



House of Commons
CANADA

Standing Committee on Human Resources, Social Development and the Status of Persons with Disabilities

HUMA • NUMBER 045 • 1st SESSION • 39th PARLIAMENT

EVIDENCE

Thursday, December 7, 2006

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Chair

Mr. Dean Allison

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• (0905)

[English]

The Chair (Mr. Dean Allison (Niagara West—Glanbrook, CPC)): I would like to call this meeting to order. 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 presentations, and there will be two rounds of questioning, one of seven minutes and a second one of five minutes.

I can assure you that I will be better with the time today. Things got away from us a little bit yesterday. I'm going to have to try to keep you to seven minutes. I apologize for that. I will keep an eye on the clock so that we can get through this agenda. I also want to remind everyone that all questions should be put through the chair.

Mr. Lake.

Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC): Mr. Chair, in light of the last meeting and lots of suggestions during that meeting that we're not having enough time to discuss this important topic, and I think even Ms. Lavallée at one point said we really don't have enough time on a topic as important as this one, I'd like to move a motion. I'll just read it right now and then we can discuss it:

That, in relation to Bill C-257, notwithstanding any motion previously adopted, that this committee not consider clause-by-clause study of said Bill on Tuesday December 12th, and instead that the Committee instruct the clerk to seek the testimony of such witnesses as the Legislative Counsel, to testify on possible amendments beyond the scope of the Bill, and to hear from Department of Labour officials to provide technical advice on the functioning and impact of the said Bill, and that additional witnesses representing both labour and industry be invited to testify on the Bill, particularly those witnesses from regions that have requested to appear and that they be given appropriate time to appear.

The Chair: Do we have any discussion on that?

Mr. Coderre.

[Translation]

Hon. Denis Coderre (Bourassa, Lib.): I think it is premature at this point to talk about the clause-by-clause study. I would prefer that we first ask a series of questions of the legislative clerk on the ability of the committee to make amendments.

I have always maintained that the two contentious points in discussions were essential services and labour relations. Our party

voted in support of this bill at second reading because it believed that it was time to study anti-strike-breaking legislation. We believe that this issue is extremely important to find a balance in employee-management relations.

Our role, as responsible members of Parliament, is also to ensure that the issue of essential services does not end up holding Canadians hostage, if you will, despite the fact that there still could be a balance in employee-management relations. Section 87.4 of the Canada Labour Code contains a list of essential services which also include security and public health.

It is clear that this type of bill raises many questions. During clause-by-clause study, we will want to examine the ability of the committee to make amendments so that there is no contradiction between essential services and an anti-strike-breaking law within the context of the Canadian Labour Code.

The other important element are labour relations. In that regard, certain agreements between employers and workers created legal precedents, including in the grain sector. In our opinion, issues regarding transportation and telecommunications are valid and as members of Parliament we must thoroughly study this matter.

The Liberal Party of Canada has never, as certain witnesses have implied, tried to pull a fast one. My colleague and her acolytes from the Bloc Québécois and the NDP have tried to pass this bill 10 times. I do not think that it is a question of time. I have always been against the idea of bringing in replacement workers or strikebreakers. However, we must take the time to do things well to make sure that the bill is passed.

It would be premature to vote in support of this motion. I have a specific question for the legislative clerk about our ability to make amendments. Should we not vote against this motion and then decide on the procedure to take and how we want to deal with the clause-by-clause study?

I would ask my colleagues from the Conservative Party that we hear the witnesses now, since some of them have come from far away to give us their points of view from both the side of employers and from the side of the unions. Afterwards, we can take some time to hold discussions amongst ourselves. We do not want to block the process, but just to make sure that we are doing a thorough job as members of Parliament.

I do not know whether it is relevant to ask this question of the legislative clerk, but I don't think that it would be appropriate to have that kind of debate now. We can always have it later.

I completely agree that we must have the debate, but only after having heard from our witnesses.

● (0910)

[English]

The Chair: Mr. Coderre, were you suggesting that we call them back at a later time?

Hon. Denis Coderre: At a later time I will have a question for the legislative clerk, because I think what's accurate is the issue of essential services. I think everyone supports that.

I would prefer to go through the witnesses, and then among ourselves, in camera, have that kind of discussion about whether we are ready or not for the clause-by-clause. There is an issue about our capacity for amendments for that legislation, that's for sure. But I'd like to have that kind of discussion among our colleagues.

The Chair: Thank you very much.

We'll go to Mr. Lessard.

[Translation]

Mr. Yves Lessard (Chambly—Borduas, BQ): Mr. Chairman, what is a little troubling is that this is our third meeting to hear witnesses, and every time the Conservatives introduce a dilatory motion. I realize that this morning's motion must be taken into consideration. But I feel we should consider it when we go into clause-by-clause study of the bill.

It is also clear that we will have questions regarding the procedural modalities of the clause-by-clause study. If the Conservatives absolutely want to debate this matter before going into clause-by-clause, Mr. Chairman, I would strongly suggest that we wait and that we agree to holding an additional meeting once we have heard from the witnesses. Mr. Chairman, may I remind you that these people were asked to appear this morning—we will hear from several witnesses—and that the time we have allotted them is also very important. It is not a lot of time, but we expect to learn relevant information with regard to the situation we are in today. Mr. Chairman, we will not hear from every affiliate from each of the organizations present here today.

So this is what I would suggest to our colleagues opposite, that we hold a special meeting amongst ourselves in addition to the time already set aside for the clause-by-clause study in the presence of witnesses.

[English]

The Chair: Thank you very much.

Madame Lavallée.

[Translation]

Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ): Indeed, it is extremely important to hold in-depth debates and to examine issues thoroughly. With us today are very high calibre witnesses: the Canadian Association of Broadcasters, Teamsters Canada, the Communications, Energy and Paper Workers Union of Canada and the Railway Association of Canada. These are serious,

remarkable people who are also very busy. It would be more classy and respectful on our part if we waited until after this morning's meeting to have that discussion. We are not against it, because it is true that we want to have an in-depth debate and to get to the bottom of things. We want to talk about content.

Perhaps there is a certain openness to the Conservative motion, because we should finally address the necessity of having special measures for essential services, even if they already exist under the Canada Labour Code. We would study the matter in good faith, but please understand that this should not be done in front of our witnesses because we do not want to waste their time. So why don't we hold a special meeting before we begin the clause-by-clause study?

Our next meeting is on Tuesday of next week; today is Thursday. Perhaps we can have a meeting Monday afternoon. I am free Monday afternoon for a discussion on essential services and to take an in-depth look at the issue. Just look at what is currently happening in Quebec: the provincial essential services legislation is 94 pages long. Of course, we will not settle the matter in the blink of an eye with a simple amendment, but there is something we can do, because the health and public safety of Quebecers and Canadians are very important, and we are there to make sure they are maintained. That's all.

[English]

The Chair: Thank you.

Mr. Regan.

Hon. Geoff Regan (Halifax West, Lib.): Thank you, Mr. Chair.

First of all, I think my colleague, Mr. Coderre, has made some very good points about this motion. It does seem to me that we should proceed to hear the witnesses, but at that time I think we should be flexible and have a discussion about what other witnesses we should hear beyond them.

My expectation is that there will be, for instance, perhaps some witnesses from western Canada. We've had no one from west of Ontario, really, although we'll have had some national groups that represent all parts of the country. I think that's very important.

I also think it's important to do this right. We have questions for the legislative counsel. My colleague has talked about some of those. For me, one of the key questions is not only, given that this bill refers to section 87.4—I don't think it amends section 87.4—whether that gives us an opening to amend section 87.4, first of all, which, of course, deals with essential workers in terms of public health and safety, but also whether it allows us to make amendments that would actually provide for essential workers in terms of their being economically essential.

Obviously, if you need to have banking going on and you can't do telecommunications, that's pretty important. And in transportation and the transport sector you have some things that may not all be essential in terms of health and safety but certainly are economically essential to the country. I don't think anyone would want, first of all, to see those things shut down, and, secondly, to have government constantly bringing in legislation to put people back to work. I think neither of those is an appealing answer.

So it seems to me that Mr. Coderre's reaction is reasonable.

I think we do have to examine the nature of the kinds of amendments we might need to make. The problem with asking for instructions right now is that we don't know yet whether it's just section 87.4 that we may feel we need to amend or whether there are other areas, but I suspect—and I would like to hear from the legislative clerk about whether I'm correct in thinking this—that we aren't going to be able to amend..... Well, first of all, are we able to amend section 87.4 at all, if it's only made reference to in the bill? And secondly, can we amend it to change its character in the way I've described? I'd like to hear that. Having said that, we may also have other things we want to talk about.

So I like the intent of the motion. I just think it's better to discuss this at the end of today or perhaps on Tuesday.

Lastly, I think it is important that we study this carefully. We don't have to have the appearance of being in haste.

• (0915)

The Chair: Thank you.

What I'm hearing is that we need to bring back the legislative clerk to talk about some of these issues.

Hon. Geoff Regan: If there's any answer he can provide us today, it would be helpful, but I expect we'll have other questions as well.

The Chair: Okay.

Do you have any comments right now?

An hon. member: Mr. Chair, do you want to call the vote?

The Chair: We'll call the vote when everyone is done speaking.

Mr. Marc Toupin (Procedural Clerk): Mr. Chair, what I can say is that normally, whenever there is amending legislation before a committee, the committee is bound by the terms of reference of that bill. So it would be improper for a committee to go back to sections of the parent act that are not being amended by Bill C-257.

The Chair: I think we'll probably need a more fulsome discussion, though.

Did you have something else, Mr. Coderre?

[*Translation*]

Hon. Denis Coderre: Mr. Chairman, as I have already said, there is no doubt that we support the thrust of the bill and that we want to do a good job. However, now is not the time to hold that type of discussion.

If you want, I can present a motion.

[*English*]

It would be that we call for a report to seek instructions from the House. We all know the way it works.

But I truly believe that for now what we need to do is have our witnesses. Some of those witnesses represent every region of the country. Let's have the discussion, because they have come here.

We'll have an in camera discussion among ourselves, if necessary. As I've said, we have several ways of dealing with that. But I don't think we should have that motion right now.

The Chair: Mr. Lessard.

[*Translation*]

Mr. Yves Lessard: Mr. Chairman, it might be useful to read the motion again. We just want to make sure that it is in order.

[*English*]

The Chair: The motion is:

That, in relation to Bill C-257, notwithstanding any motion previously adopted, that this committee not consider clause-by-clause study of said Bill on Tuesday December 12th, and instead that the Committee instruct the clerk to seek the testimony of such witnesses as the Legislative Counsel, to testify on possible amendments beyond the scope of the Bill, and to hear from Department of Labour officials to provide technical advice on the functioning and impact of the said Bill, and that additional witnesses representing both labour and industry be invited to testify on the Bill, particularly those witnesses from regions that have requested to appear and that they be given appropriate time to appear

I've been led to believe that the motion is in order.

Mr. Lessard.

[*Translation*]

Mr. Yves Lessard: Mr. Chairman, I would like the opinion of the clerk on that matter. It seems to me that the motion is not in order, since it changes the procedure we have already established and the order of proceedings we had already agreed on.

I think that if we wanted to change that, there should have been a notice of motion of 24 hours, as prescribed by procedure. Otherwise, I don't understand why we would receive it today. This would mean that at any time during our meetings any one of us could question the rules we had established. Mr. Chairman, this does not make any sense: We would never see the end of it.

• (0920)

[*English*]

The Chair: Okay. Because we are in the study of Bill C-257, the motion is in order.

I'll call the vote. All those in favour?

I will support this motion.

(Motion agreed to [*See Minutes of Proceedings*])

We'll move on to witnesses. I'll start on my right hand side.

Mr. Mackay, you have seven minutes, sir.

Mr. Cliff Mackay (President and Chief Executive Officer, Railway Association of Canada): Thank you, Mr. Chair.

First, let me express, on behalf of my members, our appreciation for this motion that you just dealt with. It has been a matter of quite some concern with our members that more time was needed, but let me now turn to my remarks.

The Railway Association of Canada represents virtually all railways operating in Canada, most of which are federally regulated, including the large class 1 CN and CPR railways, short-line and regional railways, intercity passenger and commuter rail services, and tourist railways. As its CEO, I am pleased to have the opportunity to speak to Bill C-257. My remarks will focus on the overall implications of the proposed legislation for the rail industry, and more generally, for the Canadian economy. I am not a labour expert, so I will leave those considerations to others.

In a nutshell, the RAC is strongly opposed to the adoption of this legislation.

Since Confederation, Canadian legislators have identified some economic sectors as being so strategic to the future of the country that they had to be federally regulated. Canada's railways were a part of this group from the very beginning. The railway industry was not only an integral part of the creation of the country, but it was also recognized as a critical infrastructure that would bind the country together and make a major contribution to growth and our well-being. This link between the railways and Canada's prosperity is even more important today. The rail sector, which physically links most of the regions of the country, moves goods and people throughout the country, but it also connects us to our major ports and to our major trading partner south of the border.

Canada's railways move almost 65% of all of the goods shipped by surface in Canada. They are by far the largest transportation service provider for our exports and imports. As you all know, Canada is a trading nation. Our prosperity depends on our ability to compete internationally and to thrive in an increasingly global market.

The legislation you have before you, we believe, would have a major negative impact on Canada's competitiveness through worsening the ability of our railways to provide stable, safe, secure, and highly competitive transportation services.

Our major concerns are as follows. In the competitive area, Canada is vigorously competing for a greater share of world trade. This is critical to our future prosperity. The railway industry is a major part of that competition. One example I would point out to you is our efforts through the Pacific gateway program. We are competing with the U.S. and Mexico for a greater share of Asia-Pacific trade. Labour stability is a critical part of that equation. In fact, this matter is raised on many occasions by Asian shippers as a concern in evaluating the Canadian option. This legislation will clearly shift the labour-management balance and increase uncertainty and the probability of labour disruptions, in our view. This will hurt our ability to compete in this growing market. I could list other examples such as the critical importance of stable rail services to small centres in central Canada that rely on railways to ship such products as forest products to Europe and the U.S. The consequences of destabilizing these efforts are profound and they need careful study.

One point with regard to the difference... I made a number of mentions about other jurisdictions regulating provincially regulated industries in this way. I would make the following point. Federally regulated industries are enablers to the Canadian economy and they need to be looked at in that context. A disruption in a major part of

those industries has profound and very far-reaching and immediate effects on the Canadian economy.

Let me now speak to local or regional impacts. It's not widely known, but Canada's railway industry is made up of a large number, over 40, of short-line and regional railways that serve local markets and connect these communities to the broader national and international network.

Again, disruptions in rail service could have a profound local effect. For example, we move almost all of the dangerous goods in the country because we are by far the safest surface mode of transportation. It doesn't take much to think of the consequences of a disruption of chlorine supplies, for example, for local water supplies or a disruption of the movement of manufactured autos out of the many plants in southern Ontario to the U.S. market.

When we consulted our members on this, there were a number of concerns, but one is particularly noteworthy. Tshiuetin Rail Transportation Inc. is a small, native-owned short-line railway that operates, in Labrador and northern Quebec, both a passenger and freight rail service to the remote community of Schefferville. Obviously, a disruption in their service would isolate this community from surface transportation, but also this railway provides transportation services to well over 200 native trappers and hunters who use the railway to get to and from their traplines and hunting grounds for their livelihood.

● (0925)

Bill C-257 will create the situation where, if there is a labour conflict, it will go beyond freight transportation. In our view, it will impact commuter trains in Toronto, Vancouver, and Montreal, and it could easily have a domino effect on a number of other employees.

The point I'm trying to make, Mr. Chair, is that clearly this legislation raises the risk of many unintended consequences that deserve more study.

With regard to Canada's reputation, Canada is struggling with a major productivity problem at the moment. Many experts have commented on this. Our question is whether we can afford to increase the probability of further disruptions in our exports, which amount to 40% of our GNP. I would kindly take the point of view that we cannot.

In fact, in the last major rail labour conflict that took place in this country that resulted in a strike or lockout, legislators at the time recognized the strategic importance of rail. An act to provide for the maintenance of railway operations and subsidiary services passed the following requirements for arbitrators, that they be

guided by the need for terms and conditions of employment that are consistent with the economic viability and competitiveness of a coast-to-coast rail system in both the short and the long term, taking into account the importance of good labour-management relations.

In our view, that clearly indicates that legislators saw the strategic need for careful consideration. As well, some studies that have been made available to the committee, dated October 2006, clearly indicate that the effectiveness of this proposed legislation is in question.

Let me just finish, Mr. Chair, by pointing out that we believe the committee would benefit from the appearance of a number of experts. Again, I'm not an expert, but I have been advised that there are a number of issues in this legislation that really do require expert advice. We would strongly recommend that the committee avail themselves of that advice. I can tell you that both CN and CPR have indicated to me that they would be more than willing to provide technical expert advice on some of the labour relations issues here from their perspective.

Let me just close, Mr. Chair, by saying that the Canadian rail industry believes in sound, stable, and respectful labour management relations. We believe a stable and productive labour environment is critical to the interests of all Canadians, and we're committed to that goal. In our view, this legislation will not further that objective but will destabilize the labour management environment and lead to further disruptions.

Thank you.

The Chair: Thank you, Mr. Mackay, for keeping on time.

We'll go to you, Mr. Ménard, for seven minutes, please.

[*Translation*]

Mr. Gaetan Ménard (Secretary-Treasurer, Communications, Energy and Paperworkers Union of Canada): Mr. Chairman, we have a presentation in two parts. If you don't mind, I will let Brother David Coles begin.

[*English*]

Mr. David Coles (President, Communications, Energy and Paperworkers Union of Canada): Thank you.

My name is Dave Coles. I am the president of the Communications, Energy and Paperworkers Union of Canada. With me is my confrere, Gaetan Ménard, who is the secretary-treasurer of CEP.

I'd like to take a second to thank the panel for giving us the time to appear before you. It's a very serious matter. I would also like to apologize to the interpreter, because we have modified our presentation somewhat from the one we e-mailed.

For those of you who do not know, I'd like to spend just a few minutes telling you a bit about our union. We have 150,000 members from coast to coast. While the majority of our members work in industries that fall under various provincial jurisdictions, some 45,000 of our members do work under the federal code: broadcasting, telecommunications, and trucking—those that fall under the federal code. Some gas and pipelines that cross interprovincial boundaries are also federally regulated. In other words, ladies and gentlemen, we have a very keen interest in the important work you are doing.

I am sure it will not surprise you to know that our union supports the enactment of Bill C-257 in its present form. We think it presents a balance of all the varying and various interests involved in labour relations and collective bargaining. I want to talk a bit about the balance and my own personal experience.

I am from the west. I come from British Columbia, and I spent a good deal of my working life in Alberta at a time when neither jurisdiction had legislation limiting the use of replacement workers. In my experience, the workers who paid the greatest price in that era were those who had the least power and control in their lives. There are a number of examples, but I'll keep it short because of the time delays.

At the Gainers food processing plant in Alberta and at Purdy's Chocolates in B.C., which we represented, it was largely women, new Canadians, and single parents on the picket line. Ladies and gentlemen, I can tell you first-hand that the Gainers strike lasted months longer than it should have and had excessive violence, while the Purdy's dispute was shorter, with no violence, because Alberta allowed the use of replacement workers while B.C. did not. With Bill C-257, those vulnerable workers in Alberta would not have fallen victim to the imbalance injected into the bargaining process by the importation of strikebreakers. The economic price paid by both sides during those disputes would have been equal, and those employers would have had a much greater incentive to settle.

In 1993, B.C. enacted legislation similar to Bill C-257, and since then, not only has the number of disputes declined by 50%, but so has the number of days lost to strikes and lockouts. Compare that, ladies and gentlemen, to some of the most recent disputes in the federal jurisdiction. Aliant telephone company, which we represent in Atlantic Canada, used replacement workers to extend our strike to more than five months. Telus, which paid people huge bonuses to cross the picket line last year, kept their workers on a lockout for more than four months. That is exactly what I mean when I say that Bill C-257 will inject balance into the bargaining.

At this time, I would like to turn the microphone over to my confrere, Gaetan Ménard, to give you his presentation of what is happening in Quebec.

• (0930)

[*Translation*]

Mr. Gaetan Ménard: Thank you very much.

Good morning. The British Columbia situation is similar to that of Quebec. The Quebec legislation was introduced in 1977 and it made the negotiation process much more civilized. As in British Columbia, the number of strikes and lock-outs went down in Quebec. The average number of days lost due to labour conflicts fell significantly: it went from 39 days per year before 1977, the year the law was introduced, to 15 days per year today.

But in Quebec, employers had predicted chaos. They claimed that salaries would skyrocket. They said that the legislation would dramatically change the way business was done. In fact, they said exactly the same thing that people like the Minister of Labour, Mr. Blackburn, are saying when they predict that the same things would happen if Bill C-257 were passed. However, Quebec employers were wrong. I think that Minister Blackburn and certain employers who fall under federal jurisdiction, and who have publicly stated that we would be on the brink of an apocalypse, should take the time to study the real situation.

Ladies and gentlemen, the facts confirm that the legislation in Quebec practically led to the elimination of any violence during labour conflicts, brought down the number of strikes and lock-outs compared to what the situation was before the law was passed. Incidentally, compensation agreements in Quebec resemble those in the rest of Canada, except for Alberta, where salaries are skyrocketing and where there is no anti-strike-breaking law.

The reality is that unionized workers do not want to go on strike. That's not what we want. Based on our experience, responsible employers feel the same way. Neither party sits down at the negotiating table hoping for a picket line in front of a company. That's why over 97% of all negotiations end with an agreement and without conflict. In areas where strikebreakers are illegal, that percentage is even higher.

Mr. Chairman, I come from a town called Buckingham, which is not far from here. One hundred years ago, two men lost their lives because strikebreakers were called in during a labour conflict. I think it's time we put an end to these types of situations.

• (0935)

[English]

The Chair: Thank you.

You have thirty seconds, Mr. Coles.

Mr. David Coles: I'd like to close by saying respectfully to the minister and those federal employers who are predicting doom and gloom, and particularly to the banking industry question, that someone should read the legislation. There are provisions to do with essential services.

We have had a significant number of strikes over the years in the telephone industry, and guess what? We're required to bargain essential services, and we do. So this doom and gloom that the banking industry is going to collapse because of a telco strike is erroneous. I would just really ask everyone to take a breath and stop acting like the employers did in Quebec, who said the world was going to come to an end; it didn't. The banks aren't going to close.

We really would like everyone to just lower the shrillness and talk about what the issues are, and we respectfully submit that this

legislation would bring some civility to the collective bargaining process under federal jurisdiction.

Thank you very much for your time.

The Chair: Thank you, Mr. Coles and Mr. Ménard.

We're going to move over to Mr. Benson and Mr. Bouvier. You have seven minutes please.

Mr. Phil Benson (Lobbyist, Teamsters Canada): Good morning.

My name is Phil Benson. I'm a lobbyist with Teamsters Canada. With me is my president, Robert Bouvier. We also have Stéphane Lacoste, who's our general counsel. If there are any specific legal questions, we'll sub in and out.

Thank you very much for having us here. We do appreciate the time that we will share with you.

Teamsters Canada is a labour organization with approximately 125,000 members. We represent workers in all sectors—retail, motion pictures, breweries, soft drinks, construction, dairy, warehousing, and on and on. But most significantly, we're the choice of Canadian workers when it comes to the transportation sectors—air, rail, roads, ports, and mass transit. So an awful lot of the discussion that you will hear from employers and others generally relates to teamsters.

We're affiliated with the International Brotherhood of Teamsters, with about 1.5 million members in North America.

There are two issues in the bill, basically. One is “welcome to the 21st century”, and the second is respect.

Hanging in my office is a lovely picture of a little girl in front of a knitting machine. It says, “If it were not for my union, we'd all be going to work at eight.” I don't think it matters whether we're talking about 40-hour work weeks, vacations, any kind of progressive legislation, or even collective bargaining in the last half century, the same old mouldy, stale arguments come out. Basically, it's Chicken Little: the world's going to end.

It hasn't ended. It continues. We have, for instance with the Railway Association, a very good relationship with employers. What it's about is dignity, about the worth of workers. I think in the end this is good for business. It's good for workers. It's also good government.

In all the previous cases that have come forward in modern collective bargaining relationships and in all the things that we've moved forward with, we have been vindicated. Unemployment insurance and the Canada Pension Plan aren't job killers. They're important. They're important to workers, important to people. This is modern legislation dealing with respect.

It is true we have approximately one-third of workers in Canada covered by replacement workers, scab legislation, and we'd argue that Ontario repealed that as a matter of ideology, not as a matter of economics or for any other reason. People say Quebec is a little bit behind the other economies, but they forget that B.C. is booming. Pro and con arguments...I can pick one thing out of a pile and say that's the reason, but I think when we're passing legislation we need to look a little bit more deeply and be a little bit skeptical.

It is important that this bill will give uniform direction in Quebec and British Columbia. Certainly in Quebec it is an issue that people who fall under federal legislation—as our members and counsel and others have certainly relayed to us—feel they are treated separately, differently, and it is not appreciated.

The bill has two main features, and I think this is important. It's not a government bill; it's a private member's bill. It's non-partisan. It's a matter of conscience. We're very pleased up to this point that members have supported it. I think this is a first. I think it shows that most members of the House up to this point understand the respect issue, understand that it is a matter of importance to workers, that it is a step forward.

If the bill is passed, it would be the first time this type of bill would pass without government direction, without arguments. In other words, it's from principle, not politics. We can have a rational, reasoned debate. I think that's what's important about the bill. There are rational concerns and responsibilities; we understand that. We understand people are arguing different points. But it doesn't have to be—because it's a private member's bill—whipped, unwhipped, side-whipped. It's because you understand, or you don't, or you have concerns. We respect all points of view.

Some business groups and others raise concerns about what the bill would mean in certain sectors. Could a strike lockout threaten the safety or security of the public? Well, the last time I looked, in almost every sector we're in we can strike and there can be lockouts, and the world hasn't ended. We've been continuing in our business in that in probably the last half century...well, actually, for us, over a hundred years now.

Others raise economic concerns that seem to deal with the effect of strikes and lockouts under the collective bargaining process. It's part of the process. Nothing has changed.

Some business sectors—and we think it's quite strange—raised concerns about what could happen if there's a strike and they're not unionized. We're not quite sure how it's going to affect them.

● (0940)

Other groups raised the issue of quite small businesses that would now be affected whether or not we go on strike. I think that's perhaps not as relevant as it should be. We do welcome their intervention, because I think discussions are important, but we'd like to keep it to reasoned debate, rational debate, and not get into flights of fancy.

On a broader issue, one we do agree with is the essential services issue, as has been raised. We are one of the largest private sector unions falling under the Canada Labour Code as it applies to the key transportation sector—"we" meaning teamsters. We don't think all of it has to be reviewed at this time, but it does have to be examined. The code has a big general obligation applicable to all strikes or

lockouts, and as such it is possible that almost all our members could fall under the current legislation, which we think would probably be strange. We think that fair limits and fair debate would be important. What we really do want is a fair and balanced designation system for essential services.

I'll pass it to my president.

[*Translation*]

Mr. Robert Bouvier (President, Teamsters Canada): Thank you. In conclusion, the right to strike is a right which is exercised not by unions or employers who have engaged in a lock-out, but first and foremost by Canadian citizens who decided to join a union so they could be represented, just as employers hire lawyers to represent them. We must never forget that these people have the right to be treated equally in our society.

Corporations tell us that they will be financially affected because it might lead to chaos in our society. I have been a full-time union representative for 35 years and I really have not seen much chaos in Canada in the last 35 years. Yes, there have been conflicts. However, what is important is not so much the unions or employers, but the fact that the citizens of this country should not be victims of discrimination when they exercise a legitimate right. That should be our starting point.

Teamsters Canada recognizes that we must not interrupt services which society has a right to expect because of a labour conflict. We cannot close hospitals because workers have the right to strike. We cannot prevent firemen from doing their job just because they have the right to strike. However, there is a difference between essential services and other services. So we must find ways to make sure that the public suffers to the least extent possible. Nevertheless, we must always keep in mind that Canadian citizens have legitimate rights. Having a level playing field during negotiations is a legitimate right for both parties. Lawmakers must indeed take this principle into consideration.

We cannot buy into the arguments of major unions or huge corporations. The banks make me laugh when they claim that they will go bankrupt tomorrow. We heard this over several years. In my opinion, they should watch out much more for Enron-type situations, rather than the unions, if they do not want to claim bankruptcy.

We want a balance to remain between all parties, and this should be stated clearly. Thank you.

[*English*]

The Chair: Thank you, Mr. Benson and Mr. Bouvier.

We're going to move to our last witnesses.

We have Mr. O'Farrell and Ms. Roscoe.

[*Translation*]

Mr. Glenn O'Farrell (President and Chief Executive Officer, Canadian Association of Broadcasters): Mr. Chairman Allison and members of the committee, thank you for inviting us to appear before you this morning.

My name is Glenn O'Farrell. I am the President and Chief Executive Officer of the Canadian Association of Broadcasters. With me this morning is my colleague Elizabeth Roscoe, who is the Senior Vice-President for Policy and Public Affairs.

We would like to thank you in particular because this debate, which we are having with our colleagues who are also before you this morning, is an important one. Indeed, we acknowledged the wisdom of having this type of panel so that you can hear the points of view of all parties, although they are not necessarily all the same. But the purpose of bringing everyone together is that any piece of legislation should be well-thought-out, and any draft amendment should be well considered. I would like to insist on this, as did Mr. Coderre a little earlier.

What we will say to you this morning is from that angle and in that context.

• (0945)

[*English*]

The CAB represents the vast majority of Canada's private broadcasters; we're talking about private radio, private television, pay, and specialty networks. While we may not look it, we have been around for 80 years. We are celebrating our 80th anniversary. The CAB was founded in 1926 around the concept that broadcasters needed a common voice on issues where it was in their interests to bring together a voice of cohesion, and that's what we're going to try to do here this morning.

We are deeply concerned with the potential impact of this proposed legislation, which we think could destabilize the balance in labour relations in the broadcasting sector, and for that matter in all federally regulated industries.

Moreover, we come to you this morning to respectfully submit the view that the equation to be balanced here does not consist only of the private interests of employers and employees. Rather, the balance we suggest you must consider here consists not of two but of three interrelated components: the legitimate interests of employees; the legitimate interests of employers; and also the legitimate interest of the public, and therefore the public interest.

The reason that broadcasters take this particular view, and to a certain degree feel entitled to respectfully submit this three-part equation, is because it falls perfectly consistent with the legislative framework under which we operate and which governs broadcasters across the country, by way of the licensing scheme that exists under the CRTC.

In this view, public service to communities is a central and legislatively mandated reality for every radio and television station in the country. As the honourable members of this committee know, the CRTC licence regulations and conditions for individual licensees require Canadian radio and television stations—and I'm just going to summarize—to perform public service functions consistent with the

Broadcasting Act, to satisfy broadcasting public policy obligations, and to be accountable to regulatory review, all in the ordinary course of business. Hence, from a broadcaster's perspective, the equation to balance in conducting its operations always includes a public interest component.

As federally regulated companies, we are concerned that if Bill C-257 were to be adopted and a work stoppage were to occur at a CAB member company, the provisions of Bill C-257 would negatively impact its ability to provide its service to audiences—listeners and viewers—who depend on and tune into Canadian broadcasters every day.

We believe that the Canada Labour Code, as it is currently worded, forms a suitable compromise that gives employers the flexibility to fulfill their operating responsibilities, while preventing them from using replacement workers to undermine a union's legitimate bargaining objectives. This compromise has achieved balance in the interests of all parties.

Broadcasters respectfully submit, as others who have appeared before this committee, that this proposed legislation would have a destabilizing effect on broadcasting company operations across the country. This would have a direct impact on broadcasters' abilities to continue providing regulated programming services during a strike or a work stoppage.

Many broadcasting companies operate with a majority of their staff in union positions. In such cases, only a small number of non-union staff are considered management or administrative. While the situation certainly varies among broadcasting companies, non-union employees, who are not considered part of the management level, carry out responsibilities for sales, advertising, administration, clerical, and maintenance functions. These non-union, non-management employees are not involved in the operational areas of the broadcasting organization.

In the interest of time, let me just fast forward to a few examples of where, had Bill C-257 been in effect, significant concerns, the ones that we address here today, may have given rise to a public interest liability or casualty.

We all remember the ice storm, where radio stations operated and television operations were able to continue in certain instances on little, if no, power, and in some instances on none at all. In those events, the public, but also the emergency service providers, relied on the broadcasters to maintain communication and contact with the public to provide them with essential information.

We can think, of course, of the very unfortunate and tragic situation not too long ago in Montreal, at Dawson College, where the unfortunate events of that day were not aided and abetted by the fact that broadcasters were on the air, but certainly the dissemination of information to interested parties—coming from emergency services, amongst others—and to interested audiences was provided through the access they had to information. If Bill C-257, as it currently stands, had been introduced, unfortunately, in our opinion, it would have compromised that, if not to say made that impossible.

Hence, we wish to conclude our remarks by this suggestion.

• (0950)

[Translation]

As we said at the very beginning, any piece of legislation should be well-thought-out and any draft amendment should be well considered.

We understand and respect points of view which are opposite to ours on this issue. However, we remain convinced that improving a situation which is perhaps not ideal should not be achieved by passing a bill quickly and at the last minute, because, in our opinion, we are not dealing with a crisis or a national emergency. The services which depend on these undertakings, such as broadcasting, are part of our national, economic and social makeup, which is so important to all Canadians.

Thank you, Mr. Chairman.

[English]

The Chair: Thank you, Mr. O'Farrell and Ms. Roscoe.

We're now going to start our first round of questioning, which will be seven minutes for questions and answers. We're going to start with Mr. Coderre.

[Translation]

Hon. Denis Coderre: Thank you, Mr. Chairman. Thank you to the witnesses for being here today.

It is clear that this whole issue of essential services is important. Nevertheless, we must define what essential services are, because section 87.4 of the Canada Labour Code, which applies to you, deals with issues involving emergencies, public health and security.

Mr. O'Farrell, with all due respect, I must admit that after what happened during the ice storm, there is no doubt that your business is an essential service. We also have to make sure that the bill we have before us does not allow for interrupting broadcasting services. That being said, section 87.4 could have been applied.

Lastly, the proposed interpretation of subsection (2.4), which says that there can be no production elsewhere, might be a problem for you.

There are basically two issues at stake here: the very definition of what a manager is and the ability to broadcast, which would be considered an essential service.

[English]

I don't think *The Young and the Restless* is an essential service, but I believe that if it's a matter of news, because we are caught in the middle of an ice storm or something like that, we have to provide you with the capacity to do so.

[Translation]

Further, we have to deal with the unions in the areas of communication and cable distribution. They also understand that in case of a major emergency, under the provisions of the bill which corresponds to the definition of essential services, you will agree amongst yourselves. We are all human. There is no point in brandishing scarecrows, even with a smile. However, I do understand your position.

Here is my first question, Mr. O'Farrell. If we were able to agree on a definition and on the application of essential services in the field of telecommunications, and if, by way of amendment, we clarified what essential services could be produced elsewhere, would this new interpretation or the application of subsection (2.4) address one of your concerns?

For example, when Radio-Canada employees went on strike, I found it unacceptable that management not be allowed to produce the news from the outside, because it is an essential service. But that's my own personal point of view.

I will come back to the issue of transportation later, with a question for Teamsters Canada.

• (0955)

Mr. Glenn O'Farrell: I think that a good part of your deliberations will deal with the issue of definitions, which is what we are talking about. The problem we have with the bill according to our interpretation after we reviewed it, is precisely that there is a lack of clarification and definitions. As you very well know, broadcasting undertakings are enterprises which are becoming increasingly portable. As you know, people don't only listen to the radio or watch television in their homes anymore; they now have access to the media almost everywhere, because of the portability of devices which make broadcasts available. As a result, there are now more and more opportunities for receiving broadcasts. People count on these services and increasingly depend on them.

That being said, I would like to come back to the gist of your question, which is how to address this situation in an intelligent way so that the services continue to be provided without interruption. As you know, the Quebec legislation goes further than the one on British Columbia. It includes several provisions dealing with the Conseil des services essentiels, with the way parties must agree, with procedure, but also with the substance of the matter. Unfortunately, this level of detail is not present in the bill which is before us. What we find unfortunate is that the bill tries to find common ground, or tries to establish some degree of commonality between the Canada Labour Code and the Quebec Labour Code. But the bill is not complete because it does not really allow you, in our opinion, to study it the way it should.

To conclude, I feel we are being sincere with you since we see that you are trying to find definitions or additional clarification. But for now, as far as the bill as currently worded is concerned, we unfortunately cannot say much about texts or definitions which are not there. Unfortunately, drawing on hypotheses is not necessarily the best way to conclude this discussion.

Hon. Denis Coderre: Mr. Bouvier, you work in the field of transportation and security, specifically in airports. Do you believe that the current provisions allow us to say that section 87.4 is complete as far as essential services are concerned? Of course, we are in the world of telecommunications in which everything flows continuously.

A little earlier, Mr. Benson referred to the 21st century. I think that the argument—and I would like to congratulate you for it—is that we must first and foremost think about our citizens, and remember that employers, as well as employees, are also citizens. But there is a reality on the ground which must be taken into account, particularly in the area of essential services. In Quebec there is the Conseil des services essentiels which works well, which is a good arbitrator in cases of conflict, but at your level, how would you define essential services in the field of transportation? Since the spirit of the act is valid, what do we have to do to make sure it is reflected in the bill? What can we do to respect the spirit of the law?

Mr. Robert Bouvier: Indeed, when it comes to defining essential services, the act may apply differently depending on the industry. If you're talking about a transportation company, I think that the notion of essential services does not apply the same way if I am talking about screeners or people who are in charge of security at the Toronto Airport. So each case is unique, and this how the two other pieces of legislation are applied.

As the Teamsters union, we indeed represent locomotive engineers throughout the country. Every train running in Canada today is run by members of the Teamsters. Seventy per cent of airport security personnel is with the Teamsters. We are involved in the fields of road transportation and postal services. Some of these industries compete with one another. It's not because one of them is on strike that another cannot function.

When it comes to industries on which Canadians depend for their well-being, and I mean all Canadians, we recognize that there must be some form of essential services. However, we don't need a 500-page manual to define them. There has to be some provision which obliges the parties to sit down together and to decide what essential services Canadians are entitled to make sure that the system works. However, at the same time, there has to be a balance between both sides; this is what is most important. Furthermore, Canadians who go on strike in a given situation must have a fair chance of reaching an agreement which satisfies everybody. I think that is what we are looking for. There must be essential services. But we now have to define what they are for each industry.

•(1000)

[English]

The Chair: Thank you, Mr. Bouvier.

We're going to move now to our next questioner.

Madame Lavallée, seven minutes, please.

[Translation]

Mrs. Carole Lavallée: Thank you, Mr. Chairman.

The witnesses we have heard this morning spoke a lot about balance. That is a word that comes back every time new labour relations legislation is considered. In collective agreement negotiations, there is balance between two parties: the employer and unionized workers. Adding a third player, either replacement workers or strike-breakers, upsets that balance. Replacement workers are intruders who side with the employer. It is no longer one against one, but two against one.

In a sense, anti-scab legislation re-establishes the balance. That is why Quebec has had such legislation for the past 30 years. It is very effective legislation, and it is very rare to hear people complain, including the Conseil du patronat du Québec. Replacement workers are like bulls in a china shop.

I am pleased to meet with the Canadian Association of Broadcasters. I would like to speak to the specific example of a radio station in Bonaventure, Quebec. In 1982, its 12 employees went on a strike that lasted three years. Why is that? Because the employer called on the services of 12 replacement workers. After two years, those 12 workers requested union accreditation. That did not make any sense.

Using replacement workers is senseless and upsets the balance of power. Each time the representatives of the Canadian Association of Broadcasters and the Railway Association of Canada gave us examples, they said they wanted replacement workers, not strikes and labour disputes.

It appears that you are very well protected, Mr. Mackay, because you spoke about legislation that maintains your services in the event of a strike. As noted earlier, section 84 and subsection 94(2.4) of the Canada Labour Code are included in the proposed bill.

That being said, the Quebec Essential Services Act contains 94 pages. It was adopted by the Government of Quebec in 1975, whereas anti-scab legislation was passed in 1977. Therefore, the Essential Services Act was not a response to the anti-scab legislation; it was a response to public servants' right to strike.

In Quebec and elsewhere, medical specialists are threatening to go on strike. I am sure you will agree that the situation is much more serious when medical specialists want to strike than when railway workers or journalists want to do so. Public health and safety are serious considerations, which are accounted for in the Canada Labour Code and anti-scab legislation.

Mr. Ménard gave us statistics regarding Quebec. Past experience is important, both in Quebec and in British Columbia. I of course know more about the Quebec experience. The statistics on person-days lost, which compare the provincial and federal sectors, support Quebec's approach.

I ask the representatives of the Communications, Energy and Labour Workers Union of Canada and of Teamsters Canada to give us examples. In Quebec, you must surely have groups under both federal and provincial jurisdiction who have gone on strike. Could you speak about your experiences in this respect?

•(1005)

Mr. Gaetan Ménard: One of the interesting experiences is the dispute at Radio Nord, which dragged on for—

Mrs. Carole Lavallée: Twenty-two months.

Mr. Gaetan Ménard: ...22 months, precisely because there was no anti-scab legislation.

Another experience we had in Quebec was with Vidéotron. Earlier, I spoke out on behalf of more civilized labour relations. The Videotron conflict is a patent example of what can happen when there is no anti-scab legislation. In May 2002, strikebreakers directly attacked strikers. They charged into the picket lines with their car and they injured some strikers. This happened in Lévis.

In Val-Bélair, on the same day, a 200-pound man directly attacked a female Videotron employee. He charged into her and injured her. She ended up in hospital. This is what happens on picket lines when strikebreakers are allowed in.

Mrs. Carole Lavallée: Do you mean that such things do not happen when there are no replacement workers?

Mr. Gaetan Ménard: They are much less likely to happen. When there are no replacement workers, where are the flash points where people could attack each other? We have picket lines. I am not saying that it never happens; it happens, but it is much less likely to happen when there are strikebreakers present. Try to imagine, if you are trying to exercise your right to strike and you see people taking over your job, how you might feel. Imagine that, moreover, you are being attacked. It is very hard.

With regard to statistics, I would like to mention another figure that deals with the number of days lost per 1,000 employees. We must always make reasonable comparisons. From 1992 to 2002, according to the Code du travail du Québec: 121 days were lost by 1,000 employees. During the same period and with the same number of employees, 266 days were lost under the Canada Labour Code. This is more than twice as many.

Mrs. Carole Lavallée: I would also like to hear from you about the experiences you had during labour disputes that were under the Code du travail du Québec, where management replaced union members who were either on strike or in a lock-out.

[English]

The Chair: We're out of time, but a quick response would be great, Mr. Ménard.

[Translation]

Mr. Gaetan Ménard: In the sector that we represent, such things are rather rare because it takes so much personnel that they have wind down their operations. Of course, there will be some people there to maintain some services, but it is quite rare.

[English]

The Chair: Thank you very much.

We're going to move on to our next round.

Mr. Lake, you've got seven minutes, sir.

Mr. Mike Lake: I want to address something Mr. Coderre said that I found quite interesting. He said this is the tenth time this type of legislation has been brought forward by the Liberals, the Bloc, and the NDP. I imagine he was talking about the coalition. It's an interesting coalition.

If I remember correctly, the Liberals had a majority government for eleven of those years, from 1993 to 2004. I think this is the first time we've ever been to committee with this legislation. I found that a curious comment.

I want to talk about a couple of other comments. In my own riding—and Canadian citizens in general, and Mr. Bouvier was talking about this earlier—I believe there are a lot of hard-working employees, workers in my riding, many of whom are part of unions. When we have discussions, they understand the fundamental unfairness and lack of balance that would be created by this proposed legislation. Even the union employees are opposed to the legislation when they properly understand it. I understand why you would favour it, of course.

I'll go back to a comment one of the witnesses made the other day. When we were talking about management not even being able to fill in when workers are on strike or locked out, Paul Forder with CAW, in answering a question, said, "If the operation can't function with replacement workers, that's fine with us. We'll be able to get a settlement earlier. That's something all members should be interested in pursuing. That's the whole purpose of the legislation."

The legislation is all about leverage. You talked about a level playing field and about not wanting to force businesses into bankruptcy, and I believe you. I don't think you want to force businesses into bankruptcy, but what this legislation would do would give them just two options: bankruptcy or give in. That's it. There's no balance at all. It's bankruptcy or give in.

My first question is for Mr. Mackay. I'm curious, are there circumstances where you feel rail traffic is an essential service?

• (1010)

Mr. Cliff Mackay: Absolutely, even if you define essential services very narrowly in the context of public safety. Yes, rail carriers provide a number of services that would be considered essential. I mentioned one in my presentation. It's extremely important for public health that we move certain goods to certain places, for water supply systems and other things.

More generally, the point we are making is the balance. If you take a broader view of essential services, the jobs of an enormous number of Canadians depend on our ability to provide services to their industries. The consequential impacts of disruptions of service in our industry are very profound for a whole bunch of other industries. That's a point we are sincerely concerned about in this particular legislation.

Mr. Mike Lake: I have a question about the size of the unions in your industry. There must be some pretty small unions, and some larger unions, I imagine.

Mr. Cliff Mackay: The answer is yes, but just to give you a sense of the size, our two largest members are CN and CP. CN has seven major unions with 21 bargaining units, and CPR has five major unions with seven bargaining units. So we are a highly unionized industry. Even some of our smaller members are quite unionized.

Mr. Mike Lake: Typically—I want to get a picture of this—if one of your smaller unions decides to go on strike, could you maybe give me an example of how that would impact your overall industry?

Mr. Cliff Mackay: It depends on the union. For public safety purposes, we are highly regulated, and many, many of our employees carry specific certifications in order to undertake certain tasks in the industry. If some of those people were to withdraw their service, and we had no way of deploying management or other people who were appropriately certified to do those jobs, then you would essentially shut down the operation very quickly.

Mr. Mike Lake: Mr. Bouvier, do you have a copy of the legislation in front of you?

Mr. Robert Bouvier: No.

Mr. Mike Lake: Mr. Benson?

Mr. Phil Benson: No.

Mr. Mike Lake: Well, I'll read proposed subsection 92(2.4):

The measures referred to in subsection (2.2)

—which deals with management being able to step in—

shall exclusively be conservation measures and not measures to allow the continuation of the production of goods or services otherwise prohibited by subsection (2.1).

So it's pretty clear from that, I believe, that management can't even step in, in the case of a strike or a lockout.

Mr. Robert Bouvier: This is not what we've said. If you're talking about what the bill is saying, that is one thing, but we've said in our presentation that we understand that if you look at what exists presently—for example, in two provinces, management does perform the work.

Mr. Mike Lake: But in this legislation we're talking about today, which is what we're discussing, it's clear that management would not even be able to step in, in this case. So even in the cases Mr. Mackay is talking about, management could not step in.

You have it right there?

Mr. Robert Bouvier: It reads:

The measures referred to in subsection (2.2) shall exclusively be conservation measures and not measures to allow the continuation of the production of goods or services otherwise prohibited by subsection (2.1).

Well, what does proposed subsection 92(2.1) do?

Mr. Mike Lake: It's not referring to proposed subsection 92(2.1) but 92(2.2). It simply talks about management stepping in. I won't have you read proposed subsection 92(2.2). We've gone over these things.

The Chair: A point of order.

[*Translation*]

Mrs. Carole Lavallée: Mr. Chairman, I have a point of order. I find that this is intellectually dishonest. We must read subsection 92(2.4) after section 92(2.3). We must also read subsection 92(2.2) in its entirety. It lends a false meaning to subsection 92(2.4). This does not refer to anti-scab measures, it refers to measures that are needed to avoid destruction. This refers to subsection 92(2.3).

[*English*]

The Chair: Thank you.

Go ahead, Mr. Lake.

Mr. Mike Lake: Actually, I'm just going to go to a different question here quickly.

I'm just curious, because we oftentimes hear the word “fearmongering” used across there, and by some of the witnesses in favour of the legislation, in talking about those who oppose it. I find that interesting, because virtually every single person who has lobbied me on behalf of this legislation has talked about violence, and that basically the lack of legislation such as this is what leads to violence on the picket lines, and things like that. It's been referred to today.

So my question is pretty direct: is violence on the picket line in a legal strike or lockout ever justified?

Mr. Bouvier.

•(1015)

Mr. Robert Bouvier: Never. Violence is never something you look for.

Mr. Mike Lake: It's never justified?

Mr. Robert Bouvier: It's never justified.

Mr. Mike Lake: Okay. Thank you.

Mr. Benson.

Mr. Robert Bouvier: Just a second—

Mr. Mike Lake: No, no, sorry.

Mr. Benson.

Mr. Phil Benson: I can address it if you like.

Do you want me to address it?

The Chair: That's all the time we have.

Mr. Phil Benson: I think since you asked the question, you understand the reason for the legislation. It's that simple. The fact that you posed the question means you understand one of the rationales for the legislation.

The Chair: That's all the time we have.

We're going to move now to our second round, which will be five minutes.

Mr. Regan, for five minutes, sir.

Hon. Geoff Regan: Thank you very much, Mr. Chairman.

I'm going to come back to proposed subsection 94(2.4), because it is an important thing for us to try to figure out here. I don't know why it is that the English version makes reference to “The measures referred to in subsection (2.2)”, but subsection 94(2.2) isn't even mentioned in the French version of the article. This leaves me a bit baffled.

But if we go back to proposed subsection 94(2.2), what it's talking about is the kinds of employees whose services an employer may use during a strike or lockout. It talks about a person employed as a manager, superintendent, or foreman, and so forth, or a person who is a director or an officer. It says these are the kinds of people you can use during a strike or lockout, but then it says in proposed subsection 94(2.4) that the measures referred to “shall exclusively be conservation measures”.

It seems to be saying in this section that these people who a company can use can only be used to conserve, to do painting, to do maintenance, and so forth, of the aircraft or the buses, or whatever it may be, but not to actually provide goods and services. So that seems to me to be a problem, one that we have to try to perhaps discuss with legislative counsel, and so forth, in the future. I'm open to comments on that.

But let me ask another question. One of the things we've been hearing, and in fact the chairman and I last night had a meeting with the Canadian Restaurant and Foodservices Association. They, like many groups that this committee has heard from over the past few months, were talking about the skills shortage and the difficulty they're having getting workers. We heard about a restaurant in Mr. Lake's home province of Alberta where they had actually provided a house, and had provided someone else with a car, in order to get them to come from Manitoba or other places to work at the restaurant, to try to have enough employees.

We're hearing about this kind of thing more and more across the country. It strikes me that we are seeing ourselves in a new era. Throughout my lifetime, and throughout the lifetime of most of us in this room, we've had a situation where there weren't enough jobs for Canadians, and now suddenly we have a time when there aren't enough Canadians for the jobs. There are still certainly Canadians who don't have jobs, and that remains a very important problem for us to try to address in a variety of ways, but we are seeing a whole new era, which may be changing the balance between workers and employers. If we have employers who are having to offer a lot more in order to get employees, it suggests that.

I'd like your comment on whether or not that in itself is altering the balance, as we try looking at this bill, to figure out what the heck the balance should be in relation to the issue of replacement workers. I'm going to leave it to all of you to answer that. I'm afraid you're going to have to answer briefly, because—

Mr. Robert Bouvier: On the one hand, if there's a shortage of workers, if we listen to the employer, they say it's a free market, so there's no limit to what an employee should ask. Why don't you ask for \$100 an hour, or \$300 an hour? Every employer will tell us it's irrelevant; it's a free market. It's a free market on one side, and now we're seeing in the newspaper that everything is costing too much and we should be trying to balance somewhere. I was just reading that in the newspaper today. But it's not true when you have to work out a conflict somewhere.

I can understand that people have been working at some of these jobs for 15, 20, or 25 years. Their whole life they've been surrounded by their job. They've been doing good work, good productivity, and all of that. What do scabs bring? Exclude the violence. Yes, there's no reason for violence, but if you want to make sure that I can't feed my wife and kids, I'll take care of you. I will. I have to survive. But it's not violence; it's just survival.

We have people working in places for 25 years, and there happens to be a strike and they're replaced by somebody. Where's the dignity in this? Where do you have something to fight with? The only thing we're saying is that there should be equal ground for people who are working in this thing. What you're telling me is that maybe they should go somewhere else and let this guy go belly up. They've spent

their life in there. The people have the chance to have equal rights, to be balanced.

• (1020)

[Translation]

Hon. Geoff Regan: Thank you very much, Mr. Bouvier. I would also like to hear the opposite point of view. I know that

[English]

Mr. Coles is with one of the unions.

I think we should hear from the employer's side, if you don't mind, just so we have both sides on this.

Mr. Mackay.

Mr. Cliff Mackay: I'll be very brief.

Yes, there is a growing concern about qualified labour in our industry and in most industries, and we are initiating a wide range of things to try to deal with that. As to whether this legislation provides the balance in that new environment, we are, as I said earlier, very skeptical.

We think the balance in our industry is pretty good right now. We haven't had major labour disruptions in a long time. We just don't see how this legislation is going to benefit the environment.

The Chair: There are 15 seconds left.

Mr. O'Farrell, or—

Mr. David Coles: On the issue of the sectors of the economy that we're asking people to talk about today—broadcast, telephone, telecommunications—there is tremendous downsizing, laying off thousands and thousands of workers. So let's not talk about the oil sands, which we happen to represent as well, but the sectors that are before this committee.

Sir, I would ask, please, that somebody talk about those sectors that are directly affected. We're having huge layoffs.

Hon. Geoff Regan: Naturally, we're concerned about this. We have heard, for example, about the shortage of aviation mechanics. That's an area we're dealing with. I accept what you're saying. Certainly, there have been layoffs, and that's a matter of concern. I guess the point is that it looks like, as a society, we are seeing a major change, a paradigm shift, if you will, that moves away from what we're used to in our lifetime. I hope that's a good thing. We'll have to wait and see.

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

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

[Translation]

Mr. Yves Lessard: Thank you, Mr. Chairman. First, I want to thank you for coming.

Now let me speak to both employer associations, the railway employers and the telecommunications employers. They all have concerns. Both parties want to strike a balance and they want to find a key to this balance. It seems to have to do with the essential services issue. I gathered that Mr. O'Farrell, among others, said that if we had anything of this nature, we should know what it is before speaking out. Mr. Bouvier, who is on the union side, said that we had to provide an essential mechanism defined by industry. He did not say "for industry", but he said "by industry". I am trying to understand your concerns and to answer them at the same time. Here is what I am driving at.

I worked in the hospital sector from 1957 on. If any sector is sensitive and needs essential services, it is that one. Briefly, I want to say that in 1958 there was a three-month strike at the Hôpital du Sacré-Coeur in Hull. In 1963, the nurses of Hôpital Sainte-Justine went on a one-month strike. In 1966, there was a three-month strike in all the Quebec hospitals. In 1972, there was a 12-day public sector strike in Quebec, while there was not yet any anti-scab legislation. We saw a bit of everything in these disputes. I could speak to you about other similar cases.

My colleague said that the essential services legislation was adopted before the anti-scab legislation. Since we have had an anti-scab legislation, we have not experienced any more such events, except during the strike led by the Fédération des infirmières et infirmiers du Québec, a few years ago. Each time, in all these sectors, the parties themselves defined essential services. This is what I mean. We must deal with essentials, and it is essential to know whether both parties in the dispute are comprised of responsible people, responsible citizens. My answer is yes, given my experience. Once we have had such a concrete experience, which goes beyond figures... I am not talking about mere figures, I am talking about a real, concrete experience before and after adopting this legislation in Quebec. I have always lived in Quebec and I could see the difference between the two systems.

When you hear me say this, what is your answer? Do you think that my statements make no sense? These are concrete facts, we are not crunching numbers. If I say that there are responsible people and that we can leave this up to industry or to the company involved, would that reassure you?

• (1025)

Mr. Glenn O'Farrell: If I understand your statement correctly, Mr. Lessard, you said that the essential services legislation in Quebec came before the anti-scab legislation. Do you admit that the Quebec legislation on essential services is a rather complex mechanism that was created following a legislative study, a study that was not done in the case at hand?

Mr. Yves Lessard: What might seem complicated to an outside observer is not complicated for someone inside. Let me explain. The legislation did not try to determine the definition of essential services for each enterprise, each industry, etc. This also applies to urban transit, which is under provincial jurisdiction. There have been disputes in that sector. The parties establish the standards. The legislation states that essential services must be ensured. If the parties disagree, they can resort to the Conseil des services essentiels. The mechanism, as such, is not complicated.

Mr. Glenn O'Farrell: It is a bit more complicated than that, with all due respect. You are entirely right, the Quebec labour legislation states that both parties must decide, and if there is no such agreement, they must resort to the Conseil. I think that nonetheless, there is a form of monitoring and a process that ensures that these steps are taken and that a solution can be found.

For my own benefit, I spoke to the Conseil des services essentiels to try to find examples, to find out how things are done, and to study the case law. I have here an example, dated January 31, 2002: TIRU (Canada) Inc., 900, Industrielle Street, Quebec and the Canadian Union of Public Employees versus Quebec City, as well as the decision handed down by the Conseil des services essentiels.

This is just one example, and there may be many more that you know better than I do. This shows how important the monitoring was in obtaining solutions to these issues and in reaching a conclusion. As you said at the beginning of your statements, without such parameters, it is difficult for us to know exactly how things would develop. To help the parties agree on what is essential, if they are asked this question, whatever the industry may be, as Mr. Bouvier, said it would depend on the conditions of that industry. I think that we would obtain some results, but I do not think that this a question that we have to face today. There are many more things to do before getting to this issue.

[English]

The Chair: Thank you, Mr. O'Farrell.

Thank you, Mr. Lessard.

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

Mr. Patrick Brown (Barrie, CPC): Thank you, Mr. Allison.

My first question will be for the Railway Association. I've heard this comment about potential violence. My initial assessment would be the reverse. I would note that I think Canadians are very peaceful and this would be an unlikely possibility, but if there was that remote chance of violence, and if, in the telecommunications industry, that caused the banking sector to have shutdowns and people couldn't get their paycheques or pay their mortgages, people would be very incensed.

On the same note, if grain farmers couldn't get their grain on the railway in order to simply conduct their lives and support their families, there could be potential concerns for violence there.

In effect, the proposed legislation actually could cause violence. I don't see the existing legislation as being a cause for violence. If you read the news, we're not reading about incidents of violence happening on an active basis in Canada.

I want to have the impressions of the Railway Association and if that's a concern they would have.

• (1030)

Mr. Cliff Mackay: I'm not sure we'd write that as a big concern, but I will comment very briefly on violence. We've been very fortunate in our relationships over a large number of years. We just have not had that kind of violence, and we would hope that would continue.

Unfortunately, particularly in the last few years, we've had a number of incidents where our operations have been disrupted for native protests and other reasons. In those circumstances, when you do disrupt service, we have had some grave concerns that the situation could easily deteriorate into a matter of violence. This is something we've spent a lot of time on, in working with first responders and others to make sure those sorts of situations don't happen.

Mr. Patrick Brown: My second question will be for the teamsters.

One statistic that I would suggest speaks volumes is that in the last five years, if you look at Ontario and Quebec, Ontario has had more success in maintaining labour peace without this legislation, in comparison to Quebec. If you look at the per capita days lost to labour disruptions, we've seen a greater degree of success and peace in the workforce in a province that doesn't have this legislation.

So when supporters of this proposed legislation speak to it as having a potential for labour peace, the actual facts speak against that. The interesting thing is, you can always say that a one-year statistic could be an aberration, but for five years in a row, it is a pretty stark contrast.

Could you comment specifically on the Ontario and Quebec numbers, and why this legislation has been unsuccessful in Quebec, in comparison to Ontario?

Mr. Phil Benson: Thank you for the question.

On the issue of violence, nowhere in our brief do we raise that. It's a matter of respect and dignity. As I said, welcome to the 21st century. As I said in my presentation, as you go across the country, you can pick out any particular piece of legislation that you don't like and say, gosh, that's why an economy isn't performing.

As you look at Ontario, Alberta, and British Columbia, which had me booming and screaming, from the union side and management side, I think they have cooperated and negotiated—as obviously the Railway Association people show—some pretty good contracts.

These are pretty good situations. There are many things that determine how many strikes there are, what areas they're in, and what happens.

I think to be so narrowly cast as.... Remember, statistics lie, and liars use statistics. As one who meddles in those things, I tend to avoid them as best I can. I don't think it's something to hang our hat on one way or the other. I think for us coming forward, it is a respect issue and a dignity issue. It's time we have full 21st-century laws.

Secondly, it is not just about a bankruptcy or a disruption. With all respect to our friends from communications, if CBC is on strike, I don't watch them; I watch CTV, Global, and a plethora of other channels. It's not everybody or everything when we're talking about essential services. We're talking more in a vein.

Companies do what they do if they're not happy. It's called globalization. That's something we understand greatly. If they're unhappy and they want to move, they move. They can move out of the country. They can move overseas. They do it at the turn of the hat. They do it in the middle of a collective agreement, as is their business right to do. So there is balance. There is all sorts of balance. There is all sorts of stuff.

I do thank you.

The Chair: And I want to thank you, Mr. Benson.

I want to thank all the witnesses for being here today.

Hon. Denis Coderre: Can I just ask...? This is not a question specifically to the witnesses, but I would urge the witnesses to propose to us some clear recommendations for possible amendments.

The Chair: I was just thinking about that. That would be a great idea.

Thank you.

The meeting is adjourned.

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Publié en conformité de l'autorité du Président de la Chambre des communes

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