Joint Hearing 3-26-73
Tape #1, Side #1

Ann Howard, Professor, UNR

I hope if I repeat myself you will bear with me but I will be short in any case.

Senate Bill 453 seems to me to offer nothing to our faculty that we do not already have with considerably less trouble. More than that, it weakens the position of faculty bargaining such as it is under present regulations. The changes which S.B. 453 would have enacted into iron clad law demonstrate a lack of understanding of the way this particular university functions at the faculty level.

First, and this seems to me the most important thing about the bill, it removes department chairman from the bargaining unit and if what it says and what it intends are the same, it could remove many other faculty members from the same bargaining unit. Department chairmen are not exactly comparable to other kinds of managers or directors. They enjoy none of the privileges of management which might include salaries negotiable beyondthe set scale secure appointment from above rather than below, final determination of personnel decisions, semi-permanent tenure dependent upon how one gets along with the higher ups, these are things which are priviliges of managments which department chairman simply do not enjoy, and to deny them representation as mere faculty is to deprive them of their rights. Department chairmen are considered in most departments as delegated authorities who speak for the department, who are appointed on recommendation of the department for a limited time, who may be removed by the department. The usual tenure of the department chairman is three years and in many departments it isn't even possible for him to succeed himself for another three year term. Many of them receive no extra compensation for their administrative duties. They have traditionally participated as faculty in salary and welfare negotiations.

Section 17 of S.B. 453 defines a supervisor in such a way that it could be interpreted to mean any faculty member who directs the work of any non-professional staff. This includes not only secretaries but could include work study students if the faculty member can, and I quote, "effectively recommend any action over any of these people requiring independent judgement". This is a very broad definition of a supervisor. When I check a box that indicates that my secretary's work is satisfactory, I am exercising independent judgement. Nobody else checks to see whether my secretary is satisfactory. Does this make me a supervisor? When I report that a graduate fellow is not a satisfactory teacher I, quote, effectively recommend his discharge. Whether or not I sign the official papers that deny him renewal. Yet I am not properly a supervisor in any other sense of the word, being accountable to my chairman, my dean, and quite

a few others up the line.

I oppose this bill also as a person who is concerned with graduate students. The determination of bargaining units, an act which does not seem to me to be the state's business but the business of the university faculty, in the bill makes a seperate unit of graduate assistance in fellows who would do far better to be included with the faculty in any bargaining. Many of the graduate fellows spend two years or less on campus. They are not even considered in most policy documents that exist in the university system. Two years is a short time for learning the intricacies of that system, for organizing effectively, and for developing leaders to organize effectively. These assistants would do far better under the direction of the faculty unit.

S.B. 453 spends many words outlining a bargaining process that might be quite useful to university faculties if it were directed toward binding arbitration but without binding arbitration the process is only more complicated and more expensive and no more effective than our present methods. Final decision still remains with the Board of Regents without binding arbitration. The faculty has mainly subjected to more complex arrangements to the same end. If the Regents say so we gain, if they say no we lose. Yet in the meantime traditional faculty leaders and many others are removed from ~~xhexf~~ effective participation.

There are other small problems. The time limit in Section 22 is much too short, especially since Regents customarily meet on Fridays and Saturdays, depriving faculty of two effective days of the five day limit. The requirement of a fiscal statement from the bargaining unit. The vagueness of the good cause in Section 24, for which an organization may be disqualified. Section 31D which removes from negotiations such bargain matters as staffing levels, student to faculty ratios, work assignments, and work performance standards.

Essentially the bill outlines a company union that offers no improvement over current modes of negotiation but which could involve more complicated procedures than exist right now. I feel that S.B. 499* is a better bill. I'm not entirely in favor of treating faculty like other state employees, but if that is the practice and it certainly has been in this state for a good many years, I feel that we should share the same rights as those covered in the Dodge Act.

The Chairman asked if there were any questions.

Senator Swobe ------ I did want to state that I've given everybody a copy of the petition which has been circulated on the Reno campus of which a majority of the professionals out there are opposed to 453 and are in favor of 499. I might state that this petition updated the petition that we had before and these were gathered in just a day and a half.

*S.B. 499

And there will be some more coming from the southern campus too.

Joe Crowley:

My name is Joe Crowley and I am the chairman of the faculty senate at the University of Nevada at Reno. I would like to emphasize that I do not speak for the faculty senate nor for the faculty of UNR in general. The senate has not had the opportunity to review the bills in question and so has taken no position with respect to that. I am here to speak as someone who has been and is now the chairman of the faculty senate and who can examine these bills from that perspective. I should add, as well, that my statement has the support of my opposite member at UNLV, Professor Paul Haasley, who is chairman of the university senate at the University of Nevada Las Vegas. I would like to say also that both Professor Haasley and I are members of the National Society of Professors. We favor S.B.499 although we have played no part in drafting it and we oppose S.B.453. The latter bill, S.B.453, from the faculty point of view I think is undesireable in a number of respects. You have already heard testimony about some of the provisions that faculty perceive in the bill as weaknesses. I would like to stress for just a few minutes those weaknesses that particularly are evident to someone who has served as senate chairman and is aware of how effective or ineffective the faculty senate has been in making its case to the administration, and as one who is aware of those issues where the faculty has not been notably successful in making its case.

I perceive S.B.453 as an administrator's bill. I do not see that it would substantially strengthen the current position of the faculty. There is some question in my mind as to whether it would strengthen the position of the faculty at all. There's much in the bill that seems uncertain and about which there may subsequently be an adverse interpretation. It is too restrictive I think in its definition of what is negotiable, it limits the negotiable items, essentially the salary and the fringe benefits. These are areas where currently the faculty senate bargains, in a manner of speaking, with the administration. I suspect that collective bargaining with respect to the questions would be an improvement but not as it is defined in S.B.453. I am fearful that if S.B.453 is passed the faculty would end up paying for rights and for perogatives that are presently available to us at no cost and with little or no promise of improved results. Certain matters that we would like to see submitted to the collective bargaining process are explicitly prohibited from that process by S.B.453. It is in such areas as these that I believe the faculty needs more effective input, where the faculty has been unable to make such input in the past, and are denied it in S.B.453.

Mr. Crowley, cont.....

And finally without any element of binding arbitration available and with administrators and the governing body at the university given authority to absolutely and unqualifiably reject any findings or recommendations of a fact finder without concern that the dispute will ultimately be resolved by an impartial body. S.B.453 potentially offers the faculty little hope that conditions which currently are of serious concern to the faculty can be alleviated.

Administrators I think see S.B.453 as a good bill and that's understandable. It's an administrators bill. This faculty senate chairman ~~x~~ joined by Professor Haasley, we definitely do not see the bill as a good bill. We, therefore, urge the committee to reject that bill and to support S.B.499 which is simpler and more straight-forward, more protective of faculty rights, less vague and offers more potential for the redress of genuine faculty greivances. That's my statement.

Chairman Gibson asked what Mr. Crowley saw as the difference between SB 499 and Sb 454*.

Mr. Crowley:

S.B.499 contains no statements as S.B.453 does under section 31D to determine appropriate staffing level, student faculty ratio, work assignments, and work requirements standards. That is explicitly prohibited under 453 and is not so prohibited under 499.

The chairman asked if there were any other questions.

Mr. Warren:

I'm Bob Warren with the Nevada Municipal Association and I would like to comment on Senate Bill 370. The cities support this legislation feeling that it tends to clarify the responsibilities that the cities have in administering personnel and also tends to clarify the authority that the cities have to direct and administer personnel. There are two areas that might bear some attention from this committee and some subsequent comment from the audience may clarify some of the questions.

On Page 3, Line 8, the bill would tend to make the final arbitrar, which is the Governor, a less than mandatory provision to hear the final complaints. Some of the cities, and since we have a diversity of the cities I can't speak for a unanimous voice but some feel that this would tend to complicate the procedure whereby the cities would go or the employees would go to the governor for attention. If there is a mandatory provision, they feel that in some instances that the negotiation would not be in good faith, that the negotiation would be set up so that they would appeal to the final decision and would not make a real effort during the terms of the earlier stages to negotiate. Line 8 on Page 3 says that the board shall hear and determinate. If it is made

*S.B. 453

Mr. Warren,,,cont.....

mandatory it may create the problem which I just addressed myself to.

On page 5, lines 1 and 2, the language reads that the government employee and the employee organizations are unable to agree on the details on a secret ballot election. The matter shall be referred to the labor commissioner for final resolution. There is some concern here that a better final arbiter again would be the employee management relations board, that this board has been set up for this purpose, it is composed of a cross section of both employment and management and would provide a more balanced evaluation of the final problem. That concludes my comments on this piece of legislation. I believe that the remaining comments will be supplied by other persons in the audience.

The chairman asked if there were any questions.

Mr. Warren:

As a general remark I could address myself to S.B.600 or rather A.B.600, which tends in the opinion of the cities to reverse the legislative procedures that have been approved for some number of years in directing employers to administer ~~ad~~ and direct the employee activities. It tends, although an arguement can be made that the language on Line 18 on Page 1, would tend to retain some of the perogatives never the less removing the language from Line 20 on through could weaken and reverse the perogatives of management and open the door to a lessened direction on behalf of management and lessened authority to follow through with that. Moreover the language on Page 2, Line 3 and 4, which would state that any action taken under the provisions of this subsection shall not be construed as a failure in negotiation of good faith. If that language is taken out, some of the cities are concerned that any action taken under the bill and under the first three, A, B, and C, would still be open to question as being interpreted by employee groups as failure to act in good faith. This could act on any kind of activity taken by an employer, any kind of suggestion he might suggest could then be challenged on the basis that he has failed to act in good faith. So, it is the concensus of the cities, and in this instance I can't meet with the concensus, that the lines on Page 1, Line 20 through 24 and the remainder of the legislation on Page 2 be stricken.

The chairman asked if there were any questions.

Chairman Dini asked if the scope of the bill was far reaching enough.

Mr. Warren:

Under 600, if it is not disturbed, it does give the cities adequate managerial perogative.

Mr. Craft:

I'm Gale Craft and I'm president of the Nevada State School Board Association and a member of the Mineral County School District Board of Trustees. I will speak today on S.B.370 and A.B.433 and A.B.600 to give you some idea of our opinion in the small counties.

First of all I would like to urge the passage of S.B.370 and what the broad liberal attitude of what is negotiable that has been given in the past, I feel that it won't be long till the elected official will have no say in the policy in the school system. If this trend continues with binding arbitration, I can foresee that before long the parents will have to be asked to pick up the cost of school books and supplies. I'm against binding arbitration, I feel that Nevada schools should be the reponsibility of Nevadans. In my experience I have found that arbitrators do not care what the financial burden of a school district is. I would like to quote the statement of an arbitrator in our district last year and this is on salaries which was considered binding by the governor. This is an excerpt from the fact finding report: "There's one income that the district has at the time of this award that is truly unknown. That is what is referred to on H74 funds. There are indications that H74 funds may be curtailed in the '72-'73 school year and the Congress has made no appropriation of these funds, at least to the knowledge of this arbitrator. However, the audit reports, exhibit A23, do show opposing balance for the ending June 30, 1971 of $152,220. This arbitrator is personally aware of the same condition existing at the 70-71 negotiation. The recommendation of the 71-72 fact finding proceedings have been carefully reviewed and it is noted that these recommendations that were not adopted by the board were for a $7,900 base together with increments. A review of exhibit A32 which is a comparison of the Nevada school district reflects the medium increments to be appropriated, approximately 4 per cent vertical increment and 4 per cent horizontal increment. The arbitrator is of the opinion after reviewing all of the exhibits, reading and re-reading the transcript relating to the wage and salary issue, that there is and will be sufficient funds available to meet the following award. To the best of his ability this arbitrator has followed the intent of the governor's letter and the requirement of subsection A in NRS 288.200. This is his award: $100 increase to the base of $7700 and this $100 increase to abide to all teacher personnel. Four per cent vertical increment for longevity, four per cent horizontal increment for advance training, both increments based on the $7800 base structure." This cost our school district $35,000 above and beyond

Mr. Craft, cont.....

what we had budgeted before in our salaries in our budget. This balance that he referred to here was before we had the type of bookkeeping that we have now and we had to carry enough over in our budget to pay the two months of salary for July and August of the following year. We have had up until this year and we don't have that kind of carry over any more. I would urge you to pass S.B.370, to take out that binding arbitration, and to make more clearly what is negotiable to the school district.

Also, on A.B.433 I think that this is a good bill, it does have the arbitration yet but it does at least clarify those items which are negotiable.

On A.B.600 I would be violently opposed to this. I can see no way that the school district could effectively administer its employees under the way this has cut out the ability of the administrators to administer their employees.

The chairman asked if there were any questions.

Assemblyman Getto asked if the decision of the Employee-Labor Relations Board should be final.

I'm against this in binding arbitration, that they don't take into consideration the financial ability of local districts when they make these binding arbitration decisions.

Unidentified voice from background: In essence you are saying that wages should not be negotiable, is that correct?

Mr. Craft:

No. I'm saying he didn't take into consideration our financial ability to meet his award and he so stated because he didn't know how much money we were going to have and either did we.

Assemblyman Ullom --- But you budgeted for $35,000 less.

Mr. Craft:

We had an idea yes, but we didn't know for sure what we were going to get out of H74 funds and neither did he. He said that he knew more about it than we did. That is basically what he said.

Unidentified voice from background: Do you agree with Mr. Adams?

(8)

Mr. Craft:

Yes, I would agree.

Mr. Cologne:

My name is Martin Cologne. I'm speaking as superintendant of Washoe County School District and as a designee of the Trustees Association to which each of the 17 counties in the state belong. I would like to speak briefly on S.B.370, Mr. Patroni is here to speak on that in more detail, to A.B.600 and the one you just listed which is A.B.632. Specifically on 370 as I mentioned Mr. Patroni will speak more to details but there are some points that I think we should amplify, we in Washoe County would like to amplify. In this particular bill, it strengthens the role and the position of the E.M.R.B. I don't know if many of you realize what a particularly important group that has become, and it does make provision for payment. There have been times when we have been unable to meet with them because these people could not meet in Reno, we had to fly in groups to Las Vegas in order to meet with that particular group because they did not have funds. I think this group is going to be put into the stronghold that they are that they should be strengthened and given more money, more provision to do their job. Also, this particular bill tends to remove any question of the one party or the other having any question of appointing that group. It tends to make it much more mutual in so far as that is concerned. The other thing that it does, and it does many of the things that 433 does, it defines the role of supervising. We are, at least in my case, we're not speaking for or against, including the public employees and the university, I'm talking specifically about school personnel because I don't know anything about the other areas. But I think the area of defining supervisors in the public schools we have to do that. We notice that there is a question of whether department heads should be included at the university level. At the high school level we do have department heads who do make recommendations as to the people who should be employed. But when the time comes to terminate employment, these people are not involved. I think it should be clearly stated that you are either management or labor, you're either in the association or you're part of the district. You cannot play this duel role. But I think that it defines that and it speaks to it very clearly.

But going now more quickly to A.B.433, I think there are some points in that which I would like to very lightly touch upon. One, it clearly defines what is and is not negotiable. Right now in Washoe County we have in court ten issues to determine whether or not they are negotiable. We also have an additional eight or ten issues, depending upon how you see them, in front of the E.M.R.B. to determine whether they are or are not negotiable. A great deal of controversy has erupted over the last two years as to the section which states conditions of employment, that by some has been interpreted to mean everything. The management

Mr. Cologne, cont.....

section, which is subsection 2 of that bill, has been by some completely ignored and said that conditions of employment in effect wipe out any of the management rights that are there. We are constantly told that we must operate the public schools more efficiently, more effectively, and how can you do that unless you have the right to direct your employees. More specifically, it says here in the management section that if you should have a large loss of employees or students in a district, that we would have the right then to cut down on the labor force, to cut down on the number of teachers. If, for instance, when Stead Air Force Base phased out we in Washoe County lost thousands of students. What would you do that particular year if you could not at that particular point terminate employees. We attempted to get through that year without terminating any employees and manage because we knew it would be a temporary thing. If it were a permanent thing, a school district could be in effect saddled with many dozens

END OF TAPE 1, SIDE 1

Mr. Cologne, cont.....

that we are soon going to be just largely lobbying shells of one another. We're not doing a bad job of that right now. It all comes down, at least in my judgement a great portion of it, to the fact of what is or is not negotiable. We feel that this bill is good because it clearly defines that.

Going then to 600, I think it would be redundent for me to speak in 433 as to why the management section should be there and then indicate anything except hearty opposition to 600 because, again, it takes out those management rights which enable a school district to remain effective and efficient.

Going now to 632, the bill that was added, this would in effect allow the governor who now makes the decision as to whether binding fact finding will be imposed. It enables him to wait until after the session is over, ten days after approximately, rather than being forced to make that judgement now. On the surface that would appear to be a very sensible sort of thing to do, but I think not for these reasons: Whether one dollar is to be distributed or one hundred dollars or a million dollars is really not the point. The point is in determining whether there should be binding fact finding, is there a climate or atmosphere again that is good enough so that you get a negotiated agreement. If the climate is so bad that you're not going to get it, then you bring in the binding fact finding. If you allow the governor to delay this, it states that money is all that is really important and not the climate, we state that you can determine the climate of negotiation now as well as later.

Mr. Cologne, cont.....

The other point I think is important to 632, is that if there is any question or doubt in the mind of the Governor at this point then that is good because binding fact finding is a very serious thing and not something that should be sort of the "due right" of an employee every year. Last year in the school framework five school districts asked for binding fact finding. This year all five asked for it again and are joined by another group. If this goes on repeatedly, why sit down in good faith and bargain, why not play games and wait for the binding fact finder to arrive. And that's what's going to happen unless some provision is made to show that keeping the pressure on the governor or whomever is to make this decision is a good thing. If there's any doubt in his mind, so much the better, because then he will be so much more apt to speak against binding fact finding and all of its dangers. The last point I would make on this particular point is this: consider the effect upon a school district and on the employees when a decision is delayed until ten days after the legislature adjourns which may be in May for instance; ten days after the adjournment of this could be late in April or May, we don't really know. But it could have the effect then of bringing in the binding fact finder who takes a week, two weeks, three weeks, all of the typing that is necessary. What happens during this interim is this; school districts hold on the ordering of any supplies, any equipment, getting ready the classrooms for that particular year, because you can't buy anything until you know how much you're going to pay your employees. So you hold on everything and that means you're ordering supplies in August and September when school is started. Then the public says why can't you clowns get your house in order and get on with the job, how can you possibly be so foolish. The reason is that the time limit is putting us into a squeeze. So give some thought, if you will, to the effect this has on us and on the employees who then are scattered to the winds and we have to get their contracts to them and get them back in ten days. That works a hardship on a lot of people. So our view is that the heat should be kept on and have binding decision made now because the real thing you are trying to determine is climate and not amount of money that has to be distributed. Thank you.

The chairman asked if there were any questions.

Bob Best:

Mr. Chairman and committee members, I'm Bob Best and I am executive secretary for the Nevada School Board Association. I'd like to first of all give you some indication as to the support of the school districts of the bill that Dr. McCall has spoken to, that Mr. Daff has spoken to. We have in this room school board representation from Clark and Washoe counties and from five other counties. These people are together in

Bob Best, cont.....

supporting the bills that have been presented to you; S.B.370, the elements of A.B. 433 that Dr.--------just referred to. They are together in their opposition A.B.600 for the reasons you have heard and in opposition to A.B.632 for the reasons you have heard.

You have another bill that I would like to mention just briefly that's on your list today, A.B.633, which enables certain employer organizations to sue and be sued. The school boards of this state oppose this bill. They feel that in suing you don't have equitable bankroll to sue against; the labor can sue against the school districts and they do have financial backing. There's no guarantee that the employee groups have the kind of financial backing that would justify suit. The Nevada School Boards Association would like to be heard also by legal counsel, Robert Patroni, and he is here and he can testify later. This concludes the testimony that I would like to give. Thank you.

Ms. Neff:

Mr. Chairman, members, I am Marjorie Neff the executive director of the Nevada Nurses Association, a professional organization for registered nurses.

I would like to speak in favor of S.B.499. If it indeed does mean on Page 1, Line 20 of S.B.499, any political subdivision might mean the division of health or any other subdivision within the state health department or any other division under the state. The Nevada Nurses Association would like to see nurses S.B.499 passed if it does mean that if nurses should choose the Nevada Nurses Association to act as their bargaining agent, the nurses association could represent nurses employed by the state of Nevada. This would include nurses employed by the Nevada Division of Health, the University of Nevada faculty or those employed by the student health service, and those employed by the Nevada Mental Health Institute, formerly the Nevada State Hospital.

In an Attorney General's opinion No. 640 dated January 19, 1970 which speaks about state employees and collective bargaining. The Attorney General's opinion reads as follows: The law raises the question of improper class legislation and discrimination which has doubt on the constitutional validity of the act. A state employee is a public employee and should be accorded the same privileges.

We feel that by not having the opportunity to bargain collectively for nurses employed by the state that this is a discrimination.

In regard to S.B.466 under the definition of what is negotiable, Page 5, Lines 44 and 45. A.B.548 Pages 5, Lines 46 and 47. In the interest of quality patient and health care nurses

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Ms. Neff, cont.....

have successfully negotiated contracts which contain provisions for professional standards committee. We believe as a profession we have a responsibility to provide improved patient care. The provisions cited above take this responsibili away from us.

I, too, would like to make reference to the term "supervisor" in A.B.433, Lines 5, 6, and 7. This definition of supervisor does not fit or apply to a registered nurse supervisor. In testimony presented by the American Nurses Association before the sub-committee on labor of the Committee on Labor and Public Welfare, U.S. Senate, on August 16, 1972, I would like to quote: The term as originally defined is intended for application to the business or industrial setting where a supervisor exercises a considerable amount of authority to control and direct the work of others. This is not true for the work of nurses or, for that matter, the work of all professional employees. Every nurse while practicing her profession exercises her own independent judgement. Legally every nurse is responsible for her own acts. Even a doctor's order cannot immunize the nurse from such responsibilities in a suit by an injured patient. The nurse supervisor may advise or assist other nurses in their practice, but she cannot direct their practice. In view of this peculiarity in the nursing profession, any mechanistic interpretation of the term supervisor as is normally relevant and valid in the business or industrial world, would result in the exclusion of a large number of practicing nurses.

Mr. Exley :

My name is Thomas Exley, director of personnel relations in the University of Nevada system. Mr. Chairman, members of the committee, I would like to speak briefly as to provisions of S.B.499 which are of concern to the University of Nevada administration and of concern to the board of regents.

Within S.B.499 which, in essence, is existing NRS288 with some changes in the wording with respect to local and with respect to the University of Nevada system. The E.M.R. board is empowered to issue fact finding procedures and advisory guidelines for use by employers in recognition of requests and determination of bargaining units. This latter point, determination bargaining units, is of specific concern to us because in keeping with relations with precedent one of the most useful items x used in defining an appropriate bargaining unit is community of interest. We do feel that it would be quite difficult to define the bargaining units by that criteria more specifically than has been done in our proposal in S.B.453. We would be quite concerned about placing this responsibility on the shoulders of the employee management relations board. Secondly, the E.M.R. board is empowered to run their interpretations of this chapter. Again we feel that it would be much more appropriate for

Mr. Exley, cont....

interpretation of this legislation to be available to the courts rather than to the employee management relations board.

Senator Swobe ----- Are you saying this is not available through the courts?

Ashley:

No sir. I'm saying that within S.B.499 and in 288*, a preliminar determination comes through the E.M.R. board and appeal of that determination is available through the courts.

Unidentified voice: You're saying that's the way it should be?

Exley :

No sir. I'm saying that we would prefer to have the determinati made directly through the courts without the intermediate step.

Also in 499, the definition of subjects for mandatory bargaining, wages, hours, and conditions of employment as quoted in Section 10 on Page 3 conditions of employment per se say is quite broad particularly when combined with the management rights section which is quite non-specific. You've heard quite a bit of testimony this afternoon already regarding the difficulties the various school districts in the state are having with this specific definition and we would very much regret having this same loose, broad definition applied to the University of Nevada system.

The requirements in 499 for a recognition petition do not include a stipulation that an indication of any type of employee interest is required, nor is there a description of the bargaining unit sought required, nor is there a requirement for a financial statement of any type from the union seeking to represent these people. These omissions coupled with the absence of a one year bar provision following a representation election whether or not it is a victory or a loss, makes it quite possible that recognition positions can be submitted without limitation and used as a device of harrassment rather than a valid expression of employee interests as frequently happens in the ------ section where a one year bar does not exist. I would point out that for every petition that comes to management, management must repond regardless of the merit of the petition or whether or not it is truly representative of employee interests.

The omission of a requirement for the union to file financial data permits the union to function at a significant advantage to that of the employer because as we all know the University of Nevada system has, as any government employer of this state, is required to make all financial data public. The absence of this requirement also permits the union to conceal this information or not reveal it from the members of the

Nevada Revised Statutes (NRS) Chapter 288

Mr. Exley, cont.....

union which again is not the desire of the teacher. Under National Labor Relations Board procedures, under executive order 11414 and under normal department labor procedures, all unions practicing in this country are required to file annual statements of their financial data. So those who speak against 453 and the requirment for this financial information due to invasion of privacy, I would like to point out that it is not considered such on the national scene.

Finally, the notification of the desire to negotiate regarding monetary units as stipulated in 499 is not required before December 1 and this is obviously insufficient time to conduct the necessary processes of negotiation for the university to prepare its budget and to submit it to the legislature in early January.

Those, I believe, are the major concerns the University of Nevada system has with respect to be included under NRS 288 as it is proposed in S.B.499. Thank you for the opportunity to speak to you.

Inaudible discussion in background.

Neil Humphrey:

My name is Neil Humphrey, I'm chancellor of the University of Nevada system. I would like to attempt to respond to some of the points that have been raised in opposition to S.B.453.

First of all, the problem of who is a supervisor or an administrator at the university. All of us with professional appointments consider ourselves as faculty. We have faculty appointments. The question then becomes when do we accept the reponsibility of being an administrator when so appointed. The university has been looking to department chairmen to do certain administrative tasks and consequently has proposed that they not be in the bargaining unit of the faculty for whom they are supposed to have administrative, supervisory responsibility. We learned from the union representatives and other faculty representatives that they do not consider chairmen as administrators but rather as representatives of the faculty subject to faculty structures. If this is the case, then surely department chairmen reponsibility and authority needs re-examination since the university now looks to them to make recommendations on hiring, promotion, tenure, salary increases, and dismissal. Their recommendations in these matters have been considered of utmost importance.

A second point is they wish to object to 453 based upon the fact that they wish graduate assistants in the same bargaining unit with the faculty. Graduate assistants, of course, are first of all students. They are graduate students who

Chancellor Humphrey, cont.....

are employed by the university for certain tasks, either assisting or teaching or in research. Whether these students wish to be collectively bargained or not remains to be seen. But their communitive interest is certainly different from faculty in many respects. We have, for example, graduate assistants who teach within two credits of the same load as full-time faculty. The salary for a graduate assistant is $2500 to $3200 per year plus their fees and tuition. The average salary for faculty in the instruction and departmental research area is $14,635 for ten months service. We have in the past found ourselves in the position where the administratic was ready to propose salary increases for graduate assistants but the faculty representatives opposed such increases since they believed it would hurt their own chances for salary increases.

I would also like to comment again on the problem of the financial statement. The question is why is this objected to. A public employee union is surely similar to private employee unions covered by N.L.R.V. or other private university unions covered by N.L.R.V. These require disclosure. The federal government executive orders require disclosure. Why should the University of Nevada faculty unions not file their financial statements.

A fourth item, that the union representatives wish binding arbitration. One of the few truly admitable truths, I think, as far as economics, is that there's no such thing as a free lunch. What the university agrees to is a bargaining table this legislature will be faced with financing. If the costs of the university do not increase by virtue of these agreements, it will be because one of two alternatives have been taken. Either we have lowered services to pay for increase cost or we have engaged successfully in productivity bargaining with the faculty representatives whereby the faculty works harder. If neither of these ocassions occur, then surely we will be back here asking for the additional money to meet the demands. If it is this legislature's judgement that collective bargaining should now be available to the faculty and graduate assistants at the university, then we respectfully request that you give us reasonable tools with which to work. We have studied this problem for several months and we believe that S.B.453 is the best legislation in the public interest. The bill is developed in conjunction with Governor O'Callaghan and his representatives and is parallel to S.B.466 and A.B.548 which provides collective bargaining for state classified employees. Thank you.

Senator Swobe asked if the Governor was endorsing this bill.

Humphrey:

I had every reason to assume so since it was developed in conjunction with him.

Senator Swobe: Has he stated that he supports this?

Humphrey: Yes he has.

Senator Dodge asked an inaudible question.

Humphrey: The other point concerned a petition of some kind that Senator Swobe is referring to. I wonder if we might see that.

Assemblyman Dini: Why should graduate students be in the act?

Humphrey: The reason we wrote them in is because in some other universities they have collectively bargained or attempted to. The only only one I'm aware of--successfully collective bargaining by graduate assistants is the University of Wisconsin. We assume that if you were extending this right in a broad manner, that you might as well get it in the same act. Three years would be the absolute maximum under normal circumstances, many of them are there for one year. I think Dr. Howard who is certainly an authority on graduate assistants would say typically two years. I wanted to comment on this from the standpoint of the wording. We were told, and this is being distributed on campus, that the way it was typically presented was that there is one bill for collective bargaining that is a faculty bill and there is another that is an administration bill. Which bill do you support? I will submit that at the University of Nevada system or any other university that 99 per cent of the faculty are going to say that they support the faculty proposal. The problem that this legislature faces obviously is not whether you adopt a bill that satisfies the faculty or the administration, but whether the bill is in the public interest and will result in collective bargaining in good faith.

Senator Swobe: Are you saying these people didn't know what they signed?

Humphrey: I think that obviously many of them did not have an opportunity to determine what they were signing.

Senator Foley: The question we keep hearing about of whether a department head at a university is management or employee, administrator or faculty. You define in 453 on Section 17, there seems to be a different definition of an administrative employee under the present act. It seems to me that administrative employee, which is 288025 in the present language would not include;-I'm not that familiar with the university or the faculty, but it seems to me that the department head is not the boss as we think of him in a normal sense. If there are administrative duties, it's probably routine type of administration.

Humphrey: The department chairman is many things. He is, as has been pointed out, a faculty member normally teaching but also with supervisor's responsibilities to the faculty

Humphrey, contt,,,,,,,

in his department. Among other things, the subject of appeal. He makes the decisions normally concerning who teaches what subject and when and how many credits

END OF TAPE 1, SIDE 2

It's not that dangerous if you've got a restrictive scope of bargaining because the scope of bargaining determines the jurisdiction; the scope of mandatory bargaining determines the jurisdiction of the fact finder or the arbitrator. If you've got a very broad scope of bargaining, then I think very clearly the whole concept of arbitration becomes very dangerous to the public sector and I say that substantially that all public employers with whom I'm acquainted would rather see a right to strike than to see binding arbitration in the bill. In 1969, I guess I could call it the original bill, there is a somewhat restrictive scope of bargaining under the bill. It's set forth in NRS 288150. In the four years since the passage of that bill it has been subject to many interpretations. I've heard many people say that if that language in subsection 2 was taken literally, it renders the statute a nullity. I've heard that arguement made, interestingly enough, only by employee organizations, and generally in the employee management relations board, in an effort to just discredit the basic thrust of subsection 2. I think there's a very interesting history of development here with regard to the scope of bargaining. First of all, it essentially picks up the provision in subsection 2 from executive order 10988 except that the Nevada Legislature did not see fit to take the introductory language in that executive order and they came up with their own language which says that the employer is entitled without negotiation or reference to any agreement resulting from negotiation. I, for one, in terms of trying to get some basic understanding of the act went to see Carl Dodge. I though if anybody would know he would and I sought Carl Dodge in 1969. He said it was very clear that those items included in subsection 2 were to be outside the scope of mandatory bargaining but at the same time subsection 2 should be reasonably construed. Approximately a year later the employee management relations board rendered a declaratory decision, this was under Mark Smith's board, that anything covered under subsection 2 was outside the scope of mandatory bargaining. And that is the way everyone proceeded, of course, pending on the interpretation of subsection 2. During this period of time there have been a great number of collective bargaining agreements negotiated in the public sector covering some 20 or 30 articles covering as many as 30 or 35 subject matters. I think in areas where both parties acknowledge the issues covered, the subject matter covered, are mandatory bargaining under the act. After this kind of a history, what happens is a newly constituted employee management relations board comes in and says we describe the subsection 2 as very broad interpretation not proposed by the employer but by the employee organization and, taking that interpretation, therefore render the statute a nullity. The statute can't be a nullity in terms of rules of statutory construction so they ignore subsection 2, to the point that they have rendered decisions in the Clark County school district and the Washoe County school district where they say even though this subject matter is expressly covered by subsection 2 of 288150. We say it is a mandatory subject of

bargaining, and I say that in direct contravention of the statute. That is the subject matter of the cases pending in the Clark County District Court and the Washoe County District Court. There is one issue at this time and there are many issues now currently submitted to the employee management relations board. They have made their position very clear that the mere fact that the subject matter is very expressly covered under subsection 2 does not render it not negotiable under the act which is number one in direct contravention to the original of the employee management relation board and I submit in direct contravention to the legislative history. Just one other point now, certain members of this committee remember in 1971 that A.B.178, if you recall the number--I'll never forget it, while pending in the Assembly there was a change in the context of 288150 to expand the scope of bargaining. There was no dispute among any of the people about what the employee organization were trying to do. They were trying to expand the scope beyond that originally intended. They not only didn't get it on so that the original language was retained but you had the Senator Drackulich amendment as you recall which said that no action taken under this subsection shall be construed as bargaining in bad faith. To reemphasize the basic intent of the legislature this has just been essentially totally ignored by the employee management relation board. I've got my own opinion about what the scope of bargaining should be in the public sector, but the one thing I say is define it, define it well so that hopefully whatever it is that comes out of the legislature, and it is the legislature that should legislate the scope of bargaining, let there be no misunderstanding about what you've legislated. Because of these recent decisions of the employee management relations board, I made the amendment in 288150 to say that the condition of employment under subsection 2 is not negotiable because that was the original intent of the bill, reaffirmed in 1971.

Unidentified voice: How did they issue this? Did the attorney general advise them?

They never asked.

Unidentified voice made an inaudible comment.

John, I don't know whether you share my opinion but the board originally passed this so that you had (Taylor: Wine on there. I dealt with Tailor Wine, I sat across the table from Taylor Wine. I found him to be a very honest man. He is a former judge. He's got good knowledge of statutory construction and there was a man who I thought was doing a good job. Taylor Wine was offered reappointment by Governor O'Callaghan and said very basically I can't afford it, I'm working in a law office and when I say I have to take off for three days with no pay they don't like that and I can't blame them. Then after serving for something like a year he fell off the board.

I propose that you pay them. I think it should be of interest to you that a commission appointed or designated by the California legislature, they just came up with a draft bill for public employees some of which I agree with and some of which I don't agree with, They provide that this board be paid $36,000 a year to the members of the board the same as judges on the superior court. Obviously that poses a problem here but I do think you've got to professionalize your board. I think you've got to take the board out of politics. Some employee organizations are, of course, very happy with the recent decisions of the board because they think going way out, very liberally construing or destroying the statute, whichever you prefer, in favor of the employee organizations. They're all designess or appointees of what I think we recognize as a relatively liberal Democratic governor. I understand this. But they'd better remember the problem they've got in California. In California they are appointed by the governor with the advice and the consent of the Senate and I said why did you put in that provision regarding the advice and consent of the Senate? This came from the employee organizations because they know Ronald Reagan is governor. That's their concern. What I'm saying is if you make it that political, the pendulum will swing and in that respect you're going to have the advantage today and the disadvantage tomorrow. I say that's not the way to try and objectively arrive at what is a fair and a good bill. I would indicate that I am somewhat favorably impressed with the concept in S.B.466 and A.B.548 which I believe came out of the state personnel department regarding scope of bargaining in terms of essentially trying to define conditions of employment, to guard subject of bargaining and somewhat trying to specifically exclude the kinds of conditions of employment that are outside the scope of bargaining. Again I remind you that to the extent that you expand the scope, if you're thinking of having a process of binding arbitration, you're taking that kind of power and authority away from the elected officials who are the ones designated by the taxpayers and the citizens to represent them and make these kinds of decisions. Let me talk about a couple of other problems in the scope of bargaining. We are currently running into a problem of employee groups sitting on items that the employer says are not negotiable. Not taking advantage of the acts they've got with the employee management relations board to get an initial determination on negotiability, holding proposals, waiting until they get into fact finding and then trying to put it before the fact finder and trying to make the fact finder usurp the jurisdiction of the employee management relations board. That happened to us with the Clark County school teachers. We got an interpretation from the employee management relations board that under the provisions of of 288140 that their rights to interpret the statutes is exclusive.. That didn't work too well. Now what they're doing, some of these groups, not all of them, is submitting items that for four years have been declared non-negotiable. They've never seen fit to get a determination from the employee management relations board. They're submitting them to

the governor for determination on binding fact finding and before he makes that determination, he has to make an initial determination as to whether this is subject matter for mandatory bargaining. I think it's got to be very clear that the employee management relations board authority is where you leave it. In terms of finally determining what the mandatory scope of bargaining should be described as exclusive, as I have done in 370, and specifically cite that the fact finder has no authority in this area and I submit you should also indicate that the governor has no authority to make a determination on any issue which either party argues is not negotiable until there is a final determination on negotiability persuant to the statute.

Unidentified voice: Did the governor order binding arbitration in any of these areas or have them sidetracked as far as the board was concerned?

It is my understanding and, by the way, I've been in and out of the hearing across the street today. Paul Bible is acting as his emissary in terms of taking evidence prior to a determination. He indicated today that in his position, his recommendation to the governor that he has no authority to render determination on anything, on any subject matter, on which he's a party. Challenges of negotiability until there is a final determination on negotiability. I hasten to add, however, I gave him the same advice last year and he followed it in all cases except for two so I guess there were at least two items where this arguement was based and he still made the determination. It would, of course, put the employer in a heck of a delemna as to whether to participate in the fact finding hearing on those issues unless he argueably waves his position on negotiability. What we did in the school district a couple of years ago is walk out of the hearing when that issue was heard and the reason being that the fact finder has no authority to hear the issue. Another major area which you must deliberate over is how to culminate the negotiation process. I'm sure you've heard people talk of giving the employee groups the right to strike. You've heard of non=binding fact finding, you've got proposals for non-binding fact finding such as it was under the first two years of the statute. You've got a proposal before you for making arbitration compulsory in any case where the employee association wanted to get it. I believe that's S.B.418.* You've got some who talk about retaining the current ad hoc kind of determination by some authority. What California is looking at is non-binding fact finding with the right to strike being extended to all public employees. With the right for any party during the five day period, nobody has the right to strike until five days after the fact finding recommendation. During that five day period any party has the right to file a petition with the district court of the state and ask that district court in light of the public health and safety consideration to order a cessation of the strike. He has no authority to do so unless he also renders the recommendations of the fact finder final and binding.

*A.B. 418

Arbitrators are going to compromise somewhat between the two final positions whereas, as Chancellor Humphrey said, then actually if we do not have a meet and confer legislation, it would be of the regents and of the university administration to allow strike. If there actually has to be some resolution one way or the other, now then lets everybody look at their own hold card. The faculty in negotiation has to determine if it worth going on, not settling at this point, because if a strike is declared the wages are lost, salaries are lost. We would further meet confer, but if there does have to be impass resolution the strike is preferable to binding arbitration. One of the elements mentioned by Dr. Crowley, one of the disadvantages he mentioned of 453, was that the negotiable items were too closely defined. Again, as superintendant Picola mentioned, this is the very thing that's gotten the present collective bargaining process of schools in difficulty and that is what is negotiable and what is not. So it is important to define it rather closely so that everyone knows what they are bargaining about. An addition has been made in 453 to seperate those things that pertain to a professor or a professional teacher that pertain to his duties as an employee, his wages, salary, and hours and that sort of thing, taking out those contributions that are made through the faculty senate, through policy making, through departmental channels and so forth, leaving those management perogatives, as they are being handled the same way they are now. I submit rather effectively and with a large percent of faculty input, with people sitting right with the board, with representatives from the senate there taking part in the debate on every issue, with generally any major thing run first through for faculty input as well as student input which, by the way, would not provide for strictly collective bargaining that determined it, would eliminate student input and would also eliminate one other thing and that is alumni and general public input. So we feel that it should be restricted as the act now does to those things that relate to the professional employees as employees. One last thing I would like to mention is the financial statement. This, as Tom Ashley has indicated, is a general requirement of the National Labor Relations Act. It seems eminently sound to have the labor union representative to update the financial affairs of that organization to public record so that the members can see how it's spent, so that it is public in the same way as the university's affairs are public.

Unidentified person: Have you researched the constitutional position? You made reference to it the other day.

I think there is a very severe constitutional question that would be presented in the event that the binding arbitration act were to be made to apply to the University of Nevada. Under the case of King vs. the Board of Regents which dealt with the constitutional provision relating to the duties and reponsibilities of the Board of Regents as established under the constitution, I imagine this would be a matter that would

be argued very heavily on both sides for the court. It would be my opinion that it would be unconstitutional for the reason that the ultimate decision on the control and running of the university, regardless of finances, would be taken from the board to put in the hands of the arbitrator who is not responsible to the public.

Unidentified person: A few years ago you had this matter researched at some length by Dean Newman and I was at the meeting where he made the report and I want to take about four minutes to explain, some of you may not be familiar with this. I think there may be a constitutional question here on binding arbitration. He said that as he saw it that the University of Nevada system was actually a fourth branch of the government which was answerable only to the people through the Board of Regents, an elected board, and that the only reliance they had at all on the legislature was for the appropriation of money and there in no way can the legislature dictate the use of those funds. I recall asking specifically this question. I said supposing that we were to line item the university's budget and let's say they had an item in there for some new program that they're about ready to undertake that the legislature didn't like and that the legislature deleted, by scratching out that line item--we'll say $250,000--I said can the legislature do that? He said no. He said that would be an unconstitutional invasion of the university's decision making authority and where they're going to spend the money. He said the only thing you can do is reduce the appropriation budget by $250,00 and they can still make the judgement of whether they want to give this a better priority than something else and spend it in that area. Now the only thing that occurs to me if that be true is that if we were to impose by legislative mandate on the university a binding arbitration provision which would in effect remove that authority into a delegated third party sort of thing.

I think that certainly is the basis for the fear that I have. That was a very exhaustive report, examining all of the constitutional debates and so forth. It was prepared by Dean Frank Newman, who was then dean of the school of law at the University of California and his area of law is administrative law so he did know what he was talking about.

Senator Foley: Do we have any power at all over the basis of employee management relations in the University of Nevada system? If we follow that to the logical conclusion, then all we can do is write a check to the Regents and that's it. I don't think that's the intention. I think that's a strain in the interpretation. I just think the legislature has more power than that.

I think he would draw a distinction there that the kind of thing he was pointing to whether there was a direction to do a particular thing or spend a particular fund or in this case

the arbitrator would be saying "do this". He spoke of it as being a balancing of requirements that the legislature has and also of the board. I emphasize that you've got to work together with the whole theme of this thing. I think there has been a case in Michigan interpreting this thing with a slightly different constitutional provision than ours. It is my understanding that the Michigan case would be that the act itself would be appropriate, as far as setting a framework within which to negotiate, which is the ultimate decision of what is given and what is not given to the employee depends upon the governing agency to whom the constitution has given this decision making power. Therefore, I think the act itself, following the Michigan case which makes some sense to me, would be constitutional. But the binding arbitration part of it, I would think would not.

Unidentified person: Could you supply me with a copy?

I sure could.

Henry S. Etchemendy City manager of Carson City:

I've been delegated to speak here today by the Board of Supervisors of Carson City. I'm only going to talk on one bill and that's going to be very briefly and that's A.B.600. It would be redundant to go back over everything other people have already spoken on opposition to this bill generally to tell you that we agree that this takes away completely the managerial responsibilities and perogatives of local government. For that reason we have to oppose it completely. I want to cite one brief reference to . . a situation that occured in Carson City that if it occurred again now or in the future if this bill were adopted would be completely against the best interests of the public. During the early 1960's Carson City and Ormsby County were developing population and improvements here and growing just about the same rate we are now. For this reason Carson City and Ormsby County had to build up some of their departments quite a bit percentage wise. One of the departments naturally had to be built up with the building department, the building inspector, and so forth. Some time in 1965 and 1966 everything just went bust. Building stopped, people moved out of town, I imagine they lost 2,000 or 2,500 people in population in about a years' time. What this resulted in was that building construction came almost to a standstill so we had too many people in that building department. In October of 1966 we laid off the building inspector and a secretarial position in the front office. That had to be done. There's no use to have people if you don't have any work for them to do. There was no place else to put them so they laid them off. I'm afraid that if this bill became law and we lost the right, as quoted in the existing law, to relieve any employee from duty because of lack of work and for some other reasons that we wouldn't be able to do it without going into negotiation. That's a

Carson City city manager, cont....

specific example that if it occurred again it would give us problems.

John Meers, Executive secretary to the Nevada Association of County Commissioners:

I would briefly like to comment on some of the pieces of legislation. First of all A.B.600, the association would strongly oppose this particular piece of legislation. I think it's been fairly well elaborated on the reasons why we feel that it could effect the ability of local governments to function and operate properly and could also effect the taxpayers and the tax rate. SEcondly we have a concern which was pointed out on A.B.633 which hasn't really been discussed too much today which is the ability for local employee organizations to sue and be sued. The definition of employee organizations according to Chapter 288 is possibly a little broad and should be tied down a little bit. It talks about associations and employee groups and the question that was brought up as to whether or not this could be an association of four or five employees who decided to sit down together and hire an attorney to sue the city. I think some means of tying this down to a formally organized group that has incorporated or some other means should be considered. The other two pieces of legislation which would be 370 and 433, the association as such has not taken any official positions on these primarily because other than our two metropolitan areas we, according to the last census, went from 15,000 on down and we just haven't had the problems that most of the counties have not really faced that negotiation and many of them, other than Clark And Washoe, don't even have an employees organization. In talking to the representatives from both Clark and Washoe, we do feel there are some problems with the definitions in those areas of negotiability and would certainly support the intent of these two pieces of legislation. Thank you.

Mr. Maxingo, chairman of biology department, UNR, past senate chairman of UNR, and president of the National Society of Professors, UNR chapter:

I had planned originally to make a short philosophical statement of my position and not be redundant. I think the major points in these two bills have been covered very adequately on both sides. I consider myself primarily a teacher. I've been teaching for some 24 years and I think of all the groups of professionals that I know of, doctors, lawyers, and engineers, teachers have less in the way of professional self-determination than any other group. I think that that basically is what we're talking about. The attempt on our part to get a greater degree of self-determination than we now have. I don't think of management rights, I'm sorry, and I don't think of teacher rights. I think of the rights of the system to produce the best possible education, and I think that participatory

I haven't really figured out if I like that or not. I really think that non-binding fact finding is not as bad as some people make it. I think it did its job, for example, at the Clark County school district where for two years under the original act, both sides fought the fact finders' recommendation. The one thing I like about non-binding fact finding is the fact that it forces the fact finder to struggle to find a middle ground,if there is one, acceptable to both parties. In the case of binding arbitration he doesn't have to worry about any middle ground and what concerns me is a well repected arbitrator in L.A. county confronted with a demand by the employees for 8 per cent and offered by the employer a 2 per cent, awarded a 15 per cent. I think that's highly irresponsible. The other concern I've got, in terms of catagory of fact finders and I think there are some good ones and some bad ones, was before we had the threshhold determination of 288200A and the point I made to the governor two years ago when we worked out the compromise in anti-arbitration and I might mention that ~~xxoxxxxxonxx~~ employee groupsbrought a professional arbitrator, Adolph Copin out of San Francisco along with them to testify with before the committee. We've just concluded the annual meeting of the National Academy of Arbitrators. A very well known west coast arbitrator, Howard Black, who has been involved in many of the disputes here in Nevada delivered a paper to the National Academy of Arbitrators, the theory of this paper was that the prime criteria in a public employee interest dispute should be ability to pay. And I tell you and I told the governor and Copin admitted to the governor that the majority of those distinguished arbitrators did not agree with that thesis and said we should not have to be concerned with ability to pay or not. As far as I'm concerned if we feel it should be 15 per cent, it will be 15 per cent and we'll leave the darned employer to find the money some how or another. The Governor's response was by that fiscal irresponsibility, and I say to you it's fiscal irresponsibility. The problem I've got is the way some of those kinds of arbitrators are going to play games in terms of their interpretation under 288200, section 8A, in terms of the thresh-hold issue. It is for that reason I tried to expand, if you will, in S.B.370 in terms of his responsibility in reaching his determination on ability to pay. You'll note in S.B.370 I have deleted the provisions of 288207 which gives the Governor the right to make the ad hoc determination of binding arbitration. I should mention that I am not unauthorably opposed to that procedure as a possibility if it is taken out of the realm of politics. I specifically deleted that provision because, you'll note I include state employees in my amendment to S.B.370 and the Governor as an employer thereby has a conflict so I submit he can't be making that determination under that bill that applies equally to state employees and political subdivisions. If the concept of ad hoc arbitration is one possibility.

Inaudible question from background.

I sure could. My next hearing is with Bible at 9:30 in the morning. I'm willing to do that. I do have more I would like to address on these bills. I could do it tomorrow or if it's more convenient for you I'll stay over on Wednesday.

Inaudible discussion in background.

The problem I've got Carl is that at 1:00 we go into our hearing before Mr. Bible with the Clark County classroom teachers and we both anticipate that things going to run into many hours.

Inaudible discussion in background.

END OF TAPE 2, SIDE 1

Mazingo, cont...

management is the only way in which we can reasonably solve the demands made upon this system to do the best that they can with the money that they have. I feel, however, that I must speak to several points that have been raised and first of all with regard of the fiscal statement. We certainly do not object to making a fiscal statement to E.M.R.B., M.L.R.B., or any other government agency. We do not intend to keep our finances a secret. We consider ourselves primarily responsible to our membership and they, of course, will get an annual statement and there will be an audit. What we object to is the implicit psychology of placing us in a subservient position which is what the statement of this law ammounts to, a subservient position to the administration. The second point I would like to speak to is the department chairman position. I've been told on a number of occasions by deans and other assorted administrators that I am primarily a teacher and now I hear that I am essentially an administrator. It's true, I do make recommendations. I might also submit that I set up committees, about a dozen of them in the department to make recommendations to me. Are those committee chairmen then to be considered supervisors? Perhaps by one kind of logic they might be. It would be very difficult to draw the line if you pursue that kind of logic. It would exclude very many of our faculty. Most of us would wind up being supervisors, at least at one time or another. I would submit that there is a basic fundamental difference however between the kind of administration we're talking about, at the level of dean and higher, and the kind of administrator that I am. First of all, I'm accountable to my faculty. I can be subject to a recall vote at any time. I'm annually evaluated by my faculty. I serve a three year term. If, in their opinion, I have not served well in that three year period, then they vote me out of office and it takes, I might add, in my case a three-quarter vote for me to remain in that office. If more than 25 per cent vote against me, then I can no longer serve as department chairman. Every department chairman in arts and sciences must be similarly evaluated every year and we can all be voted out of office. It seems to me that that's the fundamental difference. How do we place our administrators? How do they get into office, and what happens to them after they get into office? How accountable are they to the faculty and students? I think that all too often, in my experience, administration tends to divorce itself from the basic process of education. We've heard statements here that tend to imply that we're very underpaid and over-loaded and very much concerned about primarily the economic situation of individual teachers. I don't think that's the case. I think we're concerned about the education process and the policies we see sometimes put into effect by administrators who are so far removed from the classroom that they've forgotten what goes on. I think that's the kind of thing that we're primarily concerned about. With regard to management perogatives, and I don't think there are management perogatives, I don't think there are teacher

Mazingo, cont.....

perogatives. I think it's a distorted kind of logic to compare us with a factory in which management has certain perogatives which they have, of course, in order to produce certain profits. I like to think of education as money lost in a good cause. I think if you take that kind of perspective, that you've got to have a basically different kind of orientation than you do in industry. The fourth point has to do with constitutional question. I'm no lawyer, and I wouldn't presume to judge what is legal and not legal. I know that recently there was a law enacted upon request of the Board of Regents that increases the amount of time that can be spent by out-of-state students in Nevada. I would submit that maybe that has some kind of ----? but I'm really not astute enough in that area to make a more specific comment.

James Richardson:

I was here the other day and I will not reiterate all of the statements I made but since there has been some at least some reiteration on the part of the administration and some other points raised, let me take this few minutes to comment. I must say first off that I do resent the implications that were raised about the petitions. There was a very thorough story in the Sagebrush about the bills, and to say that professional people would sign such a petition without knowing what they were signing I think is a bit much. I want to move from that very quickly to some more issues. We're asking for more equitable treatment, that's the gist of our request in reference to 499. Public employees in this state, school teachers and others, have rights of negotiation and binding arbitration and we think that equitable treatment is deserved of us. As I said before, I do not feel that faculty, at least at UNR, desires the right to strike. We desire the right to have a workable situation whereby impasse items can be taken care of. We do not feel that it is necessary to shut down the university and literally stop higher educatior in this state in order to resolve issues. We think that there are people available that can resolve issues and our preference would very strongly be for some type of binding arbitration. That, of course, raises the constitutional issue that has been spoken to today at length by several people. I would suggest that from my point of view that this is not an issue. Apparently the constitutional issue arises at times when the Board of Regents does not get its desires with preference to certain matters. Senator Foley raised a very telling question; why are we even talking about a negotiations bill at all if the legislature has no right to tell the Board of Regents what it can do in certain areas. There are all kinds of bills that come through this legislature,that by direction and by implication tell the Board of Regents what to do and some of them are at their request and now all of a sudden we see the issue of constitutionality raised. It may be a serious issue. It may be one that

Richardson, cont..

cannot be resolved. I, personally, do not like the way it has been used against our S.B.499 in these hearings because apparently it's alright to have 453 but not 499. With reference to arbitration procedures, there are all kinds of arbitration procedures that we have found in legislation across the country. We have laws from 8 different states with us which we would be happy to turn over to the committtee that outline arbitration procedures that seem to function in cases where constitutionality would be a question. It depends on your definition of "binding" as to whether or not these actually are binding arbitration procedures, but in some states of the Union we certainly do see provisions that satisfy the definition we're applying to "binding arbitration; public disclosure, independent third parties involved in helping resolve impasse issues, and other such things. I would suggest from our point of view the constitutional issue is something that is not helping clear the air. It's clouding the air. We'd be happy to share these examples of legislation with you if you would care to look at them. Thank you.

Mr. Ashleman, joint legislative committee of police and fire fighters:

I wish to emphasize at the outset of my remarks that I am speaking only to the issues as I think they concern us and not from any other viewpoint. A discussion has been somewhat neglected during the course of the hearings I've been to is Chapter 288 itself. I'd like to address myself to the Dodge act as it now exists and what's happened with the Dodge act and what's happened to the legislative process. I would point out to this committee, as I'm sure they're aware, that in two sessions of the legislature a great deal of time and effort has been put into drawing that act up as it exists, and in the last session a joint committee went out and worked on a great many amendments dealing with matters that people now seek to amend again. The efforts of this committee, as I understood them when they drew the Dodge Act originally were: No.1, prevent strikes, unrest, picketing, and employee problems of that kind to continue efficient government operation. No.2, it provided refinement in which employee management relationships were good and were reciprocal. No.3, to avoid by any means severely financially straining any public entity. I point out to this group that, in my judgement, the Dodge Act as presently constituted has achieved those objectives. We've had far less labor strife than the atmosphere we had two years ago and four years ago. We certainly haven't had any public entities who went bankrupt by any means. Some of them, as they say, may have problems in future years because of awards and designs. I don't know. Some of them may have economic problems but by and large certainly that wouldn't be the case in the budgets that I have examined. There isn't any question that this has improved the atmosphere for the employees. It is a far more satisfactory thing, I think,

Ashleman, cont.....

when the employee knows that the Governor has examined his requests and justification for them or that an arbitrator has and he's been told "no", which is exactly what's happened in a great many of these awards. Being given a rather minimum award is far more acceptable than just to go to a commission meeting and have them say we made some decisions and here they are. Having spoken about the parts of the process that seem to me quite successful, after all we've taken up these issues of how do you say unit, what is a supervisor, what are bargaining items, before. The bill that we now have is a result of compromise thrashed out in the back room and thrashed out again in front of this committee on those issues. We have all sorts of E.M.R.B. appeals going now. We have all sorts of court decisions going now. We have a number of persons who are expert in this field writing analyses of this act and what they think it means and what it has done. It seems to me that we're in the position of saying let's get those decisions, and let's try a relatively successful act out for two more years before we begin making wholesale changes in it. I'm not saying that a certain type of housekeeping bill should not have some attention. There may well be justification for changing time limits on, perhaps, the part of teachers or others. That does not go with the fundamental thrust of the bill. Nor am I suggesting that the bill that my group has brought for your consideration No. 599* should be ignored. No. 599* basically says to you that police officers, like everybody else, should be entitled to have counsel of their choice when they make their presentation before the various groups that they do. I think that's an important right. I think we realize these are complicated matters and a group that wishes should have an attorney to represent them. That's all that bill says. I will take up S.B.370 and go through that and try to hit some of the high points because I think it touches upon most of the kinds of changes that I would like to testify on today. My first comment comes on Page 2, Section 7, Line 13 through 18 proporting to amend 288.075. That talks about a supervisory employee and adding to that the words; "any individual having the authority effectively to recommend such action." Let me point out to you that in the public sector, particularly the police and fire departments, we're not dealing with very large entities. In dividing them too far you end any hope they have of being economically viable or politically viable or viable in the negotiating process. When you talk about an individual that can effectively assign, effectively discipline, effectively transfer, and so on you're talking about an individual in the case of those two public services very very far down the line at engineers in the fire service, the sergeant in the sheriff's office, may from time to time possess that authority because they simply don't have that many supervisors. They're not that thick. I don't really know what transfer assign means in this context, in the ordinary context it means

END OF TAPE 3, SIDE 1

*A.B. 599

Ashleman, cont.....

The next one which is Part 2 of Section 8 suggests that the Senate Standing Committee or its successor committee shall appoint the members of the board. I have some objections to this. No.1, I think it blurs the division of authority between the legislative and executive fringe. No.2, it has the appointments made by individuals who do not run statewide, who may be representative of their separate areas and who may have statewide concern but the public would never get to express its feelings about these appointees. Finally I would say that the E.M.R.B. board has been very active under the present appointment system and I can say that I believe that the real act would apply because I've never won a case in front of them. But I think they gave real consideratio to the matters presented to them and the number of appeals from their decisions have been quite small.

Senator Hecht: Are you opposed to keeping the Governor in there?

Ashleman:

I favor keeping the Governor in there. He's the chief executive, he appoints most of our committees, and he's elected statewide. I would favor keeping him there. We come down to 288100 suggesting that the members of the board shall be compensated. I don't have any opposition to that. I don't know that it is necessary. I don't know if that's the proper way; you fellows are in a much better position than I to judge what the rate for state appointments generally is. I don't think there's a court in the State of Nevada that would begin to imagine that the E.M.R.B. board had the right to pass rules in conflict with the statutory act. Lines 8 through 17, I find this to be very unfair to whichever side which files a request for a hearing. The board doesn't have any investigators. The board doesn't really have any way to make a fair preliminary investigation. It seems to me that the whole scheme is designed so that you have a hearing and a decision is made. The whole scheme is designed so that as much as possible we avoid burdening the courts. I'm not saying that no one could live with this but it seems to me that that's a very unfair process, to take a board that doesn't have an investigative arm and then suggest to that board that without a hearing by the fellow that files the complaint it dismisses the petition. You might as well say that the preliminary investigation finds the complaint to be true and so grant the petition. Both are equally unfair and a hearing would be appropriate. I find the board does have a way of telling you if it thinks your position is absolutely without merit. In lines 18 through 23 , I don't know that there's a difference between appropriately relieved and a prohibitory or mandatory injunction. I'm not very concerned about that. I think it ends up being the same in both cases. At the bottom of the page 288150

Ashleman, cont.....

41 through 50, the suggestion is that if wages, hours, or conditions of employment in any way effect the rights reserved the government employer, there could be no negotiation. Such an interpretation would effectively, if one streched the employer's rights to the ultimate meaning of their words, end all meaningful negotiation. We've reached accomodation on what negotiable items are by going to the E.M.R.B. board, by going to the courts. That was the mechanism designed for it. It seems to me that at a minimum we should have those rulings back. We should have those court decisions back before we panic over whether anybody's been hurt or not by interpretations under this. The old act very carefully balanced the issues.

Senator ? asked inaudible question.

Ashleman:

Senator, to the best of my knowledge there are some in the district courts in Washoe and Clark.

Senator ?: There are no cases pending in the Supreme Court (no)
Inaudible question in background.

Ashleman:

The remarks on page 4, line 21 through 28: my remarks on that are the same as the remarks I just made. This would end any meaningful negotiation whatsoever. On the election, I'm not really opposed to having an election each and every time the employer wants to have one because quite frankly I think my client's could win it without very much difficulty in each of those cases. I do think that since the E.M.R.B. board can, in any case it thinks is necessary, call an election now, that's sufficient safeguard. It seems to me that when you take a police or fire union in that 99 per cent of the employees belong to, there really isn't very much dou' It also seems that there's a real evil in saying that a majority must show up and vote for the union because that makes it possible for the employer to pass the word that those that are against the union should stay away from the election and that attacks the viability of the secret ballot concept and I see that to be an evil in a Democratic election procedure. On page 5, lines 23 through 27 it says the government employer may take all necessary measures to determine the existence or non-existence of whether a majority still support the union. This certainly opens the door to great harassment If the employer has a good faith he should file a petition with the E.M.R.B. board. On page 7 you have a direct attack upon the provision that the Governor has the right to submit matters to fact finders. That's the essential feature of the bill; if one doesn't have some way

Ashleman, cont.....

however difficult it is, to get the binding arbitration one does not often have real meaningful bargaining because the public employer knows that he can stand pat and nothing will happen. Binding arbitration is the only way to try to get the parties to negotiate. There is some suggestion that the parties are going to hold their ammunition until the arbitration. I think that's most unlikely. No.1, the Governor is no fool. The Governor's representative has carefully asked in every hearing I've been in, what have you guys done to settle this, what about this issue, what about that. An investigation is made. No.2, arbitrators do the very same thing. The arbitrators ask the parties what have you done, has this been a series of stand patism or has there been negotiation. The arbitrators further must look into whether or not the threshold issue is met as the Governor's people do. There has to be enough negotiation take place so each party can meet its duties when it gets to those two points and defend itself. I don't know what the fears of the public employer are. No.1, I don't think the award has been injurious to them. No.2, the employee group must win in front of the Governor, it must win in front of an arbitrator, and it must do so in such a way that it is free from attack from the District Court under some very stringent financial criteria. The same thing on the money issue goes on the issue of what is within the proper scope of bargaining. To win a scope of bargaining issue you've got to convince the Governor or his representative who make that binding or you haven't got very much. Then, whether it's binding or not binding, you've got to convince an arbitrator that it's within the scope of bargaining. Then you must, if there's an appeal either before or after it goes there, convince the E.M.R.B. board and then you must be prepared to defend your position in court. It seems to me that those are practically all of the safeguards the human mind can devise in one of these situations short of the one proposed in this bill which is that we make it absolutely certain that the government employer can hide behind the language of the bill on any issue. Finally they say that budget expenditures established by the government employer may not be disturbed by the fact finder as long as they are reasonably essential to its operation or reasonably estimated or are recommended by another agency having the authority to do so. What this is all about is that one's the criteria that the money is available and No. 2 that the statutory function of guaranteeing health, welfare, and safety is met that there be some review of priority, If there's no review of priority, then there's no point in the process. The way the bill is written and the way the bill has been ruled upon, quite clearly a great deal of favoritism is given to the initial decision of the employer. I think this is proper but there must be some thought that it would be possible to look at it differently or there's really no point in having people review it. At the bottom of Page 7 there is a suggestion that they shall credit to the government employer in all respects any monetary

Ashleman, cont.....

increases including longevity or merit increases. In the interest of time I will lump that with the discussion that I intended to have on the idea of having a local arbitrator versus one brought in from out of town. I don't think any of us are so naive to think that the public employers who hire counsel, who hire spokesmen, who prepare for these hearings, let me tell you very expensively indeed, are going to be so stupid that they're not going to tell the man that comes in from out of town: Gee, we have varying economic conditions here, gee Sparks has closed down, gee we're in a recession or anything else that might happen. They're going to tell that man that and they have a right of getting district court review of the things the man ignored what they told him. Their argument really says, we're not going to be good advocates and that I assure you is not true. They're very able advocates. I know; I've faced them. You've heard them here and I don't think any of you think they're poor advocates in listening to their testimony. The reason for having arbitrators that may indeed come from out of state is that this is a specialized area. It has legal and economic knowledge and the approaches that need to be known. We don't have very many such people in the state of Nevada. We're a small state. As time goes on with this act I'm sure we'll develop more of them but these arbitrators by and large make their living from arbitration. They are the last people who want criticism echoing from this state and from its people. After all, we go to our own Bar Associations and Trade Associations and we talk with people who work in this line of work. They don't want to hear one of us say we think they're irresponsible or they're crazy because that's going to be the end of their living. Such a result might not happen with the local citizen which is drafted in off the street. It seems to me that the professional arbitrators got at least as much to fear from a bad award as a local citizen does, and in many ways he might be much less suseceptible to buddyship, friendship, kinship, and political pressure. So I don't know that that system is all bad in bringing in people from out of state. In any event, the final review, besides it having to go through a Nevada Governor who will surely be a resident, is that it goes through Nevada judges for review and I think that's a way of correcting any excesses that might take place.

Senator Dodge: Are you saying that a Los Angeles arbitrator makes the award, gets on the plane, goes back to disappear in the Los Angeles smog never to be seen again is not in any respect accountable for his decision?

Ashleman: No, I'm not concerned about that Senator Dodge. Let me tell you why. On the West Coast, and the triple A does require an effort to give you people in your general geographic area, there are only a few hundred of these fellows and probably 50 or 60 of them get the lion's share of the work because of their reputation. Those are well paid jobs,

Ashleman, cont.....

they're very status jobs among lawyers and economists and professors. It seems to me that they're not going to take very much of a chance. I know of instances where there have been bad awards come down and the criticism has been greatly damaging to that arbitrator in his ability to work again and all of them know of those instances too. Finally, on Page 10 they wish to make a presumption of guilt that if you're absent from work on a pretext or excuse, you're on a strike or you're interfering with operations. It seems to me that this certainly interfers with our general presumption that you're innocent until proven guilty and it's particularly inappropriate under these circumstances. Are there any questions?

Inaudible question from background (female)

Ashleman:

I think the fact that the labor commissioner has the offices, and the staff and the personnel under permanent basis and has some expertise in the field might lend some credence. I'm not particularly for or against that feature in the bill but I can see some advantages. I'm not opposed to it.

Kevin Efromyson.

I'm a Nevada lawyer. I've represented the Clark County school district in its collective bargaining negotiations with the Clark County Classroom Teachers Association. I've represented the city of Las Vegas in its negotiations with police and fire and I'm presently negotiating Clark County with respect to negotiations with its employees. I've been in the business for about 15 years and am the general council for Reynold's Electric and handle all labor relations for the Nevada Test Site. Before I get into any of the specific bills, I thought it was very important and I must say preliminaril that I'm not familiar with all of the testimony that has preceeded me. I think the basic thrust of what you're here to decide has to be put into context. What I mean by this is that the legislature must first decide whether there should be a distinction between collective bargaining in the public sector and collective bargaining in the private sector. If you decide there should be no distinctions, you've got a law the private sector, namely, the labor management relations act which has been in existence since 1934. It is my opinion, and I submit the opinion of most people, that there are major distinctions between the public sector and the private sector which prompt distinctions or warrant-- differences in terms of collective bargaining bills for employees in those respective sectors. I would emphasize first that in our public sector our system of government in the Democratic society is government by the people and for the people through elected officials representing the people who were selected by those people through the elective process.

Efromyson, cont.....

That might sound like flag waving to some of you but the basic thrust is that to the extent that you establish collective bargaining in the public sector and to the extent that you determine a scope of bargaining in the public sector and to the extent that you culminate the bargaining process with binding arbitration that you have the potential, for under the provisions of the current law, you are taking away that element of responsibility and authority from the officials who are elected to represent the people in that community. To the extent that it's a derogation of that sovereignity of those elected officials it should be given serious consideration before you act. The responsibility and authority of the elected official must be equal. You cannot asign two elected officials responsibilities without the authority to implement that responsibility. The whole concept of our government in a Democratic society is that if the people are not satisfied with the performance of that elected official in that public sector, you throw him out of office the next time he's up for election. To the extent that you take away authority and responsibility, you afford that elected official No.1, a cop-out, No.2, I say that you take away from him or anybody subject to the elected Democratic process, responsibility to the taxpayers who pay the tab for all the results of how employees are compensated in terms of the full scope of wages, hours, and terms of conditions of employment. I would also point out that unlike the private sector, an employee in the public sector can influence and even determine the choice as to the identity of his employer. If public employees get politically active and go out and elect a city commission, a county commission, a school board, a governor, they are in the process of determining who's going to be their employer. You can't do that in the private sector. In the private sector you've got the company with the officials determined by the company and these are the people that the unions in the private sector must deal with. Unlike the private sector, an employee in the public sector has a continuing right at any time to appear before the public body who is his public employer and address that body on any subject he wishes to regardless of what the scope of bargaining is in a collective bargaining bill. If something is outside the scope of mandatory bargaining in the law, he still has the right or that association has the right to go to a county commission meeting, to go to a school board meeting, just like any other meeting and say "This is the way we feel on that issue." Again, no employee organization has that option in the private sector. Unlike the private sector, representatives in the public sector, as you well know, have the authority to appear before any representative of the legislature, any committee in the legislature, any body in the legislature, for the purpose of trying to get the legislature to legislate certain terms and conditions of employment. At the present time you've got provisions

Efromyson, cont....

regarding sick leave, you've got provisions regarding pension plans, you've got provisions regarding other kinds of leave--bereavement leave, you've got protection against unilateral discharge for certain employees, all spelled out in laws legislated by the Nevada Legislature. I submit to you that in this regard employees in the public sector have been given by the legislature of this state fringe benefits or terms of conditions of employment that some employee organizations in the private sector still don't have after 20 years of bargaining. All of this points up to a basic distinction between employees in the public sector and employees in the private sector. If the public employer and the legislature are not responsive to the request or demands of the public employee, I submit the remedy is the election process not the collective bargaining process. The net results of these differences have been recognized in substantially all states, all cities,and all counties. In many, many states, many counties, many cities you currently have no collective bargaining law for public employees because of this basic distinction. I point out again that there's been a federal law in the private sector since 1934, so there's been plenty of time if the various states and cities and counties felt that collective bargaining was warranted for public employees, it felt that it should be patterned after the private sector. They've had over 40 years to pattern it that way and they haven't done so. I don't think the legislature in this state was [illegible] then lying in terms of the basic thrust of the bill passed in 1969. That the legislature in any of these other states are out of line in terms of making significant differences in the collective bargaining bill for public employees as opposed to that of the private employee. In most states you find a very restrictive scope of bargaining for public employees as distinct from that spelled out in the labor management relations act governing the private sector. I think this is dictated in great measure by the differences between the two. I think as you look at a collective bargaining bill there are certain major areas of concern for the legislation. The first one relates to the recognition of an employee organization as the exclusive bargaining representative for the employees in an appropriate bargaining unit. The question is, how best to do this. I'm sure a number of you know that S.B.370 contains my proposed amendments of the current provisions of NRS 288. There is one point that I think is a definite problem with the current law and that is unlike the private sector, and I say here we can learn from the private sector. In the private sector the first thing you do is when an employee organization wants to represent a group of employees, it files a petition with the National Labor Relations Board. The first thing that the determination is made as to what is the appropriate bargaining unit and only after that determination is made do you go on to your other procedures regarding a determination of who the majority representative is. At the present time

Abramson, cont....

No. 1 without an elective in the current law and NO.2 with the determination of appropriate bargaining unit made after the fact, what happens is you can get three conflicting organizations come all asking for the same group or parts of the same groups of employees that they fulfill the current statutory requirement giving you their constitution by-laws, their list of officers, the pledge not to strike, and a list of their membership and you have to recognize them all although it's very clear that all can't represent the same employees. Then what happens is that in your after the fact determination of appropriate bargaining unit you end up disenfranchising one or two of those organizations you've already recognized and I say thats a backward way of accomplishing that kind of result. What I do provide for in the amendments to 370 is that initially you make a determination of the appropriate bargaining unit. I also provide for an election and in this regard I think there's a distinction between kinds of employee organizations in the public sector as distinct from the private sector. First of all, for years in the private sector No.1) labor unions have had authorization cards which were signed by employees which expressly state: I hereby select this organization as my exclusive collective bargaining representative, and ~~that is generally the card~~ that is generally the card that is presented to the employer. In the public sector you've got many associations that have existed in the public sector, such as your teacher organizations, which has been educational organizations for a number of years during which time the majority of teachers join that ~~exempt~~ organization because of the educational benefits or because of some of the fringe benefits who at no time signed an authorization card for that teacher's association to be their exclusive bargaining representative. Who I say merely by the virtue of the fact that they belong to that organization are not doing so. I'm sure some of you have heard of the dispute that we've had that's been in effect in the last couple of years between the Clark County Classroom Teachers Association and the American Federation of Teachers in the Clark County school district. In that case the central labor counsel of southern Nevada representing some 50,000 members has proposed and, as I understand it, they were going to testify, if they haven't already, that there be an election procedure in terms of any challenge from majority representation of any appropriate bargaining unit. You've got the election procedure in the private sector. I see no reason why any employee organization would have any fear of any election unless they felt they didn't represent a majority of the employees. I've heard some crititcism about the fact that as distinct from the private sector.

Inaudible question from background.

Efromyson;

There is another problem in the private sector of labor unions signing up a large majority of employees--70 or 80 per cent--

Efromyson:

and then lost the election. Which indicates that at the time they signed the card they might not have known what they were signing or that they had only heard one side of the arguement or clearly changed their mind by the time the vote was held. The other point is that in every case where there has been some question why the employee organization has not wanted to submit its membership list and this is happening in the city of Las Vegas with respect to the non-uniformed people where an election was held and in the County Hospital where the service employees union out of Los Angeles came in and had approximately 70 per cent of the employees signed up and

END OF TAPE 3, SIDE 2