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Chair

Mr. Dean Allison

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● (1030)

[*English*]

The Chair (Mr. Dean Allison (Niagara West—Glanbrook, CPC)): Pursuant to the order of reference adopted by the House on October 25 and to the motion adopted by this committee on November 23, the committee will now resume its study on Bill C-257.

The meeting will go for a maximum of 75 minutes. The witnesses will have seven minutes to make their presentation. There will be two tours of questioning, one of seven minutes and a second round of five minutes.

I will once again try to keep a close eye on the clock. It's such a tight timeline. We are already 15 minutes behind, which just means that some of the members will be eating their lunch on their lap probably sometime a little bit later on.

I do want to remind everyone, though, that the questions should come to the chair. I'm going to start with Mr. Brazier, for seven minutes, and then we'll move all the way around the table.

Mr. Brazier.

Mr. Don Brazier (Executive Director, Federally Regulated Employers - Transportation and Communication (FETCO)): Thank you very much, Mr. Chair.

I've been asked to pass along the regrets of George Smith, who is the chair of FETCO and who would normally be attending a hearing dealing with a bill of this magnitude. Unfortunately, as you know, we were all faced with very short notice with respect to appearing. He unfortunately is tied up in Montreal.

I didn't have a chance to speak to Ms. Lafrance before the session, but I hope you got the copies of the brief, which I sent on Sunday. They're bilingual.

First of all, I'll take two seconds out to give you a little bit of a biographical sketch. In a previous existence I worked for the CPR for 30 years. I was in labour relations. On three occasions when I worked for the CPR—and maybe some of the members, those who were around in 1995, were involved in this—railway employees had to be sent back to work as a result of a strike that was causing a significant amount of harm to the Canadian economy. So I know something about essential services.

For the last 25 years, I have been involved in public policy discussions with respect to amending labour law and regulations. I have been involved in the development of amendments to part II of the code, part III of the code, part I of the code, and a number of other regulations and legislation, so I have quite an experience in terms of legislative development.

I'll start off by pointing out that early in our history labour relations came under federal jurisdiction. It wasn't until a court decision in 1926—actually, the Judicial Committee of the British Privy Council—that it was determined that labour unions are not agents of interprovincial trade and commerce, but in fact civil rights organizations, and therefore were more properly regulated by the provinces, except, of course, for those industries designated for the benefit and the good of Canada as a whole, and those are the industries that are listed in part I or the start of the Canada Labour Code. They are under federal jurisdiction because they are of a nature essential to Canada.

As Ms. Lavallée pointed out in response or in a question to the minister, you are right; federal jurisdiction industries and provincial jurisdiction industries are not the same.

I'm not going to go through a list of the reasons they are essential. We know the post office, communications, and transportation provide essential services, so I don't have to go through the list.

If somebody would like to see a good synopsis or a snapshot of the federal sector, I would suggest they go to the introductory chapter of the Harry Arthurs report on part III of the Canada Labour Code, which was recently presented to the minister, probably a few weeks ago, because it kind of encapsulates the sector.

One thing that is not unique, of course, to the federal sector is that a very high proportion of the employees in the federal sector are employees of large companies. You can think of the banking industry, which is an oligopoly. There are five or six huge banks, and I know there are a lot more other banks as well. They're large companies that employ a large number of people. It's the same with radio and television, communications, transportation, and railways, for example: large organizations, a mature bargaining relationship, very heavily regulated, which often becomes a factor in collective bargaining, technologically advanced, in a constant state of reorganization, and often multiple unions, which is another characteristic of the federal sector. Of course there are multiple union situations in the provincial jurisdiction, but not to the same extent as you have federally—and believe me, having worked with an organization such as the CPR, which had 14 unions when I started, the labour relations problems multiply.

You add all this, the regulatory change, the technological change, the interplay between unions, and you can understand the kinds of labour relations tensions that build up.

● (1035)

Now, I don't want in any way to demean the provincial sector. There are some very, very important industries that come under provincial jurisdiction. I'll just mention three: the automobile industry, forest products, and oil extraction and processing. But they don't have the same impact. Sure, a strike of the automobile industry if the entire industry were struck in southern Ontario—

The Chair: You have two minutes.

Mr. Don Brazier: I only have two minutes left? Gee, I've hardly started. Well, if I only have two minutes left, I'm just going to go through a couple of other points.

This would be the most draconian legislation we have federally. I listened this morning to everybody talking about the essential services provision. That would be the equivalent of section 111.17 in Quebec, and section 72 in B.C. There's nothing in here. There's nothing. There's not a thing in here. Everybody can talk about it. Of course you can have an essential services provision, but where is it? There is no essential services provision. This is more draconian than B.C. Even Blouin—and you quoted it—would have allowed contracting out of work that is prohibited by Bill C-257.

By the way, I'm not going to talk about the numbers. I think there has been too much discussion about numbers. This bill isn't going to be determined or judged on different numbers. But Blouin himself, on page 174 of his report, indicated that the data are inconclusive as to the impact of replacement worker legislation. That's right in his report, on page 174.

The only other thing, if I'm running out of time, is that I would certainly never suggest that this is the proper way to amend the Canada Labour Code. But if one were actually to even consider this, there's a whole pile of other areas you would have to take into consideration. The workload on the CIRB will increase considerably as a result of this. There will be multiple requests under section 87.4 of the Canada Labour Code.

One very significant and controversial amendment to the code, in 1999, was the 60-day conciliation procedure. Nobody believed it worked. It was really controversial. As a matter of fact, we were really pushing the envelope by putting that kind of provision in, because it was felt that this would increase strikes. I would suggest that you have to give serious consideration as to whether that is an appropriate provision when you have a ban on replacement workers. You'd have to look at the rules dealing with strikes and lockouts, and of course the one I mentioned, and that is the fact that there's no essential services provision.

As I indicated before, if passed, this would make this the most draconian piece of labour legislation in the country.

Thank you.

● (1040)

The Chair: Thank you, Mr. Brazier.

I believe we have Mr. Côté, and is it Alborino as well?

Who's going to be speaking on your behalf?

Mr. Santo Alborino (Executive Counsellor, Human Resources, National Bank of Canada, Canadian Bankers Association): I will be speaking.

The Chair: Thank you, sir. Seven minutes, please.

Mr. Santo Alborino: Thank you.

Thank you for inviting the Canadian Bankers Association to participate in this public hearing on Bill C-257, which is about replacement workers.

Just a couple of statistics. We represent 54 chartered banks, which employ over 249,000 Canadians, 218,000 of whom fall under federal jurisdiction. In addition to our employees, we also represent the interests of literally millions of customers across the country. These are Canadians who depend on the banking system 24 hours a day, seven days a week.

The CBA is strongly opposed to this bill. We believe it is seriously flawed and should not be passed. I would like to highlight just four items that are of concern to us.

First of all, financial services in the 21st century are very much reliant on the telecommunications industry for the delivery of banking services and operate on the interbank payments system. The clearing and settlement system is largely managed by the Canadian Payments Association, and the ability to enable payment exchange is the core of the payments system.

The banning of replacement workers by Bill C-257 poses a high degree of operational risk in financial services in the event of a strike in the telecommunications industry, if telecommunications companies are not able to make use of replacement workers. In such situations, where telephone or data transmission lines are not maintained and become disabled, there could potentially be severe repercussions on consumers and business customers. We are really talking about the everyday Canadian here. We're not talking about the banking industry as such. It touches every one of you.

Banking services have been revolutionized by advances in telecommunications technology over the past several decades, so the geographic barriers that existed have been dismantled and the network of electronics has made banking possible to almost every Canadian, regardless of the vastness of our country. It really has been a benefit. Canadians have embraced this and have made this choice out of convenience and have opted to use these banking services through the Internet and through all kinds of electronic means. We strongly believe technology will continue to grow and become widely used by Canadians through Internet access.

Electronic financial services delivery is provided through various networks. Our written submission will provide you with a partial list of those systems, but let me just mention a few.

The Canadian Payments Association manages four major networks provided by major communications carriers. One of these networks supports electronic fund transfers—mainly business to business—company payrolls, pre-authorized debits, and bill payments. Again, it impacts every one of us. Literally millions of messages are exchanged on this system on a daily basis. A strike by carriers that provides these lines, regardless of how small or how remote they are, could have major consequences—and I say could—if the line was not maintained or was allowed to fail for some reason.

While there is a backup system, it is manual and does not function as effectively as the main system. Telephone dial-up lines, credit and debit point-of-sale terminals for the provision of goods and services to Canadians—we're talking about Canadians, not the banking industry. Canadians are the world's top debit card users. The Interac direct payment service allows customers to use their debit cards to pay for purchases at retail stores. Services provided through Interac's financial institution members offered by 391,000 retailers who use this system across Canada would be really affected.

Quick statistics when we talk about the impact on the economy: in 2005, over three billion direct payment transactions valued at more than $137 billion were processed through the IDP system.

● (1045)

Internet banking uses the services of large Internet service providers who in turn rely on the provision of telecommunications. A 2006 survey by the Canadian Bankers Association indicates that 27% of Canadians rely on this method to do their banking, and 45% of Canadians did at least some of their banking through the online system. As I mentioned before, we believe these figures will continue to increase as the wide spread of Internet and technology goes forward.

The issue is this. The Canadian Payments Association has indicated the possibility of telecommunications failure as a major operational risk for the Canadian payments system. Delays in the payment system, let alone failure, can be devastating for businesses and for customers. The ability to use replacement workers in a telecommunications strike, whether at a regional or national level, would be essential to maintain the integrity of the system.

The second major concern is that the bill does not recognize the unique, national role of the federally regulated industries. It ignores the fact that they constitute the infrastructure that provides stability and keeps the Canadian economy running. All of the federally regulated industries are essential to the business operations of the country through their sometimes complex, highly integrated networks of transportation, of telecommunications, and of financial services. A failure in any one part of these federally regulated industries, such as airlines, or—I think we mentioned it before—ports or financial services, may have business and/or consumer impacts of a national scope. The ability to maintain a minimum level of service is critical.

Statistics that have been put forward by supporters of this bill have been selective and do not reflect the true picture of labour unrest and strike experience in the provinces where there is currently a ban on replacement workers.

We have consulted statistics that are publicly available, by the way, on the website of Human Resources and Social Development Canada's Workplace Information Directorate. Our objective was to determine whether legislation limiting the use of replacement workers in Quebec and B.C. has produced more harmonious labour relationships in those provinces when compared with Ontario, which with the exception of a few years between 1992 and 1995 has not banned the use of replacement workers. We looked at 30 years of data, from 1976 to 2005, and avoided the simple year-to-year comparisons, which are potentially misleading, depending when the contracts came due or when they were negotiated.

You will find graphs demonstrating our findings in our written submission. The time is brief, so I will skip the statistics.

Over the 30-year period, workers in Quebec were two and a half times more likely to be on strike than workers in Ontario. The same goes for B.C. And over the same 30-year period, the duration of strikes in Quebec was 87% longer than the strikes in Ontario, while the duration of strikes in B.C. was twice as long.

There is one last statistic in respect to this. The number of strikes in Quebec per 1,000 workers was higher than in Ontario for every year, by about 90% on average, while in B.C. it was only 8%.

Fourth, and fundamentally—I am at the end of my presentation—the bill ignores the employer's right to maintain operations while in a strike or lockout position, to serve its customers, and thereby to maintain their loyalty and the business. There were two very important task forces 30 years apart, the Woods task force and the Sims task force, in 1996. Both came to the same conclusion: that replacement workers are necessary and should not be banned.

Why is it—and I ask you this question—that only one province other than Quebec, which is B.C., has seen fit to adopt this type of legislation in over 30 years?

● (1050)

In conclusion, the careful research balance and the code achieved in 1999 are not to be taken for granted and dismissed out of hand.

We urge members of this committee to reflect carefully and without haste on the potential ramifications of Bill C-257. The ban against replacement workers would destroy the current balance that is working in the interest of employers, unions, and the Canadian economy, most importantly. It will set back labour relations in this country significantly. Instead of looking to the future and building on the constructive relationships that there are, it looks to the past and the bitter disputes of former decades.

There is no need to alter what has worked well. I would urge you not to pass this bill.

Thank you.

The Chair: Thank you, Mr. Alborino. We appreciate that.

We're going to move on to Mr. Yussuff and Mr. Georgetti.

Mr. Ken Georgetti (President, Canadian Labour Congress): Thank you.

Sir, I'm the president of the Canadian Labour Congress. And with me is our secretary-treasurer, Hassan Yussuff. We are elected to represent 3.2 million Canadian workers, and we speak for them.

I want to start off by telling you that, for the record, 911 is a provincial jurisdiction, not a federal jurisdiction. For the record, there have been two disputes in British Columbia involving the dispatchers of that essential service, and not one essential service disruption happened in British Columbia under that legislation.

I might also point out that less than one-quarter of one percent of the banking industry is unionized in this country, and to think that a dispute in that industry would have any effect on any customers is a real stretch of the truth.

I also want to point out that the number one country in the world for doing business last year was Ireland. It has anti-scab legislation.

I was the president of the British Columbia Federation of Labour when the last anti-scab legislation was brought into place in 1993. Let me tell you, Chair, that all of these arguments that you've been hearing and all this hyperbole that you're hearing, I heard in British Columbia. None of it happened. I don't think you should compare statistics across jurisdictions. Look at the graphs in B.C. and Quebec. The number and frequency of disputes stayed the same before and after anti-scab legislation. That's not the issue.

I do agree with only one thing that we heard from the labour minister. The issue is balance. But they want you to presume that balance exists now. Balance doesn't exist right now.

Dealing with multinational transnational corporations at the federal level, single Canadian citizens who are employees of those corporations do not have a balanced relationship with those companies.

The things that changed in British Columbia, which we had to look at afterwards, were the changes in the tone and the tenor of the dispute, especially afterwards when everybody—both the employees and the employer—had to go back and work for a common cause to make that company successful.

Our staff representatives and our affiliates and management in those companies said that the tone and tenor of those disputes helped labour relations after the dispute happened because people's jobs weren't threatened.

I want to also point out, just for the sake of the members, that the vast majority of injuries and incidents on the picket line were by the picketers themselves, not the strikebreakers. Usually the strikers themselves are the ones injured, sometimes very seriously. The RCMP liaison officers who dealt with us in British Columbia told us very clearly that their jobs were made much easier and more effective after we put anti-scab legislation in and that almost never are the RCMP called to picket-line disputes in British Columbia any more.

Both provinces, Quebec and B.C., I might add, with changes of government, with different political slants, have chosen, rightly, not to ever change or alter that legislation.

So what it does is put into the hands of Canadian citizens some equal balance to deal with the same employer.

The only other point I want to make is that I hope some of the intervenors talk about lockouts and not just strikes, because lots of times we are locked out by those employers; we're not necessarily on strike. So this is to put an element of fairness and balance back into the system.

Don't base your deliberations on dire specious predictions, quite frankly. Look at the facts and the two jurisdictions that have them. Within that jurisdiction, think about it on a federal level. It is in our interests to maintain essential services. The union movement has never been reluctant to provide the essential services when the case can be made. We think there should be a third-party arbiter for disputes regarding essential services, as exists in B.C. right now, where it works extremely well.

● (1055)

Mr. Hassan Yussuff (Secretary-Treasurer, Canadian Labour Congress): Thank you for the opportunity to present before the committee.

The CLC brings together national and international unions, provincial and territorial federations of labour, 137 labour councils in every community. Our members, of course, work in virtually all sectors of the Canadian economy, in all occupations, in all parts of Canada. So it's quite an extensive membership when you think of the broadness of the CLC.

Bill C-257 addresses a critical subject in federal labour law, one that has yet to be resolved despite years of discussion, research, and bitter experience. The issue concerns replacement workers and whether federal sector employers can use them during strikes or lockouts. In our view, the evidence shows replacement workers are bad for working families, bad for business, and bad for Canada. Replacement workers undermine core labour rights, encourage a few destructive employers—and I say few—and damage the productivity of Canada's economy.

The CLC holds strongly to the view that strikes and lockouts that are accompanied by the employer's use of replacement workers give rise to several negative and unnecessary strains on the labour-management relationship.

The Chair: Mr. Yussuff, could you slow down a bit? The translators are having a hard time keeping up with you. I know we have to get a lot in within a short period of time, but perhaps you can have extra time.

Mr. Hassan Yussuff: These include prolonged and more bitter labour conflicts, more strikes and lockouts, increased picket-line confrontations and violence, less free and meaningful collective bargaining, problems that render resolution of the dispute more difficult.

The CLC and other trade unions have been working for years to bring balance and fairness into federal industrial relations by advocating a ban on replacement workers. We have, unfortunately, witnessed bitter disputes at Vidéotron in Quebec, Telus in B.C. and Alberta, Sécur in Quebec, Giant Mine up in the Northwest Territories, and of course, most recently, which my colleague Patty Ducharme will be speaking of, Ekati.

What is clear about all these disputes is that when workers are put in desperate situations by irresponsible employers, dangerous situations are almost assured. It is the role of government to avoid such scenarios by ensuring an even playing field between labour and management. This is a view most employers in the federal sector can also appreciate.

Ten years ago, a task force chaired by Andrew Sims, which has been referred to here this morning, published a report on reforming part one of the code. They heard from a range of witnesses and made a series of recommendations, but were divided on one major issue: the treatment of replacement workers under federal labour law.

It was also mentioned that Dr. Rodriguez Blouin offered a damning minority report of his own on the issue of replacement workers. Blouin's view on the issue was unmistakable. Here's a quote of what he said:

> The use of replacement workers undermines the structural elements that ensure the internal cohesion of the collective bargaining system, by introducing a foreign body into a dispute between two clearly identified parties. It upsets the economic balance of power, compromises the freedom of expression of workers engaging in a strike or lockout, shifts the original neutral ground of the dispute, and leads eventually to a perception of exploitation of the individual.

Experience bears out Dr. Blouin's worst fears. In cases where disputes have occurred, employers need only to give the appearance that they are bargaining in good faith. After they meet this criterion, they are free to use replacement workers. In the cases of Telus, Ekati Mines, Vidéotron, Sécur, and Giant Mine, this is precisely what happened. So when a few renegade employers think otherwise, it is critical that rules exist to protect working families, our economy, and Canada's commitment to labour rights. Rules on replacement workers speak loudly to the priorities held in the federal labour laws.

Ultimately, the debate on Bill C-257 raises a larger question and cuts to the heart of what any labour relations system should be about: balance and fairness for all parties in a workplace relationship.

As Canada gears up for the 21st century, we must use an economic model that fits our values—or will it choose an economic model that enhances business productivity by ignoring core labour rights? Or will we follow the lead of enlightened countries and choose a model that emphasizes dynamic research, cutting-edge skills, and sincere commitment to labour rights?

We urge the federal government and the human resources committee to choose the latter, and of course a better course. Canada's federal rules on replacement workers continue to draw controversy, and will do so until the legitimate concerns of working families are addressed. When Bill C-257passed second reading in the House of Commons, Canada moved one step closer to joining those enlightened nations that value labour rights. It was a remarkable moment when politicians dispensed with partisan differences and joined forces to do the right thing.

In the interest of true balance and fairness and the rights of working families, we urge you to continue this course by amending the federal labour code to reflect the values widely held by Canadians.

In our brief we made two key points that were raised before the committee earlier. During the discussion between the CLC and MPs, all political parties and many MPs asked, how will the use of Bill C-257 comply with essential services in the Canada Labour Code?

The code sets out a clear responsibility for unions and employers on essential services to be maintained during a strike or lockout. Section 87.4 specifically makes reference to that. The point we want to make here is that the CLC maintains very strongly to this committee that Bill C-257 complies with the provisions of the Canada Labour Code in ensuring that essential services are maintained in the face of a strike or lockout. Further, we also go on to talk about the powers of the minister to investigate, where there is a breach in the legislation, who's best to be doing that. We recommend that the Canada Labour Relations Board should be charged with the responsibility of dealing with any breach in regard to the amended legislation.

Thank you.

● (1100)

The Chair: Thank you, Mr. Yussuff, and thank you, Mr. Georgetti.

We're going to move to our last witness. Ms. Ducharme, you have seven minutes, please.

Ms. Patricia Ducharme (National Executive Vice-President, Public Service Alliance of Canada): Thank you.

Thank you for the opportunity to be here today. I'm Patty Ducharme. I'm the national executive vice-president of the Public Service Alliance of Canada, a union representing 163,000 workers from coast to coast to coast here in Canada. I, like the two previous speakers, was also elected to represent the members I work with.

The PSAC fully supports a comprehensive brief presented by the CLC, of which we are an affiliated union.

Let me say at the outset that no union wants a strike, and no union member wants a strike. That's the reality, a reality steeped in an understanding that a strike—any strike—affects personal health and relationships, reduces family income, and in Canada all too often results in picket-line incidents that leave working people injured and worse. It is a reality steeped in an understanding that strikes cost the Canadian economy, inconvenience the consuming public, and undermine our competitive position.

That's the reality, a reality that cries out for action from parliamentarians and legislatures at the federal, provincial, and territorial levels. You as parliamentarians can't stop the frustration, lack of respect, and economic injustice that give rise to strike action, but you can level the playing field and take away the incentive for employers to prolong strike action and the violence it sometimes engenders.

Of the 160,000 workers the PSAC represents, fewer than 10,000 are certified under the Canada Labour Code. These PSAC members work in a host of locations, from airports to Canada Post to NavCanada and others, including the Vieux-Port de Montréal and the Ekati Diamond Mine owned by BHP Billiton, to name a few. We have endured a number of strikes at many of these work locations; that's just a reality for a union, but it's also true that some of these strikes were far more bitter than they really needed to be.

I am going to skip up to Ekati.

I want to talk about the strike earlier this year that our members who work at the Ekati Diamond Mine lived through. This is a recent example of how the lack of anti-scab legislation resulted in a long and bitter strike that deeply divided workers, communities, and families, and that continues to do so today. It is also an example of how the lack of anti-scab legislation allows multinational corporations to do business in Canada without respect for Canadian workers and their families.

On April 7, 2006, 400 PSAC members at the Ekati Diamond Mine went on strike against their employer, BHP, in order to secure a first collective agreement. PSAC members work as truck drivers, welders, process plant workers, crane operators, electricians, and other occupations in the mine, which is located close to the Arctic Circle. Working in the mine can be dangerous, and its northern location subjects workers to extreme winter working conditions. It is accessible only by plane; workers are flown in to the mine site for two-week shifts.

Negotiations for the first collective agreement dragged on for 24 months, with BHP dragging its heels throughout the negotiations before the union finally, as a last resort, took strike action. BHP had an advantage should a contract not be negotiated, and they knew it. The main issues were wages, job security, and vacation leave.

The strike lasted almost 12 weeks. It resulted in picket-line injuries and deeply bitter divisions among the workers, their families, and the community. While the strike did not result in a great tragedy such as the Giant Mine disaster earlier referred to, to this day it continues to divide families and the community. The lack of anti-scab legislation prolonged the Ekati strike and entrenched in the workplace and in the community a deep sense of betrayal and animosity that will no doubt take years to heal.

Given the high levels of unemployment across the north, the opening of Ekati was a welcome opportunity. It attracted a workforce primarily from Edmonton, from Yellowknife, and from three smaller communities in the Northwest Territories: Fort Simpson, Hay River, and Rae-Edzo.

● (1105)

Aboriginal leaders and elders also welcomed the opening of Ekati, which was on land covered under Treaties 8 and 11. Impact benefit agreements, or IBAs, were signed with BHP; although confidential, IBAs essentially secure support for the mine operations by committing to employ aboriginal workers and by providing monetary benefits to the aboriginal communities.

BHP was recognized this year as a top 100 company in Canada. This Australian-based conglomerate is the largest mining company in the world. It saw profits of $7.5 billion last year. It's well known that BHP was instrumental in a successful effort to change Australian labour legislation, weakening collective labour rights.

Their approach to staffing when the mine first opened was to negotiate individual and arbitrary agreements with each worker without a standard classification or approach ensuring equitable compensation. We knew that negotiating a first collective agreement with a notoriously anti-union multinational corporation would prove challenging, but anti-scab legislation would have brought some balance to that situation.

As part of its public relations strategy, BHP publicly maintained that it would not use replacement workers. We know that not to be the case. During the strike BHP management phoned striking workers at home, asking them to cross the picket line and return to work. They also offered to pay any fines the union might impose on those union members who agreed to cross the picket line and work. Unfortunately, some of them did.

Contractors at the mine site also performed work of the bargaining unit during the strike. Clearly, BHP could easily afford to reach a fair first collective agreement with its workers, yet it was determined not to do so from the onset.

While Bill C-257 does not address all of our issues, all members of Parliament should understand that this strike could definitely have been shorter had there been proactive anti-scab legislation, legislation that would have helped this community see this situation resolved sooner and more quickly so that the divide that currently exists in that northern community would not be so deep.

Thank you again for allowing me to make this presentation.

The Chair: Thank you, Ms. Ducharme.

We're now going to start our first round of questioning with Mr. Coderre. Seven minutes, please.

[*Translation*]

Hon. Denis Coderre (Bourassa, Lib.): Thank you, Mr. Chairman.

I apologize for my tardiness. Since I knew what the minister was going to say, that he was going to give us the same old line and use the same old scare tactics, I thought I should prepare myself for the other witnesses.

Of course, I'm still happy to be here, but in the meantime, I had an opportunity to speak to members of the press about the proposed changes to the Canada Labour Code respecting workplace balance.

My first question is directed to Mr. Brazier, Mr. Côté and Mr. Alborino. As legislators, our role is to ensure that there is justice and an appearance of justice. When we conduct a study, we must explain why we are taking this initiative and identify our objectives.

Clearly, the objective in seeking to amend the Canada Labour Code is to achieve balance. No one benefits when the system is defrauded and money is lost. As consumers, we want services, but we also want assurances that workers are operating in a decent environment. You make a great deal of money, but that's largely because workers are part of your team. They represent a strength and value added and they are the reason why your businesses are doing well.

Can you explain to me why you feel it would be bad for your business not to have replacement workers outside Quebec?

Please do not resort to the same scare tactics the minister used earlier, namely the argument that everything would be paralyzed, that this would herald the end of the world, the apocalypse. What's wrong with wanting to negotiate in a healthy environment? As a consumer, I have no desire to be at the mercy of either unions or employers. Obviously, labour disputes may arise. That's a healthy thing. We are not communists. Market law and negotiations rule. It's normal to have labour conflicts.

Explain to me why replacement workers should be allowed? Lock-outs can also cause some damage. Employees can avail themselves of their right to strike, but you can lock out your employees. Explain to me the advantages of allowing replacement workers outside Quebec and British Columbia.

Don't answer me by quoting figures. Answer the question honestly.

● (1110)

Mr. Santo Alborino: I won't quote any figures. I'll give you some concrete examples involving real people. Let me relate to you an experience I had in my organization where people showed up for work every day. We had a branch in Fermont and employees were represented by an union with which we had been on good terms for many years. We'd never had any problems and relations were good. The branch was the only financial institution in the town of Fermont. It served mine workers, all business owners, employees and other clients.

You stated that an employer had the right to lock out workers. In this particular instance—and I'm not saying that this is always the case—the union decided to go on strike and notified us accordingly. To protect our business, since it was the town's only financial institution and several hundred of the mine's employees used our services, we decided to lock out our employees. However, we did so to protect our business.

You can't tell me that the business didn't suffer. Quite the contrary, in fact. You talk about replacement workers, but we don't mean that everyone should be replaced. We bring in workers to provide essential services such as payroll services for the mine's employees, to handle transactions for business owners...

Hon. Denis Coderre: If I could just interrupt you for a moment, Mr. Alborino, that is precisely why I maintain that this bill gives managers the power and ability to do the work, just like in Quebec. Instead of bringing in replacement workers, a manager takes over the duties. In the meantime, efforts are made to settle the strike or lock-out.

Where is the problem then?

Mr. Santo Alborino: I submit that it's impossible in all cases for managers to do the work. It's inconceivable to think that in certain circumstances, managers can replace workers with specialized skills.

● (1115)

Hon. Denis Coderre: Then why does it work in Quebec? Are we different because Quebec was declared a nation? Is that the problem?

British Columbia is poised to achieve nationhood as well.

Mr. Santo Alborino: Apparently it's working, but there is no proof. In our opinion, there is no tangible evidence that this bill will make a difference.

Besides, statistics—

Hon. Denis Coderre: I am not pro-union. In fact, FTQ members throw eggs at me during my election campaigns. I am not at the mercy of the unions. However, I am in favour of justice and fairness.

This law has been on the books in Quebec for 30 years. We're hearing that this law will make investment more difficult, that disaster will befall us. However, it's working very well in Quebec. Managers are doing the job very well.

However, when a strike drags on for 10 months in Fermont or at Vidéotron, families suffer. Managers must be able to ensure essential services. I'm speaking to you as a consumer. Let me tell you that this bill will ensure some balance in the quest for a resolution.

So then, what's the problem?

Mr. Santo Alborino: Basically, what you're saying is that this approach works in Quebec.

Hon. Denis Coderre: Precisely.

Do you not agree with me?

Mr. Santo Alborino: The statistics that we've presented to you would indicate that the opposite is true.

Hon. Denis Coderre: I have my own statistics.

Mr. Santo Alborino: Statistics can be used to make some plausible arguments for either approach.

[*English*]

The Chair: Thank you, Mr. Coderre.

That's all the time we have for this round. We're going to move to our next questioner.

[*Translation*]

You have seven minutes, Ms. Lavallée.

Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ): Indeed, it's really not enough time to cover such an important topic as this, but nevertheless, we can get into the specifics. Had you testified before the legislative committee on Bill C-2, you would have had only two minutes, not seven.

It's unfortunate that Mr. Coderre has left already. I wanted to tell him that he missed a good speech by the minister who rose in the House to solemnly proclaim that fewer investments are made in those provinces that have anti-replacement worker legislation in place.

He based his comments on studies that had been done, one by the Fraser Institute and another by the Institut économique de Montréal. In fact, the two studies are one and the same, authored by the same person. Ultimately, we demonstrated to him—even though he stood firmly by the findings—that the study made no sense because it was based on data collected between 1963 and 1995. Therefore, the data used was no longer relevant. Furthermore, the study was based on surveys of large companies, not SMEs which are the heart and soul of Quebec's economy. We managed to get him to change his opinion, because, rather suprisingly, he didn't bring the subject up again this morning.

For the past two or three days, he has been resorting to scare tactics and you're there right along with him, Mr. Alborino and Mr. Brazier. I'm surprised. You use expressions such as “total paralysis” and “everything is essential”. You're afraid components of the system will break down, including the 911 emergency service.

The minister spoke to us about the 911 service. I know that in Quebec, 911 service is under municipal control. In Longueuil where I reside, the municipal police are responsible for 911. This service does not come under federal jurisdiction. Mr. Georgetti has just advised us that in the other provinces, 911 service is a provincial responsibility. Therefore, this service will not be affected by this bill.

Moreover, Mr. Alborino, you state, and I quote, that “the ability to maintain at least a minimum level of service is critical to maintaining the integrity of Canada's national infrastructure”.

Excellent! In fact, you will find that Bill C-257 does provide the ability to maintain a minimum level of service, in that it allows managers to replace workers. This is stated in the proposed subclause (2.2)a), which I can read to you, if you like. Managers can in fact replace striking workers. This is an honest, balanced way of doing things.

We witnessed a situation like this two years when SAQ employees were on strike. Imagine that, SAQ workers on strike during the holiday season. Quebeckers managed to get by because management replaced striking workers. Everything went smoothly. The strike lasted three months. Any strike is always too long, but in the final analysis, we managed and the same is true of all sectors of society.

Moreover, essential government services legislation is on the books. Workplace balance has been achieved in Quebec for provincially regulated workers. That balance is achieved when during a labour dispute, employers see their productivity fall substantially, while employees are deprived of their income. That balance helps to bring both parties to the bargaining table in the hope of resolving the dispute quickly. If the business continues to offer a full range of services, what incentive is there for the employer to sit down with union officials and to negotiate? There is no incentive, because it's business as usual for the employer.

When management must fill in for unionized employees, they will put enough pressure on the employer to meet with the union and negotiate properly.

That said, I have a question for Mr. Georgetti. The minister stated — and he had said the same thing in previous testimony before the committee — that balance is achieved when the employer can continue to produce. Moreover, in his excellent analysis done in 1999, Mr. Rodrigue Blouin referred to replacement workers as intruders, as bulls in a china shop, so to speak.They become a third party in the negotiations which normally, should involve only two parties, namely management and the union.

I'd like to get the CLC's opinion on this matter. What do you consider to be a balanced approach to negotiating in this instance?

● (1120)

[*English*]

Mr. Ken Georgetti: The whole purpose of a strike and/or lockout is that it's an economic sanction to move the party to resolve a dispute. Our experience is that if employers or employees feel no economic pressure, then the dispute will linger and carry on. But the fact of the matter is that it would be like paying full wages to employees when they're on strike; it would be pretty hard to get them to settle the contract.

For the employer it's the same experience. As they continue to operate, the economic sanction does not work, and therefore the balance is unequal. As the legislation in B.C. was put in, our experience was that it made the parties more equal in terms of the bargaining table and in terms of the dispute itself.

I have to continue to emphasize this: our staff representatives who actually do the on-the-ground bargaining say that labour relations got better after that legislation, because when employees return to work, animosity doesn't exist. If a lockout is scabbed, the strikers feel as though their jobs are being stolen away from them by their employer. Sometimes the reaction is aggressive. People get hurt—that's one thing—and also the employer gets hurt at the end of the day because productivity lags afterwards. You want people to go back to work with a good feeling, that they were equal, that they got a fair settlement, so that productivity can increase and go forward.

Let's stress this again: 98% of all the collective bargaining we do in Canada resolves in a settlement. We are very productive in the industries we work in. The 3% that go to dispute need to be resolved quickly and efficiently. We think this restores a lot more balance to Canadian citizens, particularly when dealing with these huge multinational companies that have really no regard for Canadian rights or our citizenship rights: that's your job.

Canadian citizens are telling us, through our mechanisms, that where we have it, it works, and where we don't have it, they want it. These are Canadian citizens talking to you. That's why you get visited by your constituent. Your citizens want it.

Business might not like it, but my experience with them is that they adapt very well to the conditions that they have to work in. They do a good job in Iceland and in France, and in other jurisdictions in South Korea where they have it. They'll do a good job in Canada too when they have it.

The Chair: Madame Lavallée, you're over your seven minutes.

We're going to move to Ms. Davies for seven minutes, please.

Ms. Libby Davies (Vancouver East, NDP): Thank you very much.

Thank you to the witnesses for appearing today and for offering us your opinions.

I want to come back to this question of essential services. What mechanisms are in place, and what do we need to look at? The minister this morning left us with the impression that if we adopt this bill, somehow we're going to have economic chaos in this country; the bill will have caused that. I really don't think that's the reality. I think the labour representatives today have given us a very good sense of the reality of actually what takes place with this kind of legislation that actually improves the labour relations climate.

It seems to me that employers have two mechanisms they can use when there is a strike and if they aren't able to bring in replacement workers. One is the use of managers. There is that provision in this bill. The other is the question of essential services.

Mr. Georgetti, you flagged, and Mr. Yussuff, you flagged in your brief, that the current provision under the Canada Labour Code should be part of this bill, that in fact this bill should be compatible with that. I just wonder what experience you've had with your affiliates in using that section. Right now the employer or the union can use, I think, section 87.4. If they can't come to an agreement themselves, they can go to the board. The board can intervene and can bring about the designation of what essential services there are. So there is a third party that intervenes.

First of all, do you consider that an adequate process? I asked the minister if he thought that should be changed. He didn't give any response to that, so I can only assume that he believes it to be adequate. I'd like to know if you think it's adequate as it is.

Secondly, I just want to say that in terms of the Ekati labour dispute, I was up there, I visited the workers, and I can absolutely say that the fact that we didn't have this kind of legislation really added to the animosity and to the difficulty those workers faced there. I think the employer knew that; they knew how far they could go because there wasn't any restriction on them.

Again, perhaps you would like to give a response on whether you think the provisions in the existing code are adequate to deal with essential services.

● (1125)

Mr. Hassan Yussuff: In regard to the current Canada Labour Code, part I, currently section 87.4 deals with essential service provision. There are two important criteria in order to get a designation as an essential service. One, of course, is public health and safety. It's not an ambiguous definition; it's a very clear definition.

In the context of Bill C-257, we're making the argument that the bill should be compatible with essential service provision. It is there for a reason. It establishes the fact that you need to have it there, and we think they should be compatible.

We don't think there's a conflict, but again, the committee can get some legal interpretation if there's a conflict. We should err on the side of caution, of course, and ensure that section 87.4 is not compromised as a result of this bill.

In addition to that, Bill C-257 added a provision that is not currently in the Canada Labour Code, part I. It is that if there is a dispute, replacement workers would not be able to cross the picket line.

It also provides for management to continue to perform their responsibilities in the context of the workplace, and I think that's an added provision. We think it's critical that the bill comply with section 87.4.

In every instance in which our affiliates have had to go before the board to deal with the elements of essential services or, more importantly, when the employer has raised it as a concern, they have actually worked it out and reached an agreement that has satisfied both parties, and when they couldn't have done so, they've gone before the board. We've always seen the board jurisdiction in dealing with this as adequate and fair. It's their job to determine whether the parties making the representation that it should be declared an essential service actually have a legitimate argument as defined under the current law.

We have always felt the board is balanced and fair, so if the parties can't resolve it, I think legitimately it should be the board that makes that designation at the end of the day. We think it's an essential part of the changes that should be applied to Bill C-257.

Ms. Libby Davies: I have a brief follow-up to both of you. It seems to me that then speed would be of the essence. When a dispute has taken place and there's no agreement between the union and the employer, and therefore either party does go to the board, it would be really important to have a hearing that happens pretty quickly.

What is the current situation? Is it something we may need to address? I've heard there can be backlogs. Maybe Patty Ducharme would like to answer as well, because I'm sure you have experience with that.

Mr. Hassan Yussuff: Long before the parties get to giving notice of either a strike or a lockout, once you've given notice to bargain, you have to deal with the question of essential services. It is not at the last minute.

Long before the parties will get into the context of a dispute or a lockout, they have to establish the procedure. It's not a last-minute thing. It's determined long before that because of the way it's structured in the legislation. It would not be the parties giving notice to go on strike today and then lockouts and then they are going before the board. The board has the provision. If the Canadian Industrial Relations Board needs adequate resources to commit to its responsibility, then it's the role of Parliament to give it those necessary resources. It is like the police force; if you're not going to fund them, don't expect them to carry out the investigation in regard to their responsibilities.

I think it's critical that there be a recognition that the board has a responsibility. There has never been a case made that the board has not fulfilled its responsibility in regard to the essential service provision when it's been asked to do so.

● (1130)

Mr. Ken Georgetti: Here is a small point: in British Columbia, the federation there will not sanction a picket line unless essential-service designations are agreed to or sanctioned by the British Columbia Labour Relations Board.

Ms. Libby Davies: Okay. Can Ms. Ducharme—?

The Chair: You've got 15 seconds.

Ms. Patricia Ducharme: I was just going to say that it's our practice, regardless of the legislation and whether it's the code or the public sector, to negotiate our essential services agreements well in advance, but it is always helpful when there is a dispute.

Ms. Libby Davies: It's something known in advance, before your —

Ms. Patricia Ducharme: Yes, absolutely.

The Chair: Thank you. Thank you, Ms. Davies.

We are going to move now to the final questioner of this round, Mr. Brown.

Mr. Patrick Brown (Barrie, CPC): Thank you, Mr. Allison. If I have the time, I would like to share with Ms. Yelich too; I know she has some questions.

I have a few comments. I appreciate all the witnesses coming here today.

I heard mention of Ireland as being a model. I think Mr. Georgetti mentioned it. Their success, I would suggest, obviously has more to do with the lower corporate tax rate. I am sure Mr. Georgetti is a fan of that, and hopefully we'll hear that as a deposition before finance at some point.

Also, I heard reference to 911 as being provincial. I would add that telecommunications is federal, so it is important that we don't honestly forget to mention that.

I also note that I heard some concern over violence. Obviously, Canadians are very peaceful, so I think that argument can be misleading. If there were any very remote chance of violence in this atmosphere, I think there might be a greater likelihood of violence if people couldn't get their paycheques and couldn't pay their mortgages because of work stoppages in banks via telecommunications, if we inhibited the telecommunications and their ability to do their job; or if grain growers couldn't use the trains and couldn't get their product on the trains. The violence argument, I think, is not a great concern. I think it is more a bit of fearmongering than anything else.

My question would be for the CBA. Could the CBA could let me know if they have done any research on this issue? Also, could they give me some examples of the impact Bill C-257 would cause and why it is so important for the CBA to present their case for us today?

As an Ontario MP, I too am very concerned about this. I saw the devastation that similar legislation caused in Ontario between 1993 and 1995. Obviously it would be a big decision for Parliament to flip-flop on this after they said no a mere two years ago, with very well-researched members like Mr. Regan, who voted against, or the newly minted Liberal leader. I think it would be very important that if such a radical decision were taken, it would have to be for a very grave reason. Maybe the CBA can expound for us what their feelings are on this very important proposed legislation.

Mr. Normand Côté (Director General, Employee Relations, BMO Financial Group, Canadian Bankers Association): Thank you very much.

The issue here is all about the impact it would have on consumers through the banks. It is all about communication channels. That's the key here.

We are not directly impacted, from a replacement workers perspective, because as Mr. Georgetti pointed out, we only have less than one quarter of 1% of our workforce unionized.

However, if replacement workers are banned in telecommunication companies, that is where the impact would be. As you rightly pointed out, getting to your money is key. If we can't transfer money, or if we can't get to our money—Every single one of us is a customer somewhere. If it's not my bank, it's in Mr. Alborino's bank, or anywhere else for that matter. It's all about the possibility of not being able to transfer the money or get access to our money.

That's the key here. It's not the direct impact on the banks from the replacement workers point of view. It's the non-access to all the financial means and the financial investments that we all have in the banks or in the banking industry. It's for the consumers more than for the banks.

● (1135)

Mr. Patrick Brown: Here's a quick question for FETCO. I'm not sure whether you've looked at your Ontario or Quebec branches, but on the basis of the number of person-days lost per 1,000 employees in Ontario and Quebec for the last five years, there's been more labour peace in Ontario without this legislation than there is in Quebec with this legislation.

We are looking at a model that works. It appears to be working much for effectively in Ontario without it. I am wondering whether you could comment, with any suggestions or advice for us on why it's working so much better in a province without this legislation, in terms of creating labour peace.

Mr. Don Brazier: First of all, I don't believe the data show anything. I think this is a classic example of being able to use data to show whatever you want.

I started to look at the data published by the Quebec labour department—which does break down federal and provincial—and came to the conclusion that you couldn't come to any conclusion, which is the same conclusion Mr. Blouin came to. I don't think having replacement workers one way or another is relevant to the number of strikes, the frequency of strikes, or the man-days lost.

I think many other factors determine whether you're going to have a stable labour relations climate. It could be the issues the employer and the union have to deal with. It could be the number of unions in the bargaining place. It could be the relationship over the years. There are many factors that go into determining whether a labour relationship is going to be a stable or an unstable one. I'm not going to suggest out of hand that the existence or lack of existence of replacement workers is not a factor; it can be a factor, but it's certainly not the sole factor, and I doubt very much, based on the data, that it's an overriding factor.

When you look, the industries in Quebec are more comparable with the industries in Ontario and B.C. than they are with the federal jurisdiction, so that makes the more sensible comparison.

Also, I would say the data need a lot of interpretation. The raw data, in my opinion, can be a bit misleading. There were 163 strikes in Quebec last year; that sounds like Lord knows what the devil was going on in Quebec. Part of that is because HRSDC counted a whole pile of what I will call rotating or selective strikes in the public service as separate strikes. If you look at 163 strikes in Quebec and five strikes under federal jurisdiction—the comparable figure—you'd say, “My God, look at that. There's nobody working in Quebec.”

That's the problem with these data. They require some interpretation. As a matter of fact—

Mr. Patrick Brown: I'm running out of time. Could I get additional information from the CBA on this very same comment? I don't think it's just the data. For the last five years in a row, the data show the same trend: Ontario has relative labour peace compared to Quebec in terms of the number of days lost per 1,000 employees in the private sector.

Could the CBA comment to us on why there's been such a stark difference for the last five years consecutively in the province of Ontario without this legislation?

Mr. Normand Côté: That's why we looked at 30 years in the charts we tabled, and that we will table in our written submission. It was so we did not look at one single year, and even the last five years support what you just said. As Mr. Coderre said, it has been working in Quebec for 30 years, so are we stupid or what? That's not the point here.

The point is that it has been working in the federal legislation for 30 years, and probably even better. To say it's not working in Quebec—it may very well be working in Quebec, but statistics show it has been working for 30 years or more in the federal legislation, and even better. That's an argument we can't lose sight of.

The Chair: Thank you very much, Mr. Brown.

We're going to move on to our second round and Ms. Brown.

Ms. Bonnie Brown (Oakville, Lib.): Thank you, Mr. Chairman.

I think I agree with Mr. Brazier that we can get caught up with statistics, as opposed to looking at the broader picture, which is what we as legislators are expected to look at.

I understand from the bankers that because the unionized percentage of their workers is so small, their main concern with this bill has to do with the potential of strikes among telecommunications workers, which would slow down or stop certain banking and payment activities. I want to ask Mr. Georgetti about the unionization level among telecommunications workers and if he has any statistics on that for us—well, not statistics, but any facts about that.

Going back to the basic issue of fairness and balance, some people here have claimed there is balance based upon the current legislation; Mr. Georgetti said the most interesting thing this morning, when he said there is no balance.

I'd like to know if you know, or if you could find out for us, how the telecommunications workers so essential to the banking industry have done in their collective bargaining of late. In other words, do you have any comparative figures about the profits being made by telecommunications industries or corporations within that sector compared to the wage increases that have been won by the telecommunications workers? It seems to me that our essential question is that if the economy is booming and corporations are making ever-increasing profits, are those profits being shared fairly with the workers who do the work to create those profits?

I want to get back to that basic question between labour and management, because I think it will lead us to a conclusion about how much interference the current legislation needs. Does it need an amendment, or does it need a whole new bill like this one?

I'm going to invite Mr. Georgetti to speak to that.

● (1140)

Mr. Ken Georgetti: First of all, the best answer I can give you is that the unionization rate of the telecoms is fairly high. The Communications, Energy and Paperworkers Union is scheduled to testify, and they do have a very high density in that area, but don't make the mistake of associating wage settlements with strikes; most of the longest strikes are not about wages, interestingly enough. There's a whole other package.

I agree with Don's argument that if you start trying to analyze the numbers, it will take you to confusion, not conclusion. It's not the issue. The fact is that to the detriment of the banks' argument, there are lots of telecoms around; if one's on strike, use another one. It's pretty simple. There are all sorts of other options and contingencies you can put in place.

It's not as if the sky is going to fall. To this date we have had telecom disputes; some have been scabbed, some haven't, and the banking system has operated in Canada. This isn't the first time we've experienced telecommunications labour disruptions in Canada, and nothing's fallen apart. In terms of all these predictions, when they are overlaid with actual facts and reality, we've had disputes in every sector in the federal sector, we've had essential service designations, and the sky hasn't fallen. Lots of disputes have not been scabbed, and we continue to operate. The GDP in Quebec and B.C. continues to grow. Banks continue to open new branches in those jurisdictions.

The question I think you have to ask, with respect, is what the labour relations are like when they do scab and what they are like when they don't. You'll find out that when a dispute is not scabbed, labour relations are better afterwards than before, and on the other side they are not. That's the issue here.

If you get into a statistical morass of looking at days lost, some of them could be federal disputes, some could be—there are all sorts of factors in there. As for the motivation for the labour dispute, Ekati wasn't about wages; Ekati was about recognition of the union in the first collective agreement. Some of the key issues on these disputes are not wage-related; in my view, wage settlements wouldn't help or have any bearing on your deliberations.

Ms. Bonnie Brown: That was a specific thing. A mine was trying to get its workforce unionized and get that union recognized, etc., but let's take a federally regulated industry that had a strike, did have a union, and the union was recognized. You're saying it wasn't about money. It seems to me most things are about money in the end.

Mr. Ken Georgetti: The last telecom dispute involved Telus. It was over merging two bargaining units into one and the provisions of the new agreement. It had very little to do with remuneration and everything to do with how you could merge two collective agreements into one.

The Chair: Thank you, Ms. Brown. That's all the time we have.

We're going to move to Mr. Lessard for five minutes.

[*Translation*]

Mr. Yves Lessard (Chambly—Borduas, BQ): Thank you, Mr. Chairman.

My first two questions are for Mr. Alborino.

What percentage of banking sector employees are unionized?

● (1145)

Mr. Santo Alborino: Less than 1%, although I might add that some banks have been unionized for over 25 years.

Mr. Yves Lessard: How do you explain this low unionization rate?

Mr. Santo Alborino: There's a simple explanation for this. Banks are able to offer employees attractive working conditions and fringe benefits, as well as flexible programs to help workers balance work and family life. Therefore, employees choose not to be represented by a union. Some have joined a union for two, three, four or five years, and then opted out. The right to join a union is a fundamental right of every employee.

Mr. Yves Lessard: I realize that. You made the effort to testify before the committee because you felt this bill posed a threat to banks. Yet, only 1% of banking sector employees are unionized.

How does this bill pose a threat to them, given the low unionization rate in the banking sector? After all, only unionized employees go on strike. I'd appreciate a succinct, objective answer to my question.

You stated that this bill posed a threat to banks, but you also said that should a dispute arise, a minimum level of service needed to be maintained. Are you saying then that should a dispute arise, you don't expect, or don't necessarily want to have all of the workers on the job?

Mr. Santo Alborino: Yes.

Mr. Yves Lessard: What do you mean by “minimum level of service”?

Mr. Santo Alborino: Let me start by answering your first question.

I didn't say that this bill posed a threat to banks. I said that it posed a threat to banking services. That's very important, because this affects all Canadians.

Mr. Yves Lessard: Yes, I understood that. Can you answer my second question?

Mr. Santo Alborino: Regarding the level of service—

Mr. Yves Lessard: Yes, I want to know what you mean by minimum level of service.

Mr. Santo Alborino: I'd like to go back to what Mr. Georgetti said about communications in response to a question fromMs. Brown. Ms. Brown had asked Mr. Georgetti how communications could be assured between the telecommunications and banking sectors. His response to her was that there were no problems at the present time in the telecommunications sector and that everything was going well.

Mr. Yves Lessard: What do you consider to be a minimum level of service? You understood Mr. Georgetti's message, but you said that banks should have the ability to maintain a minimal level of service in the event of a labour dispute.

The committee will be making recommendations to the House of Commons. We need to know that we've understood your message clearly. What do you mean by minimum level of service?

Mr. Santo Alborino: The existing legislation guarantees that a minimum level of service is provided. That's what we mean by achieving a balance.

Mr. Yves Lessard: So then, you're going by the existing legislation?

Mr. Santo Alborino: Mr. Georgetti stated that the current balanced approach works well.

Mr. Yves Lessard: I see. And that's all you meant. I thought you meant something else.

Earlier, we asked Labour MinisterBlackburn if he had asked the province of Quebec, which has had anti-replacement worker legislation on the books for 30 years, whether it had any plans to revisit the legislation. He didn't answer the question. In fact, he sidestepped the question twice.

You have a large number of affiliates in Quebec, including the 500,000 strong QFL.That's nothing to sneeze at. To your knowledge, has the Quebec government, after experimenting with anti-replacement worker legislation for 30 years, made any attempts to revisit this legislation?

[*English*]

Mr. Hassan Yussuff: Since the Quebec legislation was put in place over almost three decades ago now, and subsequent to that, the British Columbia law over a decade and a half ago, and despite the fact that we've had changes with governments of different political stripes that have come forward, not one single amendment has been tabled by the new regime regarding the anti-replacement worker provision in the code. If all the arguments about the sky falling, about investment, about the devastation, or about the monopoly that it gives labour in regard to collective bargaining were true, I don't think you would see any government hesitating to allow that monopoly to be maintained, given the consequence to the economy.

The reality is that if you ask those provincial governments if this legislation has served its purpose, both in Quebec and in B.C. they will tell you, yes, of course it has achieved its purposes. It brought balance and fairness to the parties in collective bargaining. More importantly, it provided a constructive framework for the parties to reach a settlement in the event of a dispute, whether it's a lockout or a strike.

That really is essential to why there haven't been any changes. There haven't been any changes because the legislation has been seen to be effective and serving the purpose that was intended when it was enacted thirty years ago in Quebec and over fifteen years ago in British Columbia.

● (1150)

The Chair: Thank you, Mr. Lessard.

We're now going to move to the next questioner. Ms. Davies, for five minutes, please.

Ms. Libby Davies: Just briefly, I have a couple of follow-up questions.

I think it's fair to say most workers don't want to go on strike. They much prefer to have something negotiated and settled, as employers do as well. To go on strike is a last resort when everything else has failed.

I was very interested in your comment, Mr. Georgetti, because I don't think this has really come out. When workers go back to work after a strike, what is the environment like? You're saying that where there is anti-strike-breaking legislation, the environment is very different.

I don't know if the federal department looks at this in any way. We've had a number of reports and surveys quoted here today, but I'm not aware of anything federally. I just wonder if, through the labour movement, you've actually done a survey of any members returning to work, to actually look at the difference in environment where there has been legislation in effect or where there hasn't. That's one question.

The second question arises because you are from B.C. It is curious that we still have this legislation in B.C. We have a provincial government there that I think is quite close politically to the Conservative government here in Ottawa on many questions, yet I'm not aware that they've made any move to take out that legislation. They certainly have done other things that have been quite aggressive in terms of workers' rights, but on that question there has been no movement to rescind that legislation in B.C. I just wonder if you have any observations on that in terms of it still being there while you have a government that one would think is ideologically opposed to it.

Mr. Ken Georgetti: No, there has been no move. They have made amendments to the Labour Relations Code, and they're a very ideological government there that doesn't have a lot of regard for organized labour. They took away automatic certification and other things that were put in, but they didn't touch the replacement worker legislation, knowing full well, I think, that it is having its intended effect and that the consequences of that legislation are actually positive on both parties.

The fact that there's no move or outcry from the business community in British Columbia is another very telling story. We take that as a validation that the legislation sought to achieve the narrow piece of balance that it put in place. As a result of that, the government's not touching it. We're proud of that.

We thought the consultation process that it went through got the obligatory objections from business, but they weren't really strong objections. They knew it was coming, they knew the effect of it in Quebec—because we talked about it a lot—and they knew they could work with it, frankly. As has been proven, they have worked with it and it has worked very well.

Mr. Hassan Yussuff: Just on the first point, about the relationship during and after a dispute, as committee members may know—or you may not know, unless you've been at the bargaining table or have been involved in the labour relations field—labour relations are a very delicate matter. Of course, there's a lot of trust in a relationship that has built up over time. Quite often, of course, a dispute could destroy all of the goodwill that exists, because long after a dispute has been concluded, what is required, of course, is a harmonious relationship in order to operate the facility in a way that makes it productive and is necessary for it to generate the right kind of outcome, which is to make sure that the business is actually making a profit for the employer.

When you have a bitter labour dispute in which you force workers to take sides and you've introduced a foreign element such as a replacement worker, in that context I can tell you that we don't have the statistical evidence or a study to show that. In almost every workplace, though, from my own experience and that of my colleagues who will testify before you, the relationship does not go back to normal. As a matter of fact, it will take years of effort. Sometimes the labour department has to be brought into the process to help the parties restore it, because much of the goodwill has been destroyed in that process and you're trying to rebuild it.

It's critical that the committee recognize that the function of an effective workplace, in regard to making it successful, requires goodwill on both sides to make it work. If we were to operate on a narrow aspect of the collective agreement, nothing would get done in the workplace. It's this inflexibility and flexibility of the workplace, the ability for parties to give and take and of course to respect each other in the context of operating the business, that's required.

Quite often, when that breach takes place—you'll hear testimony coming before the committee about very nasty disputes before other elements—you will find out specifically that it does have enormous consequences for the future. Other colleagues who will be testifying can tell you directly what the consequences have been of those nasty disputes in the workplace where we've had replacement workers brought in.

● (1155)

The Chair: Thank you very much.

We're going to move to our last questioner of this round. Mr. Lake, for five minutes, please.

Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC): Thank you, Mr. Chair.

I thank you all for being here today.

Ms. Davies touched on talking about unions, saying that a strike is the last resort for unions. She was reiterating what Ms. Ducharme said. It was the same thing. I would say that the same goes for employers. A strike or a lockout is the last resort for employers right now. I would say the situation that speaks to the balance we have right now is that, for both parties, a strike or a lockout is a last resort. When we start talking about removing the balance, which is what I think this legislation would do, it puts that in danger. It doesn't become a last resort from the union standpoint, but it makes it all the harder on employers.

I take a little bit of contention with the overall terminology that I hear regarding labour in general, like the term “workers”. We're all workers. We all work very hard. Whether you're talking about tradespeople who work very hard, whether you're talking about waiters or managers or small-business owners, CEOs, or even union leaders or stay-at-home parents for that matter, Canadians are hard-working people. We as parliamentarians need to approach this in the interest of all Canadians, not just one group. It's important for us to find a balance for all Canadians. Some of those Canadians are people who consume the telecommunications industry's offerings or transport services. They fly. They do all sorts of things. We don't live in isolation from each other.

A labour disagreement, by definition, is just that. It's a disagreement between two groups operating in their own self-interest, right? You have employees, a union, basically operating in the interests of the employees, and understandably, of course. And you have the employers operating in their business's interests.

It seems as though the other three parties and the labour leaders only take the side of one group of people on this issue, those they call “workers”, and all labour issues are the fault of employers.

Mr. Georgetti, you made a comment, something to the effect of there being no concern for workers who can't support their families if they get locked out or if they're on strike. I think it's fair to say that your organization sometimes doesn't show a lot of concern for business people who have worked very hard to build their businesses. Their businesses may be significantly damaged or even put under by a strike or by an unreasonable action. I'm not saying that all union actions are unreasonable, by any stretch, but some may be, just like some employer actions may be unreasonable. But it's not always the employers. Oftentimes, it's not an employer action, but a union action that may be unreasonable, and I think what we're dealing with here is a fundamental issue of fairness in terms of this imbalance.

I'd like to just go to FETCO for a second, and have you comment a little bit on what I've said in terms of the balance and how this legislation would topple that balance.

Mr. Don Brazier: Of course, there was a very consultative process set up. It was very effective and very transparent, and it came up with something that it called balance. I guess balance is a matter of judgment. If you happen to be sitting on one side, you'll probably see the balance as a little bit differently from when you're sitting on the other side.

The problem under federal jurisdiction has not been a problem with elongated strikes. The problem has been the narcotic effect caused by the continuing need to bring government in, to bring Parliament in, to do the parties' business. That was the problem that Sims was dealt. Every Prime Minister since St. Laurent has had to deal with it. Except for those couple who didn't last very long, every Prime Minister of any length in office has had to deal with this. Prime Minister Trudeau made it quite clear that he didn't feel his role as Prime Minister was to do the work of the parties.

Three times I've been involved with this, and I quite agree that government should not be involved in this and Parliament should not get involved in it, and it seems to have worked. The fact that it has worked would seem to indicate to me that we have balance. Parliament has not been asked once, since the amendments to the Canada Labour Code in 1999, to do what it did on an annual basis basically for the previous twenty years. It has not been asked because the legislation has created a structure that gets the parties to make the deal. That was the problem when Sims was set up, and that's the problem Sims addressed. I think it's a lot to Sims' credit that Sims' report, with very little change, went straight into legislation.

If you take the human rights report or if you take the pay equity report, these things just died the moment they came up because they were so unbalanced and unfair. That's why they're politically untouchable. That's why they never went anywhere. In the Sims case, Sims had a consensus process set up. I was the chair of that. The other chair was Nancy Riche, of the CLC, because Sims developed something to ensure that, at the end of the day, the recommendations would be fair and balanced.

Some of these recommendations are controversial. I made a reference to the 60-day conciliation provision. That was by no means generally accepted as workable, but because the parties, because the unions and management came to government and said they thought they could make it work, the government was prepared to make the amendments to the Canada Labour Code, and it has worked.

The big fear that we have is that if you reduce the ability of the employer to provide essential services—and by definition, they are essential services because they're under federal jurisdiction—when there's a work stoppage, we're back to where we were. Parliament is going to be doing the job of the parties. We're back to the bad old days.

● (1200)

The Chair: Thank you. That concludes the last round of our questioning.

I want to thank all the witnesses for taking the time to be out here today to discuss these issues with us.

With that, we're going to adjourn.

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