paper mill in Thunder Bay, Ontario, or a nuclear power generating station in Darlington, Ontario. In short, we supply the millwrighting requirements for all of our signatory contractors to meet the needs of industry anywhere in Ontario, whether that requirement is in the steel mills, auto plants, chemical plants, petrochemical plants, paper mills, food industry, mining industry or for maintenance overhaul in the power generation industry.

The ability to provide highly skilled tradesmen to meet industry's requirements for the installation or maintenance of highly specialized machinery throughout Ontario can be a factor in attracting secure, well-paying industrial manufacturing jobs to our province, which will provide many well-paying jobs for the citizens of Ontario, their children and grandchildren.

Bargaining relationship: Millwrights in Ontario working in the construction sector are represented by one

provincial collective agreement which is negotiated between the Association of Millwrighting Contractors of Ontario and the Millwright Regional Council of Ontario. Our members enjoy a uniform, fair wage—one rate of pay across Ontario no matter where they're working. Our collective agreement also provides our members with one welfare plan and one pension plan. Our pension and welfare plans are managed under a joint trusteeship agreement between the Millwright Regional Council of Ontario and the Association of Millwrighting Contractors of Ontario.

Our health and welfare plans that provide for the payment of prescription drugs, health care, dental care and life insurance are paid for by hourly contributions that are deducted from the total pay package of our members who work for our signatory contractors. Payments are made monthly to the trust fund administrator.

Contributions to the millwright pension plan, which will provide our members with a retirement income, are also deducted hourly from our working members and paid into the pension plan monthly on their behalf by our signatory contractors.

The same signatory contractors who provide our members with a fair standard of living, medical coverage and retirement security also support our apprenticeship and training funds, which provide our apprentices with the best training available anywhere.

It is the signatory millwrighting contractors—who employ our members—working with our joint provincial apprenticeship committee that determine and implement all training required of our millwright apprentices.

Apprenticeship training, the lifeblood of our industry: The lifeblood of any trade is apprenticeship training and journeyman upgrading. With the exception of secondary training courses, which are scheduled as required throughout Ontario by our affiliated locals, the three eight-week periods of mandatory in-class training for all of our construction millwright apprentices are all scheduled at George Brown College in Toronto. The training is standardized and closely monitored by the director of apprenticeship.

In addition to this, there's a week-long, specialized gas turbine training course that is available to each apprentice who maintains an average mark of 70% or higher. That training course is presented at the training facility operated by the United Brotherhood of Carpenters and Joiners in Las Vegas, Nevada. The course was designed by millwright instructors of the UBC, working in co-operation with representatives of General Electric and Westinghouse to meet their specifications for a training curriculum. This training is also funded by deductions from the wage package paid by our fair contractors.

1420

Thus, our signatory contractors working with the Millwright Regional Council of Ontario to provide our members with employment opportunities, apprenticeship training, a fair wage package and a pension plan must then compete with the employers who pay very little, if any, of the above cost of providing Ontario with these highly skilled tradesmen.

Unionized employers in the construction industry often have to compete with employers who pay a sub-standard wage, do not provide health and welfare plans, pension plans or training funds and who misclassify apprentices by listing them as helpers and use ratios of up to nine helpers per journeyman. Many helpers are promised an apprenticeship that is never registered and thus never materializes, and many complete the required number of hours but are never provided with the opportunity to fulfill the academic requirements of an apprenticeship. As they know that the employer will never provide them with proof of hours completed, they cannot go any other place without starting over, and thus they stay working for substandard wages because it is their only security.

Thus the non-union contractor is only interested in how much per hour he can make off each worker he employs and is only concerned with underbidding our fair contractors to obtain the work while he pays a minimal amount for wages and is never concerned about providing a skilled worker for the industry.

The Chair: Thank you very much for your presentation, sir. You've used the 10 minutes. If you have something short still to say, I will allow it, but the 10 minutes have been used.

Mr. Coltart: OK. Under the Labour Relations Act, the main factor I want you to consider is that the duration of construction projects and the continual transferring of employees from one job to another make certification in the construction industry difficult to obtain. Access to workers in a plant working for a subcontractor is non-existent, for the most part.

For over 30 years, the governments in power in Ontario acknowledged the requirement of a fair and balanced approach to labour relations in the construction industry in order to provide their citizens with the democratic rights of freedom and self-organization. This approach afforded Ontario and its citizens with the opportunity to prosper and thrive.

Restoring fairness: For Ontario's economy to thrive in global competition, we must follow a path that includes the following:

We must train the highest-skilled workers possible to replace our baby boom generation, which has already begun to retire.

We must continue to provide the highest-skilled workforce possible for our growing economy so that they will be an asset to attracting industrial investment funds to Ontario, thus creating jobs for our citizens and their children.

We must provide these workers with a fair standard of living so we can attract the best and the brightest of our high school graduates into the construction apprenticeship programs and keep them working here instead of Alberta. We must provide the working conditions and opportunities so that they can work with pride and dignity in Ontario.

In short, we must create jobs for our children and grandchildren in a society where they will be proud to

work and choose their direction in life of their own will, freely and without intimidation or coercion from management or their anti-union campaign advisers.

The Chair: Thank you very much for your presentation. There is no time for questions.

CAW-CANADA

The Chair: We will be moving to the Canadian Auto Workers. Are they ready? Yes? Thank you. Good afternoon.

Ms. Tammy Heller: We just need a breath.

The Chair: OK. We could hear another presentation if you need more time.

Ms. Heller: No, it's fine. First of all, thank you to this committee for hearing us today. My name is Tammy Heller. I'm an organizer with CAW-Canada. Maureen Kirincic is also an organizer, and Maureen will be talking in regard to her campaign at Casino Niagara. Tom Rooke is also a CAW organizer and will be talking about the Toyota campaign when it took it to a vote. We have given you a video of that campaign and Toyota's presentation to its workers. I'm going to present the brief and do the summary.

I'd like to say thank you again for the opportunity to speak to you regarding our views on Bill 144. Hopefully, this brief will assist legislators in enacting a more inclusive, fairer law for the majority of Ontario workers.

We commend the ministry on its efforts to restore some of the powers to the Ontario Labour Relations Board that were previously eroded by the Harris government. This corrective effort on the part of your ministry is a step toward restoring the authority and independence that the OLRB needs in dealing with labour relations issues in a more balanced way among the many stakeholders.

Our union, CAW-Canada, represents 170,000 workers in the province of Ontario and a total of 265,000 workers in Canada. We represent workers in 16 different sectors of the economy and, aside from a few of those sectors which come under federal jurisdiction, none of the unorganized workers in the sectors we now represent would have the card-based certification option restored if this bill passes in its present form.

The process has worked for 45 years. In 1950, Ontario enacted the Labour Relations Act. The legislation permitted, and the Ontario Labour Relations Board resolutely supported, the well-established practice of card certifications, and it certified mostly on the basis of membership cards for the following 45 years.

From 1950 to 1995, subsequent Conservative, Liberal and NDP governments supported the card majority system of certification, which provided a verifiable and accurate picture of the wishes of the employers while, at the same time, it protected workers from intimidation, harassment and reprisals from employers. Where a clear majority of employees, 55%, indicated that they wished to be represented by a trade union, the OLRB would certify the union as the bargaining agent. When the num-

ber of cards was between 40% and 55%, a secret ballot vote was conducted. This established system worked well for all the parties until 1995, when the Harris government stripped away workers' rights to join a union free from employer interference.

A double standard for workers: Since Bill 7 in 1995, workers were forced to express their desire not once, but twice, to try to achieve a unionized workplace, first by signing a membership card and then by voting via secret ballot. Presently under Bill 7, the five-day period allowed from date of application to the actual vote leaves a window of opportunity for employers to intimidate and use scare tactics on its workers, which we, as organizers, see time and time again.

History has proven that a vote, after a majority of employees have already confirmed their wish to join a union, provides a period of time during which the employees become vulnerable to harassment and intimidation by the employer. This was the primary reason for card-based certification in the first place.

The CAW stands in support of the rights of the construction sector to have card-based certification. However, the exclusion of sectors covered from 1950 to 1995 is unthinkable, totally unacceptable and leaves obvious and glaring inequality between sectors.

We believe this bill is severely flawed. We cannot understand why a government would not want protection and equality for all unorganized workers. This bill ignores the fact that in many cases women, the disabled, workers of colour and the young are the most repressed under the current vote procedure. These workers, predominantly in the hospitality industry, health care and home care, are left as the most vulnerable and need the card-check certification process, a process that ensures they are secure in knowing that once they've signed a union membership card, their commitment to a union will be a positive thing and not an intimidating process.

You are the government that has the power to change the repressive Common Sense Revolution of the past to a true common sense democratic process, a process that gives workers who choose to have a union a card-check system, without the fear of facing management when they go to vote, having to vote on company property and, in most cases, voting in company meeting rooms, where workers remember the open meetings and the company threats of just a few days earlier.

We have heard that perhaps we should continue the vote process, but away from the workplace. There is no logic behind this premise, as it does not address the scare tactics, letters to workers' homes, threats of closure, intimidating videos etc., which we will address during this presentation.

1430

Company tactics: Companies will often hire firms that specialize in hard-hitting campaigns, in an effort to stop the workers from voting for a union. Companies will hold open meetings with their employees, where threats of closure are often made, directly and indirectly. Again, during the five-day election period, the employees are

deluged with company letters, leaflets and sometimes videos, designed to malign the union and undermine union support. There are also kinder tactics used as well. The employer will hold free lunches and suppers for their employees. Companies have gone as far as offering to pay mileage to employees to come and vote. Promises get made that will only be implemented if the union is defeated.

What is needed to fix Bill 144? How do you fix a biased bill that for eight years repressed workers' rights by a government that totally ignored the unions in our province, as well as its workers?

You can start by continuing with your commitment to have a kinder, more open and friendlier government to labour and to the unorganized workers in the province of Ontario, a government that would allow equality for all in their endeavours to unionize.

Your committee can make a difference by changing a regressive law into a progressive one. Don't be taken in by the corporate agenda that suggests that workers don't need unions. History shows that the vast majority of unionized workers remain unionized and don't leave their unions once certified. Let us have one scenario for all workers via card-based check. Please let the workers choose. We ask you to let workers decide in a fair system for all.

Respectfully submitted.

The Chair: Thank you. There are two minutes left, so we'll take a minute each. Mr. Kormos, do you want to start?

Mr. Kormos: Real fast, tell us what's going on down at Casino Niagara, because those workers need organizing like no group of workers ever have.

Ms. Maureen Kirincic: I'll be very quick. You've got my synopsis in the written report.

Mr. Kormos: What has been the crummy treatment of those workers by the bosses?

Ms. Kirincic: You're absolutely right. One thing, too, is that management continually threatens and harasses the workers throughout the campaign and even the day of the vote. The vote day is what I want to talk about more than anything.

What they do is that management puts their human resources and management people on the voters' list to walk in the line and go with the workers to the polls to vote. They're actually standing in the line. I objected to the vote. Management continually said that, no, their counsel told them to stay there. They stayed there throughout the whole poll. Even though we objected, the board could not do anything either.

Right after, the next day, we met with the board officers to deal with the bargaining unit challenges, and the company agrees, "Oh, yeah, they shouldn't have voted." The intimidation was done. The vote was poisoned. The atmosphere was done. This is certainly one thing I want to address. You'll see it in the documentation that I submitted supporting the campaign, about the threats of strikes.

Even now, promises during a campaign—the president’s most recent letter a few weeks ago talks about, “Oh, yes. The child care promises we promise you before every campaign” to ensure they get a no vote—suddenly they can’t give it to them now. But as we get closer to the vote, they’ll promise them something again.

In a nutshell.

The Chair: That is 10 minutes total. Thanks very much for your presentation. Unless the gentlemen has anything to say?

Mr. Tom Rooke: No, that’s all right.

The Chair: Thanks very much. Have a nice weekend.

CENTRAL ONTARIO BUILDING TRADES

The Chair: The next presentation is the Central Ontario Building Trades, Jay Peterson. Mr. Peterson, you can start any time you are ready. You have up to 10 minutes.

Mr. Jay Peterson: Mr. Chair, standing committee, I want to thank you very much for the opportunity to appear here today. My name is Jay Peterson. I’m the elected business manager/financial secretary of the Central Ontario Building Trades. We help represent over 28 local unions and 50,000 workers in the geographical area situated roughly between Oakville in the west, Trenton in the east and Parry Sound in the north.

I am a second-generation licensed sheet metal worker. My grandfather was a licensed millwright until he was killed on the job. I started my registered apprenticeship in 1982 and became a journeyman roughly five years later.

We view Bill 144 as a good step forward, where non-represented workers may be able to truly express their desire for representation without as much fear or apprehension as they do today.

I would like to talk about some of the areas of concern to our affiliates and about the bill in more general terms.

Filing applications for certification often leads to a negative reaction by employers and, in some cases, by employees, which in turn results in unfair labour practice complaints. Under the present legislation, since the repeal of the remedial certification provisions in 1998, there have been no meaningful penalties attached to the commission of an unfair labour practice which would truly discourage an employer from engaging in such misconduct. As such, many certification applications are routinely followed by an unfair labour practice complaint, with the net result being lengthy litigation and frustration of the employees’ desire for representation. This is often where the system has broken down. The proposed return of the remedial certification provisions are a good first step to restoring the effectiveness of the labour relations system.

Many of our trades are compulsory certified trades, such as my trade, sheet metal, as well as plumbing and steam fitting, electrical, millwrighting and others. We are mandated by the Trades Qualification and Apprenticeship Act, yet when organizing is taking place, the em-

ployer may flood their list of employees with non-registered apprentices or workers without licences. The labour board ignores the fact that, under the provincial legislation, there is no place on the job site for those people. The labour board, I am told by the United Association of Plumbers and Steamfitters, does not see themselves as an enforcement branch of the Ministry of Skills Development. The board therefore decided that persons who are performing work illegally, without any licence or signed contract of apprenticeship, may still be allowed to participate in the formation of a bargaining unit of compulsory certified tradespeople. This decision and those that have followed have basically allowed unlicensed and unqualified persons, and those who employ them, to defeat legitimate desires of law-abiding tradespersons for representation by a trade union. This is wrong, as both a matter of public safety and sound labour relations, and needs to be addressed.

Card-based certification: The return of card-based certification in the construction industry is a positive and important step toward the promotion of free collective bargaining. However, section 128.1 requires some revision to better accomplish its overall goals.

The Ontario Labour Relations Board and the courts have long acknowledged the importance of expedition in certification matters. Delay typically erodes union support. Where a vote is held, delay may distort the results, and, whether or not a vote is held, delay in the granting of a certificate may undermine support and frustrate a union’s ability to negotiate a first collective agreement.

Bill 144’s proposed 128.1 contemplates that even where trade unions opt for the card-based certification procedure, the board may nevertheless direct that a representation vote be held. In that event, votes are, generally speaking, to be held within five days of the board’s determination of whether a vote should be held.

Currently, certification hearings in the construction industry often do not begin for several weeks—often months—after an application is initiated, and such hearings may drag on for years. See *Graham Bros. Construction Ltd.* 2001 OLRD No. 4224, where the applications were filed in 1999 and the “status” issues have not yet been determined.

The labour board policy that underpins the “quick vote” system cannot be accomplished by requiring a vote within five days of a board determination that itself might not be made until months or years after the certification application was filed.

Given the board’s limited resources, it will be necessary to send a clear legislative signal to ensure that certification applications are handled expeditiously and, in particular, to ensure expeditious determinations as to whether or not a vote is held. Language similar to that used for the construction industry grievances—subsection 133(6), “the board shall appoint a date for and hold a hearing within 14 days”; and/or first contract applications in subsection 43(2), “The board shall consider and make its decision on an application ... within 30 days of receiving the application”—ought to be

included in section 158.1 with respect to the determination of whether or not a vote is to be held.

Evidence: The pre-1995 card-based system and the system proposed in Bill 144 both contemplate the board making determinations without a hearing as to the level on union membership support in a bargaining unit. However, unlike the pre-1995 statute, the proposed provisions would create an asymmetry in the reliability of the material placed before the board when it makes that determination. That's sheet metal language there. Bill 144 would require applicant unions to provide evidence of membership—subsection 7(13) of the current act—but only asks employers to give information as to the number of employees in proposed bargaining units.

It is well known that some employers pad the list of employees in representation matters, falsely exaggerating the number of persons in a bargaining unit to reduce the percentage levels of union membership. A requirement that trade unions provide evidence and that employers provide information in order to determine the level of union support is nothing more than an invitation to unscrupulous employers to pad the list.

Do I have much time left?

1440

The Chair: About four minutes.

Mr. Peterson: Employers should also be held to a statutory requirement to provide evidence of the number of employees in the bargaining unit in issue. This can be accomplished in two ways.

First, the list of employees provided by employers should be supported by a statutory declaration from a responsible employer's official declaring that the individuals on the list were not persons excluded by clause 1(3)(b) of the act—as managers or confidential employees—and further that they were actually employed and at work on the certification application date and that they spent a majority of their time on that date performing bargaining unit work.

Second, the employer should be required to provide other documentary evidence in support of its employee list and statutory declaration. That evidence might include employment application forms, time sheets or other records.

These changes are very important because padded lists lead to litigation, and litigation leads to delay and expense. In that event, card-based certification might lead to even slower processing of an application than at present.

I think I have more than four minutes of my presentation left, so I'm going to skip a little bit. I'm going to respectfully submit this to the clerk.

Remedial dismissal: Bill 144 contains provisions for remedial dismissal of a certification application—subsections 128.1(7) and (8). The provisions are redundant and confusing. They have no equivalent in the pre-1995 act or even the pre-1993 act. Both subsections should be removed. This section provides for dismissal of an application without a vote “on the application of an interested person,” where “the trade union or person acting on

behalf of the trade union contravenes” the act so that membership evidence “does not likely reflect the true wishes of the employees in the bargaining unit.” The language is borrowed from sections 11 and 11.1 where it was drafted to deal with circumstances under which a vote might be ordered; it is completely inappropriate for addressing circumstances under which an application might be dismissed without a vote.

I'll skip to my conclusion for the sake of time.

In conclusion, I've heard debates and positions from both sides of this discussion and would like to respond. As a trade unionist and a construction worker, I've felt uncomfortable with the card-check certification options not being available to the more needy workers of this province.

First off, for those big corporate lobbyists that say that card-check certification in other sectors will kill investment in this province, I don't buy it. If that's true, how did Ontario grow to be the economic driving province in Canada with card-check certification in place for pretty much all of the last 50 years? I think I know why: Ontario is a beautiful, bountiful province. We have universal medicare—very attractive to business. We've had, for a number of years, a low Canadian dollar—again, attractive for exporting business. We have a quality educational system and vibrant multicultural cities, although they are under economic stress. We have reliable energy, good water, good roads and a well-trained workforce, especially in the construction sector. In other words, we have a lot of positives when attracting business. Helping the lowest-wage earners, the working poor, to elevate their standard of living should hardly stop investment. We should all be concerned with the disappearing middle class and the buying power, economic activity and taxes etc. that brings to our communities. Helping people of all sectors provide better will only show up in positive, healthier and safer neighbourhoods.

Those who say that this bill is sexist and racist ought to be careful also. The face of the construction industry is the face of, in my case, Toronto. Unorganized construction workers are very often new Canadians. This has been the case over generations. Whether immigrants came from Britain, Scotland, Ireland etc., that's what the workforce looked like and that's what some of our older membership looks like today. Retirement and changing immigration patterns are quickly changing the face of our workforce.

Hispanics from Central America, Eastern Europeans as well as workers from the Indo-China area are now the new construction force emerging. Responding to their needs and helping them achieve the Canadian dream is certainly not racist.

In construction, I'd say that within the unions female workers represent only up to maybe 5% of the membership. In the unorganized workplace, I'd say that number is even less. We've been working hard to promote women and are currently in Sudbury at the Ontario Construction Secretariat's Future Building show promoting exactly that: women in the trades. We believe that

unionized construction can provide good careers with benefits and pensions etc., ideal for all workers, male or female.

It's a characteristic of society that way more males from around the world join the construction workforce. We can do little as an area council to change that. However, if the non-unionized construction worker can join a union and receive a fair wage, benefits and pension that certainly will, without a doubt, benefit all members of the family.

Female construction workers have many hurdles. Pregnancy is, unfortunately, a problem for them as there is no legislation to provide light duty to female construction workers during pregnancy up to the birth. There are benefits after, but before birth is an issue. Many women have to quit and may never come back.

In conclusion, I'm happy this government is moving forward to help the tradespeople of this province. However, please continue the effort, and don't forget our non-represented workers, who have only legislation to hang their hopes on in every sector, like service sector workers, retail workers and, for sure, agribusiness workers.

The Chair: Thank you, Mr. Peterson. You have used the 10 minutes.

The last presentation is from Northridge Electric. Is Northridge Electric present? That is the only one we have on the agenda. The reason is that the 2:40 presentation also did not materialize, so we are 15 minutes ahead.

We have two choices. I guess we should wait until they come. We are 15 minutes ahead, so we'll wait for the next 15 minutes, and then we'll make a decision.

Mr. Kormos: Can we adjourn for 15 minutes?

The Chair: We can adjourn—around here, if you don't mind.

Mrs. Witmer: Who do we have yet?

The Chair: The last one—Northridge Electric.

Mrs. Witmer: Does anybody know who it is?

Interjection: Ken Wragge.

The Chair: We didn't hear from them.

If somebody has to pick up stuff from the rooms, go ahead; otherwise, we can hang around here, and when they arrive, we'll try to hear them. Three o'clock or before is the next presentation, please.

The committee recessed from 1445 to 1459.

NORTHRIDGE ELECTRIC

The Chair: There you are. Welcome. We knew you were trying to find a parking spot, so we were waiting for you. You can start any time you're ready.

Mr. Ken Wragge: I appreciate your patience.

The Chair: No problem. You are on time, by the way. We were just a little early. So don't feel bad about it all.

Mr. Wragge: I'm sorry to have kept you late on a Friday afternoon. I thank you for waiting and giving me a spot here.

My name is Ken Wragge, and I'm here to represent our company, Northridge Electric and, I believe, the

feelings of other small, non-union contractors and tradesmen in the province.

I entered the electrical trade over 20 years ago, served an apprenticeship, received my licence and eventually started my own business in 1997. We primarily provide electrical services to industrial and institutional customers in Ontario. Over the years, our work has brought us in touch with thousands of workers in hundreds of different workplaces. We have had a close-up view of Ontario's amazing workforce in auto parts plants, hospital operating rooms, research facilities, schools, wood product factories, gas stations, office towers, stores etc. This view has enforced the need for equitable labour legislation, as these laws, directly and indirectly, affect not only the well-being of individual workers but the province as a whole.

I, as an individual, have a Christian conscience against belonging to or being associated with a trade union. This expression of faith is not new; nor has it always received the same consideration or treatment in Ontario. Years ago, my great-grandfather was dismissed from employment 13 times because his conscience would not allow him to join a trade union. Later, my grandfather and two others were excused by the Ministry of Labour from union membership and dues on account of their conscientious objection to joining when their workplace was organized. This arrangement remained in place for 30 years until the company closed. Some of his peers in other employment were denied this right under similar circumstances.

In 1992, I spoke before a similar committee set up by the NDP government prior to their reform of Ontario's labour laws. Our message is still the same. Although we are prepared to surrender our jobs or businesses rather than compromise our conscience before God, we feel that Ontario needs to follow the lead of other jurisdictions and make a clear, indisputable provision for exemption from union membership on the basis of conscientious objection. This should provide for employers, as well as employees.

One other serious concern with regard to Bill 144 is the government's proposal to equip the Ontario Labour Relations Board with the autocratic power to impose union certification on a workplace based on their own discretionary judgment of prevailing conditions. If enacted, this would certainly be a violation of a person's freedom of association, or disassociation, which is an established charter right. This is especially true as it would be done in cases where the worker's wishes cannot be determined. This authority in the hands of unelected officials would plead to be abused, as such powers vested in the board would be enormous.

Another point specific to Bill 144 is the thought of revisiting the practice of card-based certification. This method has historically been contentious and lends itself to intimidation, influence, exposure and even violence. Secret ballots are one of the cornerstones of democracy, and every employee deserves a private say in any certification drive. The card-based system has been likened

to the recorded votes of Parliament. As the members of this committee would understand, MPPs are voting on behalf of their constituents and must be accountable to them. Employers have no such obligations.

In conclusion, I'd like to point out another Christian principle that we also seek to follow in our workplaces, and that is the relationship between masters and servants or, in our language, employers and employees. According to the Bible, masters are to render to their servants what is just and fair, and servants are to labour at their work heartily. We are firm believers in the value of harmonious labour relations.

In these submissions, we have heard labour pulling in one direction and management in the other. We have heard of labour legislation being used as a political tool, but we have not heard much about working together to achieve excellence. Ontario's manufacturing and health care sectors are at a critical crossroads. I understand that in the committee this morning we had some disruption. These are the kinds of things that are not only hurtful personally, but I think they're holding us back provincially.

In conclusion, I would suggest that the government, rather than acting on Bill 144, pursue initiatives that will encourage flexibility, education, innovation, performance rewards and investment in the workplace by stimulating true master-servant harmonies. Confrontation hurts, but in our experience, I have seen time and again that teamwork will always excel. As we work together, it will secure a bright future for Ontario in the presence of increasingly competitive global markets.

I'd like to thank the committee very much for—

The Chair: There is enough time to ask questions. About a minute and a half maximum. Ms. Witmer.

Mrs. Witmer: Thank you very much. I'm glad that you were able to get there. What are the main changes that you would like the government to make to this legislation?

Mr. Wragge: The main change we'd like to see is the insertion of a conscience clause to—

Mrs. Witmer: For both employers and employees?

Mr. Wragge: That's correct. To protect really the religious freedoms, I would say, of a small minority of workers in the province.

Mrs. Witmer: I appreciate your recognition of the fact that labour and management need to work together

on behalf of the good of everybody in the province. Thank you very much for your presentation.

Mr. Flynn: Thank you, sir, for coming today. We've had other people come before us in all the locales we've been at, and they refer to themselves as Brethren. Would you fall into that category as well?

Mr. Wragge: Yes, I do. That's correct.

Mr. Flynn: The point they have made is that should they be forced against their wishes to be associated with a trade union, as an employer they would have to close their business. Is that true in your case as well?

Mr. Wragge: Yes, that would be true. We are prepared to go to the wall.

Mr. Flynn: That's what I thought. But this is the first time I think that in any of the presentations I've seen something as specific as you've gone to on the second page, where you pass a comment on card certification. It appears to me from what you've said that the process would not reach card certification, that you would close the business before that point in time. Is that correct, or am I not reading that right?

Mr. Wragge: If I understand your question rightly, if it came right down to the wire, that our workplace was certified, we would close it at that point.

Mr. Flynn: So you would wait for it to be certified and then close it?

Mr. Wragge: We would fight it tooth and nail, I believe.

Mr. Flynn: So you wouldn't close it down before—the conscientious belief does not apply to the organizing drive?

Mr. Wragge: That's correct.

Mr. Flynn: It comes into place should the union be certified?

Mr. Wragge: Yes. We would believe that the involvement comes into place when the signatures go on the paper.

The Chair: We thank you for coming. All of you, have a good weekend. This is the last of the hearings for these three days. We thank you again, all of you.

Mr. Flynn: When is clause-by-clause?

The Chair: May 9. So it's a week from Monday.

I thank you again. Have a good ride back to your ridings.

The committee adjourned at 1507.

Continued from overleaf

Ontario Public Service Employees Union	SP-1024
Mr. Eduardo Almeida	
Mr. Victor Allan	SP-1027
International Union of Painters and Allied Trades	SP-1028
Mr. Joe Russo	
Mr. Don Lewis; Mr. Andrew Steen	SP-1030
Mr. Andrew Mackenzie	
United Food and Commercial Workers	SP-1031
Mr. Andrew Mackenzie	
Mr. Dave Church	SP-1033
Carpenters Union, Local 785	SP-1034
Mr. Gregory McMahon	
Labourers' International Union of North America, Local 837	SP-1035
Mr. Manuel Bastos	
Millwright Regional Council of Ontario	SP-1037
Mr. Ronald Coltart	
CAW-Canada	SP-1038
Ms. Tammy Heller	
Ms. Maureen Kirincic	
Mr. Tom Rooke	
Central Ontario Building Trades	SP-1040
Mr. Jay Peterson	
Northridge Electric	SP-1042
Mr. Ken Wragge	

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CONTENTS

Friday 29 April 2005

Labour Relations Statute Law Amendment Act, 2005, Bill 144, Mr. Bentley /	
Loi de 2005 modifiant des lois concernant les relations de travail,	
projet de loi 144, <i>M. Bentley</i>	SP-999
Ontario Federation of Labour	SP-999
Mr. Wayne Samuelson	
Coalition of Concerned Construction Employers	SP-1001
Mr. Stephen Bernardo	
Mr. Denis Bigioni	
Labourers' International Union of North America, central and eastern Canada region	SP-1002
Ms. Carolyn Hart	
United Steelworkers of America, District 6	SP-1003
Ms. Marie Kelly	
Mr. Charles Campbell	
International Brotherhood of Electrical Workers; Construction Council of Ontario	SP-1005
Mr. Brett McKenzie	
Greater Kitchener-Waterloo Chamber of Commerce; Ontario Chamber of Commerce	SP-1007
Ms. Veronica Kenny	
Ontario Pipe Trades Council	SP-1008
Mr. Mark Ellerker	
International Brotherhood of Electrical Workers, Local 804	SP-1010
Mr. Rod Hilton	
Steelworkers Ontario south central area council	SP-1011
Mr. Gary Schaefer	
Ms. Wanda Power	
Cleanpac; Daly Construction	SP-1013
Mr. Nigel Botterill	
Mr. Jim Daly	
Waterloo Regional Labour Council	SP-1014
Mr. Rick Moffitt	
Ontario Sheet Metal Workers' and Roofers' Conference	SP-1016
Mr. Tim Fenton	
Mr. Jerry Raso	
Canadian Labour Congress	SP-1017
Mr. Barry Fraser	
Ms. Sandi Ellis	
Southwestern Ontario Steelworkers Area Council, women and human rights committee	SP-1019
Ms. Lesley Raposo	
Ms. Carrie Robinson	
Sheet Metal Workers' International Association	SP-1020
Mr. Chris McLaughlin	
Mr. James Moffat	
Mr. Bob Smith	SP-1022
Open Shop Contractors Association	SP-1023
Mr. Mark Baseggio	

Continued overleaf