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Wednesday, January 31, 2007

Chair

Mr. Dean Allison

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

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● (1540)

[*English*]

The Chair (Mr. Dean Allison (Niagara West—Glanbrook, CPC)): Order. Pursuant to the order of reference of Wednesday, October 25, 2006, we will now continue to hear witnesses on Bill C-257, An Act to amend the Canada Labour Code.

Our order of business is to have some committee business and then some witnesses, but I'm just going to switch that around. We're going to have our committee business right after we hear from our witnesses.

I would like to thank all the witnesses for taking the time to be here today for this very important legislation. We're going to give each of you seven minutes for your opening remarks. and then we'll have a couple of rounds of questions—three rounds, if possible, but two rounds for sure—of seven minutes in the first round followed by a second round of five minutes. Any round after that will be five minutes as well. So if you're not able to get all your points out, hopefully you'll be able to during the questions and answers.

Joining us through video conference is Mr. Massy from Burnaby.

Can you guys hear us?

Mr. Peter Massy (Vice-President, Burnaby, Telecommunications Workers Union): Yes, we can.

The Chair: Great. Welcome from Vancouver.

Our first witness is from the Hotel Association of Canada.

Mr. Pollard, you have seven minutes, sir.

Mr. Anthony Pollard (President, Hotel Association of Canada): Thank you very much. I appreciate the opportunity, Mr. Chairman and members of the committee. My name's Tony Pollard. I'm president of the Hotel Association of Canada. As I said, we want to thank you for this opportunity to be here today.

We're very strongly opposed to this bill, and right at the outset we recommend that it not go forward. Let me just give you a very brief background on what the hotel business is, how big we are, and what we do.

Last year, in 2006, we generated revenues of about $17.6 billion. The value-added from our industry, that's all the things that go into it and all the people who depend upon us, was another $16.2 billion. Perhaps more importantly for the benefit of this committee, we employ 378,000 people across the country directly or indirectly. The wages and salaries of all these individuals came to about $6.7 billion last year.

Also, as I like to point out to our friends in government whenever I appear before these committees, the revenues generated for all three levels of government, or what most of us would probably know as taxes, were about $6.9 billion last year, with $3 billion going to the federal government. Again, that's something to underline. I'd like to point out that most of you look upon us as pretty good friends because of those numbers we generate for you.

This bill aims to prohibit employers under the Canada Labour Code from using other workers, including existing non-bargaining employees, to perform the duties of employees who are on strike or locked out. Now the current part of part I of the Canada Labour Code came into being after years of hard work, including the task force headed up by Andrew Sims.

The Sims task force attempted to create a balance between the interests of employers with those of the workers. The title of the report, “Seeking a Balance”, I think is very telling. Unfortunately, it did not reach unanimity on the replacement worker issues. The majority report recommended a provision that would give employers flexibility in meeting their operating responsibilities, but would prevent them from using replacement workers to undermine a union's legitimate bargaining objectives.

After the report had been released and with the intervention of the Minister of Labour, the end result was a provision based upon the majority view. As such, the current version of part I was developed through a process that attempted to address the interests of all stakeholders, not those of just one stakeholder at the expense of others. But that is precisely what we believe Bill C-257 would do.

Further, it would undo years of effort of developing fair labour legislation at the federal level. Industries that fall under federal jurisdiction, including some hotels, have endured work stoppages over the years. This has caused many difficulties for Canadians and for Canadian businesses. There have been countless situations where back-to-work legislation has been required. This has significantly diminished since 1999, because we believe we now have a legislative framework that is more conducive to all the parties settling their own disputes.

The proposed legislative changes would negatively impact workers. The best protection for a worker who is on strike is to have confidence that there will be a job to return to. That is best assured by allowing that enterprise to remain operational during a strike. It is important to recognize that a hotel never closes. When a hotel does close, it is often very difficult to reopen. We all suffer, including our employees. This proposed legislation could most definitely result in this outcome.

While some suggest that banning the use of other workers would result in more industrial harmony, studies have shown that anti-replacement-worker legislation often results in an increase in strike incidents and duration. Therefore, longer strikes with limits on the enterprise's ability to continue operations can harm a worker's job security. If the bill is passed we will go back, unfortunately, to a far more contentious labour relations climate.

Therefore, Mr. Chair and members of the committee, we recommend the change proposed in Bill C-257 should not go forward without a comprehensive review of its implications for Canadian businesses, the employment legislation review process, and the overall balance of part I of the Canada Labour Code.

Thank you for this opportunity.

● (1545)

The Chair: Thank you, Mr. Pollard.

We're going to move next to Mr. Barnes.

I believe you're with the Canadian Wireless Telecommunications Association. You have seven minutes.

Mr. Peter Barnes (President and Chief Executive Officer, Canadian Wireless Telecommunications Association): Thank you, Mr. Chairman and honourable members. My name is Peter Barnes, and I'm president and chief executive officer of the Canadian Wireless Telecommunications Association. I too am pleased and indeed honoured to be here today to share our concerns about Bill C-257.

You should have in front of you a copy of our submission, which we filed with the clerk. The copy you have is in both official languages. We've also provided a copy of a report by Human Resources and Social Development Canada. It addresses many of the questions about investment and about strike duration and frequency, which I understand many committee members had asked about.

I'm here today to urge you not to proceed with this piece of legislation.

[*Translation*]

The CWTA is the authority on wireless issues, developments and trends in Canada. The association represents over 200 members in cellular and PCS, messaging, mobile radio, fixed wireless and mobile satellite carriers as well as companies that develop and produce products and services for the industry. Together, our members provide 95 per cent of the wireless services used by Canadians.

[*English*]

Our most pressing concern is for the safety of Canadians. We believe Bill C-257 will undermine public safety in Canada by preventing wireless telecommunications companies from maintaining the delivery of essential services to Canadians in the event of a strike or lockout. In addition, CWTA shares the concerns of other witnesses before this committee, concerns such as that the bill will significantly change the existing balance in part I of the Canada Labour Code without a full consultation; that a prohibition on replacement workers could lead to longer and indeed more frequent work stoppages; that Bill C-257 could require Parliament to pass back-to-work legislation in strike situations; and that Bill C-257 will damage Canada's economy, particularly with regard to small and medium-sized companies, as well as suppliers.

[*Translation*]

Recognizing their status as an enabling industry for all Canadians, telecommunications carriers join rail and banking as a federally regulated industry, bound by a range of federal legislation and statutes, in this case, the Canada Labour Code.

Nationally, Canada's wireless carriers employ approximately 15,000 people. Of these, the majority are unionized workers. Within each carrier, unionized workers undertake the majority of key operational requirements: including network operations — which includes the day to day maintenance and operation of the various networks provided by each carrier — engineering, maintenance, customer service, billing and other.

[*English*]

When I speak of wireless carriers, I want to emphasize that I do not mean only Bell, Rogers, and Telus. Among our membership, there are at least ten smaller regional carriers that serve communities like Thunder Bay, Kenora, or Prince Rupert. For these companies, the inability to meet their service commitments in a strike would be devastating to them—and to their communities, more importantly.

[*Translation*]

Canada's wireless telecommunications industry provides critical public safety and security services to municipalities, police, fire fighters, EMS, and to individual Canadians every day.

[*English*]

While most of us think of wireless telephony as being strictly a consumer product, wireless products and services are the backbone of the public safety and emergency response infrastructure in Canada. Wireless products and technologies are present in every aspect of Canada's safety infrastructure, helping hospitals, police forces, fire and ambulance services, and search and rescue teams do their jobs every day. In the case of police, for example, the various wireless services and technologies are part of the daily tools used by officers in the field. These provide uninterrupted, two-way communications between officers in a squad car under dispatch and services such as mobile fingerprinting, crime databases, and so on.

These, as I think you understand, can be a matter of life or death for officers in the field, allowing them to quickly identify suspects and be ready to respond appropriately to potentially dangerous situations within seconds. The majority of police forces use commercial networks managed by our members for these services.

Canada's wireless carriers currently meet the Solicitor General's standards of providing lawful access, upon receiving a warrant, to our voice networks. This means having dedicated security staff who work exclusively to provide police services on a 24/7 basis. We also provide a crucial role in assisting Canadians during emergency situations. Whether it was during the ice storm of 1998, the Vancouver mudslides, the fires in Kelowna, or the floods in Manitoba, wireless carriers were on the front lines working with emergency services personnel to provide a secure and fast communications channel for emergency assistance.

All of these services are conditional on having trained staff who can step in at a moment's notice with a robust, well-maintained infrastructure. In the event of a strike, with no ability to use any replacement workers except for select management personnel, wireless carriers would have grave difficulty providing these essential services. For these reasons, I would ask all honourable members to vote no to this bill.

I thank you. Merci.

● (1550)

The Chair: Thank you, Mr. Barnes.

We're now going to move via teleconference to Vancouver. I believe we have Mr. Massy and Mr. Shniad.

You have seven minutes, gentlemen.

Mr. Peter Massy: Thank you for allowing us this opportunity to come before you to share our experiences as they relate to the issue of replacement workers.

My name is Peter Massy. I'm vice-president of the Telecommunications Workers Union, representing employees and members at Telus. Beside me is Sid Shniad, the TWU's research director.

We have submitted a six-page brief in French and English. It provides some background to the labour dispute between our union and Telus. The document focuses on these main points: the labour relations environment at Telus; the difficulties faced by the union; the road to confrontation; the growing imbalance in the economy; and finally, the role that replacement workers played in this dispute.

We would like to expand on the last point in the time allotted to us today.

First, we take the position that employers should not be permitted to hire replacement workers. It is our view that the section of the code that allows the use of replacement workers undermines the purpose of the Labour Code, as set out in its preamble.

And what are those purposes? According to the preamble, the purpose of the code is to balance the interests of unions and employers, to promote constructive collective bargaining practices, to encourage the development of good industrial relations, and to ensure that the just share of the fruit of progress is enjoyed by all segments of society.

The fact that Telus was able to use replacement workers in the course of our dispute makes it impossible for those goals to be pursued. The use of replacement workers created an imbalance, destroyed the collective bargaining process, and made it impossible for the union and its members to enjoy a just and shared fruit of progress.

The problems created by allowing the use of replacement workers do not begin when picket signs go up. They do not begin at the moment the first replacement worker crosses a picket line in Canada or the first offshore replacement worker takes a first call. They begin when the employer, confident of his ability to use replacement workers to impose his version of the collective agreement on an unwilling union, tables a set of concessionary bargaining demands.

At that point, an employer in the federal arena, who has embarked on a program to strip away hard-won collective agreement rights, knows two things. First, the provisions of section 87.4 of the code compel the union to come to a maintenance of activities agreement, which spells out how union members will maintain emergency services during the dispute. That includes police, fire, ambulance, 911, coast guard, and a variety of other services. You have a copy of that agreement in our brief.

Second, if they decide to bargain to an impasse in order to impose their will on their employees, they will be able to use replacement workers to maintain their operation while they keep their employees on the picket line until they are forced, by financial concerns or potential collapse of their union, to accept a concessionary contract.

In January 2003, the TWU signed an agreement with Telus stipulating that our members would be available 24 hours a day, seven days a week during the labour dispute to repair telecommunications services for police, fire, ambulance, 911, hospitals, and the coast guard. By the end of 2003, the union had conclusive evidence that Telus was actively recruiting replacement workers, even though we were still in bargaining. This plus the fact that Telus was bargaining directly with our members led us to file a formal complaint with the Canada Industrial Relations Board about Telus' behaviour.

On January 19, 2004, the board issued a decision ordering Telus to offer the TWU binding arbitration as a way out of this impasse, but this decision was appealed by Telus, subsequently overturned in February 2005, and throughout that one-year period Telus continued to recruit replacement workers in Canada and offshore.

Bargaining recommenced March 2005, but the handwriting was already on the wall. Replacement workers in call centres in India and in the Philippines, as well as here in Canada, were ready. All that remained for Telus to do was to initiate a dispute.

The actual confrontation began July 21, when the union pulled its members off the job one day before Telus imposed the collective agreement it had spent five years trying to force the union to accept. The switches were thrown. Customer calls were diverted to replacement workers in India and in the Philippines.

On the ground in British Columbia and Alberta, our members were about to be subjected to an onslaught from employers of firms that specialized in strikebreakers. Their primary function was to escort the replacement workers across our picket lines, to continuously and aggressively videotape our members, and to gather or create evidence to be used for injunctions.

● (1555)

It was common for the employees of these firms to provoke confrontation on our picket line. Some of the replacement workers were transported through our picket lines in windowless vans. Others were escorted through our lines by the professional strikebreakers that Telus had hired. Some of the replacement workers were brought in from eastern Canada and the United States, and some of them had worked during the bitter disputes at Vidéotron, Aliant, and Entourage. They were provocative by their existence, and some went further, actively taunting our members.

In Alberta, replacement workers were encouraged to cross with offers of share options, generous per diems, gifts of iPods, and so on. Management was on the picket line actively encouraging employees to cross, and encouraging employees to recruit other replacement workers. Not surprisingly, the result was increased conflict, in some cases all-out chaos, and in all cases heightened levels of anxiety. In short, this was not an environment conducive to industrial harmony or the promotion of sound labour management relations.

This was a four-month labour dispute resulting in the termination of 49 employees, 70 employees charged with contempt, and 1,000 employees charged by the union for crossing picket lines. Canadian jobs, as well as the private, personal information of Canadian customers, were sent overseas, beyond the protection of Canadian privacy laws. Some of those replacement workers used by Telus during the dispute have returned as contractors.

At the end of the day, the union accepted a wage increase but lost significant job security protection, benefits to temporary employees, and workplace arrangements such as job sharing, which enabled employees to balance work and family commitments. The result runs counter to the purposes of the code and serves to undermine industrial relations in the workplace.

Finally, I would like to respond to the comments that since the publication of the Sims report there have not been problems, and that if it's not broke, don't fix it. There have been four major labour disputes that I know of, Videotron, Aliant, Entourage, and Telus, in which the employee came to the table demanding concession. In each of those disputes, the employer forced a confrontation and used replacement workers.

There is a problem: the system is broke, and you need to fix it by passing Bill C-257 before we have another dispute like the ones we have seen at Vidéotron, Aliant, Entourage, and Telus. We are not asking you to mend the labour relations between ourselves and Telus. That is our responsibility for the betterment of our members, the customers, and the company. But we are asking that you endorse Bill C-257, whose passage would be a significant message to our members.

● (1600)

The Chair: Thank you, Mr. Massy and Mr. Shniad.

We're going to now move to our next speaker, for seven minutes.

Mr. Jennery.

Mr. Nick Jennery (President and Chief Executive Officer, Canadian Council of Grocery Distributors): Thank you, Mr. Chairman and members of the committee.

My name is Nick Jennery, president and CEO of the Canadian Council of Grocery Distributors. I represent the small, medium, and large grocery distributors on both the retail and food service sides. It's about $72 billion on the retail side, and about $12 billion on the food service side, to companies that you may know, such as Loblaws, Metro, Sobeys, and Safeway, as well as some of the smaller companies like Thrifty and Kitchen Table.

I have provided members of the committee with an annual report that describes in more detail who we are and what we do. I've also provided a fact sheet on the number of direct employees that we have. We have a little more than 428,000 in the industry. Finally, we do operate, through 24,000 stores, in every community in Canada.

Mr. Chairman, I'm here to provide some input into Bill C-257 and to outline my industry's concerns with its provisions. For our sector and for the Canadian consumer, any legislation prohibiting replacement workers for companies that fall under the Canada Labour Code could have very serious implications for our industry. I do not believe this proposed legislation is in the interests of Canadians or Canadian business, and I have developed a submission for consideration by the standing committee. For today's purpose, I did want to highlight just three specific concerns.

The first concern is our industry's dependency on the transportation sector. My members account for about 85% of all the grocery products that are distributed in Canada to all of those 24,000 stores, hospitals, restaurants, institutions, and long-term care facilities, and each one of those products passes through a distribution or a retail network.

CCGD members do not fall under the Canada Labour Code per se, but we are reliant on rail and interprovincial trucking to do that and to meet the food needs of Canadians. At any one time, if you take over a two-week period, there are approximately 10,000 food shipments either in rail or on trucks in transit. This is equivalent to hundreds of millions of kilograms of food.

There is not a significant excess capacity in the transport sector, and CCGD members operate on a just-in-time inventory basis. At any one time, we have between three and ten days of inventory in the pipeline, and our efficiency is also our vulnerability. This means that if a sizable transport company such as CN or CP is prevented from providing services due to a strike and anti-replacement-worker legislation in place, significant supply disruptions will occur.

My industry has experienced two significant labour-related transportation disruptions in recent years: the Port of Vancouver disruption in 2005, and the Atlantic trucking dispute in 2003. Just to give you a flavour of what happened, a huge portion of food supply for Atlantic Canada is shipped in by truck, especially during the winter months. A labour disruption in 2003, with a blockade that lasted only two days, resulted in shortages of food and required the direct intervention of the Premier of Nova Scotia. Both examples are relatively minor compared to what would occur if CN or CP or one of their major rail yards were prevented from operating due to anti-replacement-worker legislation.

The second point I'd like to make to the members of the committee is the balance of powers during the negotiation or collective bargaining process. Proponents of Bill C-257 are claiming that anti-replacement-worker legislation is necessary to introduce a balance within the collective bargaining process, since, without the legislation, unionized employers under the Canada Labour Code are permitted to continue operating during a strike. This is simply not the case.

Under the present provisions of the code, fairness and equity are maintained during the collective bargaining process through two powers that balance each other and ensure that both parties are equally motivated to achieve a fair and equitable agreement. These powers are the employees' right to strike, balanced by an employer's ability to try to withstand a strike through the continuation of operations.

The employees' right to strike is supported by their ability to receive strike pay from the organizing body and the employees' ability to seek temporary or alternative work during the strike. Banning the use of replacement workers hinders the ability of the employer to withstand a strike, and dramatically increases the bargaining power of the employees during the collective bargaining process.

● (1605)

Anti-replacement-worker legislation introduces a bias against the employer and swings the collective bargaining process dramatically in favour of the employee or the unions.

The third point I want to quickly make is about the competitive impact on our industry. I've mentioned the size of our industry, and we're clearly in the fight of our life. We're a 1% to 2% after-tax business, with labour being the second-largest input into the industry.

CCGD members operating in both Quebec and British Columbia have had extensive experience with anti-replacement-worker legislation. With provincial anti-replacement-worker legislation, the threat of being unable to continue operations in the event of a labour dispute has decreased the bargaining power of employers during contract negotiations and it has translated directly into higher supplements and increased costs for unionized employers. In a highly competitive environment, unionized employers are increasingly competing in all sectors of the economy against non-union competitors.

Implementing anti-replacement-worker provisions will further undermine the competitiveness of unionized employers and provide non-union employers with a government-regulated advantage. The outcome of this will be that Bill C-257 will translate into increased costs for the users of services of unionized companies that fall under the Canada Labour Code.

Given the reliance of virtually all aspects of the Canadian industry on this sector, it is ultimately the Canadian consumer who will pay for the costs of Bill C-257, in the form of higher prices for a very broad spectrum of goods and services. Bill C-257, in our opinion, may actually endanger the unionized jobs it is endeavouring to protect, and it is a reality of the modern global marketplace that businesses must remain cost-competitive in order to survive.

To conclude, I believe the Canada Labour Code and the powers of the Labour Relations Board provide boundaries on the use of replacement workers and ensure that both parties are equally motivated to achieve a mutually beneficial collective agreement. Bill C-257 would upset the balance between employers and unions in the collective bargaining process. In the long term, this will undermine the ability of employers to bargain effectively and will have a tremendous impact on the competitiveness of unionized employers versus domestic and global competitors. CCGD is most concerned about the potential of the bill to hamper our ability to feed and service Canadian consumers, your constituents. As such, we are opposed to the implementation of this legislation.

I believe the government has a responsibility to Canadians rather than to any party at the collective bargaining table. Therefore, the government must ensure that labour legislation does not hamper the access of Canadians to basic needs, such as what my members distribute.

I would urge members of the standing committee to reconsider their support of this legislation in light of its far-reaching social and economic implications, and I'm most happy to assist the committee in any way in providing further information, as you see fit.

Thank you.

The Chair: Thank you, Mr. Jennery.

We're now going to move on to the Canadian Trucking Alliance. We have Mr. Bradley with us, and Mr. Cooper.

Welcome. You have seven minutes.

Mr. David Bradley (Chief Executive Officer, Canadian Trucking Alliance): Thank you very much, Mr. Chairman, and members of the committee.

My name is David Bradley. I'm CEO of the Canadian Trucking Alliance. We represent in excess of 4,500 trucking companies across Canada.

It is our view that Bill C-257 is unnecessary, and if you'll bear with me, I'd like to explain why.

First, a little bit about our industry. We are the dominant mode of freight transportation in the country. We touch 90% of all consumer products and foodstuffs, and we make an exceedingly important contribution in terms of Canada's international trade, hauling two-thirds, by value, of Canada's trade with the United States.

The broader trucking industry includes for-hire carriers, which can be either federally or provincially regulated, and private carriers, which are those that move their own goods and are provincially regulated. The industry employs in excess of 350,000 Canadians. Those are direct jobs.

A third of the total trucking labour force are employee drivers in the for-hire trucking sector—and when I say employee drivers, that's distinct from the independent owner-operator contractor.

The proportion of truck drivers who fall under the federal labour regulations is not known with certainty, but according to HRSDC, just over 100,000 employees in trucking are covered by at least some part of the Canada Labour Code.

Trucking is made up predominantly of small firms. About 78% of employee drivers work for companies with fewer than 100 people, and 39% work for companies employing fewer than 20.

The level of unionization in our industry—at no more than 20% of employee drivers—is relatively low compared to the general workforce.

With regard to Bill C-257, for us it's a question of balance. Collective bargaining is a question of balance. Parties to any negotiation attempt to gain an upper hand through various means. The role of the regulatory environment is to try to ensure a level playing field and to maintain the appropriate balance in negotiations, not to confer the upper hand to either party through legislation or regulation.

In our view, the current climate of labour relations in the trucking industry would suggest that balance exists. While the level of unionization, as I said, is low, the portion of the industry that is unionized is characterized by stable labour relations. In the period 2000 to 2006, there were only seven work stoppages in the trucking industry in companies regulated by part I of the Canada Labour Code. The average length of work stoppage during that period was 15.5 days. There were no strikes or lockouts by companies under federal jurisdiction in either 2004 or 2005. Not known in these work stoppages is the degree to which replacement workers were used. However, we feel that there were very few, if any, used.

The nature and structure of the trucking industry has characteristics that promote balance and labour stability. For one, competition is always vigorous and often fierce. There are at least 10,000 for-hire trucking companies competing for freight, and that's a reflection of economic deregulation that has existed in our industry since the late-1980s. Economic deregulation and fierce competition dictate that carriers will survive only if costs are controlled and if they provide the service to which their customers have become accustomed.

Trucking service is a perishable service. It's not like a manufactured product, where if you don't get your price today it can sit on the shelf until another customer comes in tomorrow. We don't have that luxury in the trucking industry. If a carrier's not happy with the price it is able to obtain for its service, there's always someone else who will take the freight, either at that price or at a lower price.

There's competition not only for freight but also for qualified drivers. There's a lot of driver mobility, and the resulting turnover or churn in the industry is extremely high. In some sectors it approaches 100%. So in the event of a protracted strike at a trucking company, the organization would soon be out of business. Competitors would move quickly to take over that freight.

From a broader societal view, we raise the following concerns. Trucking serves every community accessible by road. In remote areas, many communities are served only by truck, and delays in delivering to Canada's most vulnerable communities could be devastating for its residents.

Of particular concern is the volume of just-in-time freight delivered across Canada and into the United States. Transportation disruptions in just-in-time delivery could affect our major trading partner's confidence in the cross-border supply chain, resulting in reduced sourcing of products from Canada.

● (1610)

In the event of a labour stoppage in other federally regulated freight modes such as rail, we simply do not have the capacity, nor do we have the kind of equipment, that would be used to move most of what rail does. So it would prevent us from taking up any slack that there may be.

The potential to have transportation services halted, ports closed, and intermodal facilities shut down would be felt by all Canadians.

As I said at the outset, we feel that Bill C-257 is unnecessary. Some have even referred to it as a solution in search of a problem. Evidence from jurisdictions across Canada shows that either banning or allowing replacement workers has little or no impact on the frequency or duration of work stoppages.

Again, according to HRSDC, the average number of working days lost because of strikes has gone down in nearly all provinces in the past several decades—including British Columbia, where there is a ban, and Ontario, where there is not. The existence of or the lack of anti-replacement-worker legislation appears to have nothing to do with this general trend in labour relations.

Parliamentary intervention to order employees back to work occurred frequently before 1999, when the amendments to the Canada Labour Code prevented the necessity of such legislation. Bill C-257 would turn the clock back. Pressures for return-to-work legislation to assure continuity of essential services could again become the norm.

Thank you very much.

● (1615)

The Chair: Thank you, Mr. Bradley.

We're now going to start our first round with the opposition.

Mr. Silva, seven minutes, please.

Mr. Mario Silva (Davenport, Lib.): Thank you very much, Mr. Chair.

Thank you to the witnesses for coming before the committee.

I want to have some basic questions answered, if possible, from all the speakers—

[*Translation*]

Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ): Pardon me, Mr. Chair, but I can't hear the simultaneous interpretation. I don't know what's going on.

Mr. Mario Silva: You have to speak a little louder.

Mrs. Carole Lavallée: Now I hear it. Thank you.

[*English*]

Mr. Mario Silva: All right.

To the Hotel Association of Canada, can you please tell me what percentage of your members would be unionized?

Mr. Anthony Pollard: Are we talking about what comes under this legislation, about the number of hotels that are federally regulated, or about the numbers that are unionized right across the board?

Mr. Mario Silva: Well, unless you're unionized, you're not affected by the legislation. What percentage is unionized and what percentage is not?

Mr. Anthony Pollard: The portion that's unionized is about 60%.

Mr. Mario Silva: Okay.

To the Canadian Wireless Telecommunications Association, could you tell me what percentage is unionized?

Mr. Peter Barnes: The percentage is similar, Mr. Silva. It's a majority and it's close to 60%.

Mr. Mario Silva: The Canadian Council of Grocery Distributors, same question.

Mr. Nick Jennery: About 70%.

Mr. Mario Silva: And the trucking association?

Mr. Graham Cooper (Senior Vice-President, Canadian Trucking Alliance): Less than 20%.

Mr. Mario Silva: Less than 20%. Okay.

Thank you. That helps me with my question.

I know that the trucking association has raised a number of concerns. I've also met with them in my office.

I'm a bit puzzled here. I know that your percentage is very low in terms of unionized workers. I also realize that with our ever-aging market, it is becoming more and more difficult to find workers. I know that your industry has a terrible problem finding extra workers, even to fill the demand you presently have.

If there were a strike, how would you manage to get replacement workers when you can't even get workers at the moment?

Mr. David Bradley: That would be difficult to do, I grant you that. That's why we say we don't think it's been resorted to very often in our industry.

Mr. Mario Silva: But you don't think it's realistic that if you were to go on strike that you could get replacement workers the next day.

Mr. David Bradley: No, not enough to fill all of the seats, absolutely not—depending on the size of the company, of course.

Mr. Mario Silva: Right. Because I believe your association has been quite clear in stating that you have a shortage, and a need for—

Mr. David Bradley: Yes, we have a long-term structural shortage.

Mr. Mario Silva: Okay. Thank you very much for that statement.

To the Wireless Telecommunications Association, obviously the Telus labour disruption was very bitter and quite confrontational. If anything, it created great animosity within the employees because replacement workers were brought in.

Is that not something your members would see as a reason not to have replacement workers during a strike?

Mr. Peter Barnes: I can't comment on the matters between one of my members and the union. I'm not here to represent Telus. I think our big focus is essential services and the lack of protection of essential services that's contained in this bill. Certainly as replacement workers, or lack thereof, affects this, that's really our focus.

Mr. Mario Silva: Can you be very specific on what part of the legislation? Essential services is not covered in this private member's bill, because essential services was covered in the amendments made in 1999. Can you tell me what specific concern you have about essential services?

Maybe Mr. Massy could speak on this afterwards.

Mr. Peter Barnes: Really it's the absence in this bill of protection of essential services that we're concerned about.

Mr. Mario Silva: What exactly is specifically absent? Because essential services is in the current part I of the Canada Labour Code.

Mr. Peter Barnes: But our understanding of the effect of this bill is that Bill C-257 would mean that essential services would no longer be protected. The prohibitions contained in Bill C-257 would invalidate or impair the ability to provide those services.

Mr. Mario Silva: Do you have a legal opinion on that? Because I'd like to see it.

Mr. Peter Barnes: Presumably we can get one. I can—

Mr. Mario Silva: Could you please do that? I don't have that information, and I've been told that's not the case. I can't proceed unless I know the facts, so if you could provide a legal opinion that would be great.

● (1620)

Mr. Peter Barnes: I'd be pleased to provide you with an opinion.

Mr. Mario Silva: Thank you very much.

Mr. Massy.

Mr. Peter Massy: It would be incorrect to say that activities are not maintained during a labour dispute. In our brief to the committee we provided a copy of a letter—I'm sorry that it's not translated—called “Maintenance of Activities”. There's nothing in Bill C-257 that would suggest section 87.4 is going to be removed.

In the labour dispute with Telus in 2003, we signed off a letter that explicitly ensured that our members would be available 24 hours a day, seven days a week, to maintain 911 emergency, police, fire, ambulance, hospitals, coast guards, and anything else, if need be, for the purposes of protecting the public as mandated by the code.

So the code clearly has...and this is where the imbalance is. The code clearly lays that out, that we have to protect the public. At the same time, we don't have the same balance when it comes to the use of replacement workers.

Mr. Mario Silva: Mr. Massy, could you make that letter available to the members of the committee?

Mr. Peter Massy: I believe you have it. It's the last page of our brief.

Mr. Mario Silva: Okay. Thank you.

The Chair: Ms. Dhalla.

Ms. Ruby Dhalla (Brampton—Springdale, Lib.): Thank you very much to all of the witnesses for providing us with your particular insights. I think some of the information you provided us is going to be beneficial to all parliamentarians when making their decisions.

Mr. Barnes, you feel that telecommunications has not been included in essential services. If it were included, are there any other concerns you have with this particular piece of legislation?

Mr. Peter Barnes: That's really our major concern. Just to give you a sense of how complex and significant we believe the essential services issue is, the Quebec labour legislation contains some 25 pages on essential services. It's not a simple one-liner that fixes everything. So I think essential services is quite a complex issue.

The TWU rep mentioned a letter that was on file. The important thing to understand is that with a wireless network, whether the police are in their office, in the car, or down a concession road, the whole network everywhere is providing essential services. An assurance of provision to a particular customer—911 or the police service—probably doesn't get you all the way home, because if the tower that's serving that area on concession 3 is out, that affects all customers.

So there's an integral part to the essential service in wireless communication, just because people are always, by definition, moving around. That's really the concern we have. If there are no assurances or protections for that, then our customers and public safety would be at risk.

The Chair: Thank you.

Ms. Dhalla, that's all the time you have. We'll have to catch you in the next round.

We're going to move to Madame Lavallée for seven minutes.

[*Translation*]

Mrs. Carole Lavallée: Thank you very much, Mr. Chair.

You really sadden me because you seem to be educated and informed people, and you're taking part in the fear campaign launched by Jean-Pierre Blackburn, the Minister of Labour, who has even raised the scarecrow of the 911 services, whereas we know perfectly well that, in Quebec, they fall under Quebec's jurisdiction, that they've been subject to the anti-strike breaking law for 30 years and that no disaster has ever occurred.

I'm disappointed and saddened to see that you're taking part in the fear campaign of a politician who didn't know what he was saying. You really disappoint me. You also disappoint me because I don't get the impression that you've read the Canada Labour Code. Perhaps your researchers have read it and not told you the whole story, but I'm going to tell you what's in the Canada Labour Code. You'll see I'm good at giving lessons.

Section 87.4 reads, and I quote:

> 87.4 (1) During a strike or lockout not prohibited by this Part, the employer, the trade union and the employees in the bargaining unit must continue the supply of services, operation of facilities or production of goods to the extent necessary to prevent an immediate and serious danger to the safety or health of the public.

Mr. Barnes, all the apprehensions that you might have had go up in smoke. Your argument no longer stands.

Moreover, new subsections 94(2.3) and (2.4) of Bill C-257 state, in the French version, which is clearer than in the English version, that the application of subsection (2.1) does not have the effect of preventing the employer from taking any necessary measures to avoid the destruction of the employer's property or serious damage to that property. Here we're perhaps talking about food and refrigerated trucks.

Incidentally, subsections 94(2.3) and (2.4) are virtually identical to what's written in the Quebec Labour Code, apart from a few words. The spirit is exactly the same and the clauses are identical.

That being said, you'll understand that I'm also disappointed because representatives of the Canadian Bankers Association have appeared and taken part in the management fear campaign. However, it was realized that fewer than one percent of those employees were unionized. Consequently, the apprehended disaster didn't occur.

Representatives of the Railway Association of Canada also said that it was appalling, that they couldn't support the anti-strike breaking legislation because this was a matter of public safety across Canada. Section 87.4 of the Canada Labour Code comes into play, but there's also the fact that, in any case, your speech is more anti-union than opposed to Bill C-257 since most of you have employees who aren't replaceable.

I'm thinking of the Canadian Trucking Alliance, for example. What truckers can you hire during a strike? How long do you have to take training to be a truck driver? It takes months. You can't replace a truck driver like that, on the spur of the moment. If you have managers who are qualified to drive trucks, then you can send them to do the work.

There's still section 87.4. If the public safety is in jeopardy, then you can intervene and ask to negotiate essential services with your unions, which most unions do very willingly.

This is so true, essential services are so important that essential services legislation was passed in Quebec in 1975, while the anti-strike breaking legislation was passed in 1977. There's no causal relationship. It's not because there's anti-strike breaking legislation that you need essential services legislation. Quebec's essential services legislation was introduced because public sector employees, particularly those in the health sector, now had the right to strike, and, as responsible unionized employees, they asked the government to pass legislation overseeing essential services.

A little earlier, Mr. Bradley, you said that, in the event of a long strike, a business would close. No, in the event of a long strike, the business would negotiate, and that's what balance is. Balance doesn't mean that the employer can do what it wants; it doesn't mean that the employer continues to produce and continues to have revenue and negotiate with its left hand, as Telus did. They pretended to negotiate with the employees and continued hiring replacement workers. That's not balance.

● (1625)

In a labour dispute, balance means that the employer deprives itself of part of its production. It can still continue producing by relying on its managers; let's be clear on that. It's deprived of a portion of its revenue, unfortunately, but the unionized worker is in an even worse situation, because he's deprived of his job and all his income. I challenge you. A little earlier, I heard the argument that employees can find another job. Very few find other jobs, particularly when this happens in remote communities. It's very hard to find another job.

I can also tell you about Quebec's experience. Quebec has had anti-strike breaking legislation for 30 years, and it's been tested. None of the disasters that you apprehend have occurred; the economy hasn't collapsed, nor have small and medium-size enterprises, as you write in your brief, Mr. Barnes.

[*English*]

The Chair: You have one minute.

[*Translation*]

Mrs. Carole Lavallée: I want to point out that, every time there's been a major strike in Quebec over the past 30 years, every time it was violent, every time there was vandalism, every time it took too long, we saw that it was, for example, Vidéotron, which is a federally regulated cable TV company. The strike at Radio-Nord, in Abitibi, lasted 22 months. That's also federally regulated. The strike at Cargill, in Baie-Comeau, lasted 36 months. It's also federally regulated. Every time there's been a major strike in Quebec in the past 30 years, every time there's been a strike that made no sense, it was a federally regulated business. That's why this bill is necessary in order to rebalance the forces. I don't believe in the balance of the Canada Labour Code; I don't believe in Mr. Sims' balance.

Thank you.

● (1630)

[*English*]

The Chair: Thank you very much.

We're going to move now to the NDP with Mr. Martin, for seven minutes, sir.

Mr. Tony Martin (Sault Ste. Marie, NDP): Thank you very much.

I haven't sat in consistently through the hearings that we've had so far, so I may ask a question or two that have perhaps been asked before.

It seems to me, as I have sat in and listened, that there are really a couple of issues. In fact, I sat through the hearings through the early 1990s in Ontario, when we moved the labour relations reforms that happened under the Bob Rae government, and I heard a lot of the same discussion between the two sides in that instance.

One issue is the concern for protection of services of an emergency nature. The other is on the impact on the economy, both of a company and of the whole jurisdiction, if companies aren't allowed to bring in replacement workers.

In each instance, each side brings in its own documentation and legal opinions and research to prove their side, much as happens in negotiations to make the case.

Maybe you have tabled this already, but I wonder if we could get any third-party information, for example, from the researcher, on jurisdictions such as Quebec and on that short time in Ontario when there were anti-replacement-worker provisions in place, to indicate whether there were any situations where emergency services weren't delivered or where there was a crisis of some sort. If we could have that, it certainly would be helpful to me, and I would hope it would be helpful to other members of the committee.

So I'd like it if our research could do that bit of work and bring it to us so that we could have it in front of us to say that is the case.

Also, there's the economic impact on a company or a jurisdiction. For example, in Ontario the late 1980s and early 1990s were recessionary periods. It was worldwide. The economy had returned to quite a vibrant state by the mid-1990s, when we were coming to an end of our time in government, yet the anti-replacement legislation that was in place didn't impede that growth in the economy that the Conservative government and Mike Harris were able to take advantage of to actually have some good times in the mid- to late 1990s.

On the other side, I heard Mr. Brown yesterday suggest that no companies were coming in and there has been no investment in Ontario after the anti-replacement legislation came in place. I would argue with him that this is not true. But it would be good if we had third-party confirmation of that.

Is there any information available? Has any information been made available to the committee to indicate that in jurisdictions where there is anti-replacement legislation, the economies of companies and those jurisdictions were in fact negatively impacted? That would be helpful for all of us so that we could see more clearly what the reality is here.

The Chair: Mr. Martin, would you like a couple more weeks to study this bill? We could arrange that.

Mr. Tony Martin: No, I think that could be done very quickly, and hopefully it will be, Mr. Chair.

The Chair: Mr. Barnes and Mr. Massy wanted to chip in there, just quickly.

Mr. Tony Martin: Sure.

Mr. Peter Barnes: Thank you, Mr. Chairman.

Mr. Martin, just before you came in I was mentioning in my opening remarks that we filed today a copy of a study by Human Resources and Social Development Canada dealing with the impact of replacement workers, or their key observations.

Let me just quote a couple of the conclusions from the study. We filed it with the clerk, and I think there'll be copies for you. I think it'll answer some of your questions, although maybe not all.

These are a couple of the conclusions or their observations:

> There is no evidence that replacement worker legislation reduces the number of work stoppages.
>
> There is no evidence that replacement worker legislation results in shorter duration of work stoppages.
>
> Several academic studies on the impact of replacement worker legislation have concluded that a legislative ban on replacement workers is associated with more frequent and longer strikes.

The government department responsible for labour issues has done this study. It's well documented, with economic and investment assessment as well as impact...and compares Quebec, B.C., and Ontario labour statistics. So there's a wealth of information there, and I'd encourage you to look at it.

● (1635)

[*Translation*]

Mrs. Carole Lavallée: Mr. Chair, could he tell us what the source is?

[*English*]

Mr. Tony Martin: Could I hear from Mr. Shniad, please?

Mr. Sid Shniad (Researcher, Burnaby, Telecommunications Workers Union): Mr. Chairman, I think Mr. Martin asked the question about the impact on the economy. There has been a replacement worker ban in British Columbia for years now, and the economy is booming. There is no correlation between the existence of a replacement worker ban and a detrimental impact on the economy.

The Chair: Thank you.

I think that Madame Lavallée was asking about the source. You have it in the documents.

[*Translation*]

Mr. Peter Barnes: The source is Human Resources and Social Development Canada, the Government of Canada department. It's the section that deals with labour issues within the department.

Mrs. Carole Lavallée: Is it the document presented by Jean-Pierre Blackburn on October 25?

[*English*]

The Chair: Madame Lavallée, it's Mr. Martin's time. Maybe we'll get you into the next round.

[*Translation*]

Mrs. Carole Lavallée: With regard to the source, I simply wanted to know the date.

[*English*]

The Chair: We'll get the date later, after your time—

Mr. Tony Martin: The other thing that concerns me, when I hear from the employer side of this discussion, is the sense that you somehow don't trust that your workers will in fact take responsibility for the protection of the public in the work they do at times when there might be a work stoppage or a negotiation. Is there any evidence to indicate that workers will, in those instances—?

My experience, for example, when we had the ice storm, was that workers of all kinds came to the fore and were in there 24/7 trying to clean up. We see it over and over again as we see the different natural disasters happen. It's the workers who are in there cleaning up those things, working 24/7 to get that done.

I asked the person who came before us representing airports if in fact his workers came forward when that Air France plane came down and crashed at the Toronto airport. And he said that, yes, they did, that they were there 24/7.

To me, the suggestion in the presentations was that as far as this emergency service is concerned, you somehow don't trust or believe that the workers in an anti-replacement situation would in fact come forward and make sure that the public was protected. Is that what you're saying?

Mr. Nick Jennery: Mr. Chairman, I'll just quickly comment.

I think there's a theme here with fear-mongering...and your last point, sir. I represent the grocery industry. For the most part, I think, we have a pretty good record of negotiated settlements, despite the huge size. It's not so much the commitment to respect essential services. In our case, ours is such a complex supply chain that a tiny little hiccup in the just-in-time practices causes huge havoc. And this is not fear-mongering, because we've actually experienced it.

In the Port of Vancouver strike, we had to take all of those tens of millions of kilograms of food, put them on a rail, and ship them all the way to Calgary and then all the way back to Vancouver. That actually happened. In the Atlantic trucking dispute—the one pipeline that gets product into the Atlantic provinces—we had holes on the shelves in two days. The media reported the lack of meat, the lack of bread and some milk. There were live animals caught in a—

We had the premier's office, the RCMP, and the industry all on a conference call. All those folks tend to say, “Just let it play out”. The trouble is that in two days' time we have consumer panic. So despite best efforts, it very quickly gets out of control.

The Chair: That's it, Mr. Martin. I gave you some extra time. We'll catch you on the next round.

I just want to indicate to Madame Lavallée that the labour program study was done by HRSDC, dated October 24, 2006. It has been distributed to some of the members.

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

Mr. Brown, seven minutes, please.

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

When I look at Bill C-257, I look at what is the optimal balance between negotiating parties. My concern with this proposed legislation is that it would take away from that optimal balance.

Mr. Martin mentioned the experience in Ontario. I look at the successive premiers since then. Mr. Harris, Mr. Eves, and Mr. McGuinty all said they didn't want to revisit that period in Ontario, when we had a recession, and it also coincided with the use of this legislation.

I wonder if that's because it damages the optimal balance. I would certainly like to get your input on how this affects the balance that we need to have in these negotiations.

I look at Ontario and Quebec, two provinces currently with different approaches in labour legislation.

Mr. Barnes, you mentioned there is no evidence that replacement worker legislation results in shorter durations of work...and that's what I found as well as I looked through this. Over the 2003-05 period, work stoppages in Quebec were 47 days on average, compared to 38 in Ontario. This suggests that jurisdictions that don't adopt a ban on replacement workers are able to more successfully have peaceful labour relations.

To further highlight this point, I think Human Resources provides statistics continuously from 1976 to 2005. Continuously, if you look at the number of work stoppages per 10,000 employees, Ontario has had a far greater level of success than Quebec. As recently as 2005, the year for which we have the most recent available statistics, it's 0.12 out of 10,000 employees, versus 0.25 for Quebec.

When you look at something on a broad level over a quarter of a century and it speaks to a trend, I think there's something we can learn from that.

I want to get input from Mr. Barnes, Mr. Pollard, and Mr. Jennery on how you feel this might damage the optimal balance.

● (1640)

Mr. Anthony Pollard: At the end of the day, we believe very firmly that the balance will be offset in a very negative way. You identified the differences between Ontario and Quebec. We see the same thing right across the country in places where—depending upon the level of unionization and so forth.

We just believe very firmly that as a go-forward, this is not the way to go.

Mr. Nick Jennery: We don't come under the figure...the Canada Labour Code, per se, but I would say there is a balance right now. The track record speaks for itself; both parties are equally motivated to seek a resolution. That's what the track record says.

Mr. Patrick Brown: Mr. Bradley.

Mr. David Bradley: I think that's what we tried to say in our submission as well, that we have a relatively stable labour relations climate in our industry. We said that we don't see the necessity for Bill C-257. We don't know what it would bring to the table to give whatever balance is supposedly missing from the workers' side right now. It's there; it's working.

Mr. Patrick Brown: Another concern I have with this proposed legislation is that, as much as we've referenced the Quebec example, at least the ban on replacement workers in Quebec was detailed in the legislation. There was at least some work put into it. You see some legislation of 90-odd pages, and look at this: it's two pages. It doesn't even begin to deal with the plethora of situations you may have that are off the general plane.

One situation in particular that I'm concerned about is telecommunications. I have it in my notes that the Canada Industrial Relations Board ruled that telecommunication services are not essential to public health and safety within the meaning of the Canada Labour Code. What ramification is this going to have on the services you provide and for the ordinary Canadian? I mean, 911 deals with telecommunications, the RCMP, and the Department of National Defence. What is this going to mean for the ordinary Canadian requiring emergency services? What is this going to mean for your organizations, for services with nuclear power generation stations, hydro-monitoring sites?

It is amazing that it wasn't contemplated in Bill C-257 that this would not be thought of. It seems it was rushed through without ample background and research being put into potential challenges associated with this.

Is there some feedback you can share on the telecommunications side?

● (1645)

The Chair: Mr. Barnes, and then Mr. Massy.

Mr. Peter Barnes: Thank you, Mr. Brown.

Certainly I share your concerns, and I think you pointed out the importance of any details in getting into substantive discussion of the issues. As I pointed out earlier, the essential services provisions in the Quebec legislation are some 20 pages long, so there is a lot to the issue.

The other point to make, and I made it earlier but maybe I should make it again, is that when you're talking about essential services with wireless telecommunications, 30 years ago if a line went to the police station or to the hospital, you were fine. But now, hospital workers, whether they are doctors or nurses, ambulance dispatchers or drivers, or policemen, are out in the field and they can be anywhere where other customers are. So the whole network, wherever it is, becomes part of the delivery of essential services.

That's really the issue that we see needs to be explicitly protected, and it's not in Bill C-257, and therefore we have the problems we have with it.

The Chair: Mr. Massy, a quick final comment.

Mr. Peter Massy: I have two comments.

First of all, it's not required in Bill C-257 because section 87.4 has it and has laid it out. There are examples of how section 87.4 works.

Second, on the issue of balance, section 87.4 says that we cannot have a labour dispute unless we agree to a maintenance of activities.

The term “replacement workers” is a different kind of language because in that case the union has to prove they've actually hired them for the purposes of undermining the trade union.

So on one hand, we can't even have a labour dispute unless we sign a maintenance of activity. On the other hand, we can't challenge the replacement workers under the existing code unless we first prove the motive of the company. There is a blatant imbalance right there.

The Chair: Thank you, Mr. Massy.

Now we're going to move to Mr. Savage.

Five minutes, please, second round.

Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.): Thank you, Chair, and thank you to the witnesses.

I missed the first half-hour of the meeting so I missed your presentations, and I apologize for that. I hope I won't go through ground that's been covered.

Like the other Liberals here, we are new to this committee. We have had to know something about this issue in order to vote on it in the House, to get it to this stage, but we're getting caught up to date on this issue and learning very quickly.

I think it was perhaps the presentation by the Telecommunications Workers Union that referred to the Telus strike. I think I'm the only member of the committee from Atlantic Canada and I'm wondering if anybody is equipped to comment on the strike that happened in Atlantic Canada about two-and-a-half years ago, the Aliant strike.

Mr. Shniad or Mr. Massy, I realize you're in B.C., but I wonder if you have any comment on how this legislation would have played out if it had been in place when the Aliant strike was on in Atlantic Canada.

And if Mr. Barnes or anybody else feels they have any expertise, or an opinion even, I'd be interested in that view as well.

The Chair: Go ahead, Mr. Massy.

Mr. Peter Massy: In terms of the Aliant strike, I've been touch with the union representing the employees in Atlantic Canada during the labour dispute. I believe the legislation would have reduced the length of that labour dispute. I know it was very difficult.

I don't know if the committee is aware that combined with their use of replacement workers came the hired firm to protect those replacement workers, and predominantly that was AFI. I know from our discussions with the Atlantic Canada employees that a lot of them suffered severely, to the extent that I believe the Premier of Nova Scotia had to be involved in an attempt to get that thing resolved.

The employees in Atlantic Canada were severely hurt by that labour dispute. It's our belief that had there been anti-scab legislation in place, there wouldn't have been the damage that was done to the employees, to the company, and to the community.

● (1650)

Mr. Michael Savage: In your view, would the strike have been shortened with this legislation?

Mr. Peter Massy: My belief is that you wouldn't have had the strike. As I said earlier, the issue of replacement workers doesn't start when the picket line goes up. When you know you have replacement workers, the company already knows it has an ace in the hole. If it wants to strip a collective agreement, it knows it can use replacement workers to force that. If you don't have that right, you go to the bargaining table with a much different attitude.

Mr. Michael Savage: Thank you.

Does anybody else want to cast an opinion?

Mr. Peter Barnes: Mr. Savage, I can't speak for one of my members. I don't have the knowledge of their relationships with the union, so unfortunately I can't help you.

Mr. Michael Savage: That's fair enough.

I'm looking at the Sims report from 1999. They did look at the issue of replacement workers, as you know, and I want to read something because you mentioned, Mr. Massy, that before the strike or lockout even happens, things can be done to prevent that from happening, such as in the case of the Aliant strike.

The report on page 130 says the following:

> Replacement workers can be necessary to sustain the economic viability of an enterprise in the face of a harsh economic climate and unacceptable union demands. It is important in a system of free collective bargaining that employers maintain that option, unrestrained by any blanket prohibition. If this option is removed, employers will begin to structure themselves to reduce their reliance on permanent workforces for fear of vulnerability, to the detriment of both workers and employers alike.

I'd like your views on that.

Mr. Peter Massy: When you look at the legislation in B.C. and Quebec, I don't think you'll see that has happened, and they've had anti-scab or anti-replacement worker legislation for quite some time.

The issue of what's in the current code as it relates to the Sims study deals with the fact that the union has to prove the company is hiring them for the purpose of undermining the trade union. That's a tall task you've put to the unions in the federal legislation. You can only prove it when the strike actually starts, not before, and by that time it's too late.

When union members go on the street, they don't get paid. They lose their houses, they get in debt, and it has a tremendous impact on their families. That is where the balance is. Employees, when they walk out the door or are locked out, suffer.

Employers have managers who can do bargaining unit work during a labour dispute. That's already there. Telus had 8,000 managers; why didn't they use them? Why did they use call centres in the Philippines and India, call centres that still exist today, to do that work? It undermined the trade union and ended in a devastating four-month labour dispute. There was no need for it, and the legislation would have stopped it.

The Chair: Thank you, Mr. Savage.

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

[*Translation*]

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

I also want to thank our guests for being here. First, I would tell you that we're trying as hard as possible to understand the bill's impact so that we can make the best decisions on recommendations to the House of Commons. Perhaps it would be a good idea to do a summing up, that is to say to try, first of all, to distinguish between what is important in the debate and what is not.

Furthermore, when statistics from Quebec are presented, it should always be said how we compare. Quebec has one of the highest unionization rates in the country. Consequently, there's necessarily a larger number of strike days in Quebec. When citing examples in communications or transportation, we have to know under what jurisdiction the union falls: federal or provincial. In general, communications in Quebec are under federal jurisdiction. Every time a dispute has arisen, there have been lengthy strikes, and violence because strike breakers, replacement workers, were used, which wasn't done in other sectors.

Personally, I've worked on both sides of the fence. I've been a union worker and I was also an employer, for seven years, of 120 persons. Subsequently, I employed 20 persons for 11 years. As a unionist employer, I experienced a three-month strike. We were in a situation where we had to provide services because there were a lot of proceedings before the courts that we could not disregard. That means that, under the legislation prohibiting the use of replacement workers, we were allowed to fill all positions.

In the hotel industry, on the other hand, there was no union. As the employer, I felt that, if there had been a union and people had gone out on strike, I would have been able to replace them. It seems to me that I would then have broken the relationship of domination.

I mean to tell you that I have no bias. Of course, we've introduced the bill based on the Quebec experience, which I think is highly conclusive, but this bill should take into account not only Quebec, but all of Canada as well.

I'm going to ask you the same question I put to other people yesterday. Apart from apprehended situations, are there any actual situations that should deter us from passing this bill?

● (1655)

Mr. Peter Barnes: If I correctly understand the distinction you're drawing between the apprehended situation and the actual situation, it's a bit difficult to answer because we're in a hypothetical situation. We have a bill that hasn't yet been passed. We don't actually know what its impact will be. All we can do is apprehend its impact.

In our view, knowing the importance of our services and their influence on the economy and society, we fear that these services will be disrupted and that essential services and emergency services will be reduced or seriously disabled.

I don't have any actual examples because we haven't had a situation in which legislation of this kind applied to telecommunications. So all I can tell you is that we think that could happen. We have to exercise our judgment as best we can. We're well aware of the growing importance of telecommunications. It's no longer one person in 10 who has and uses a cellular telephone; it's the majority of people, and in essential services, it's everywhere. So that's really what concerns us.

Mr. Yves Lessard: Is the answer the same for each of you?

[*English*]

Mr. Nick Jennery: This is a very quick statement. What I would say is that my industry, the grocery industry, is hugely reliant on rail and interprovincial trucking. Because we have no inventory, if something happens to the supply chain we have a problem in feeding Canadians. That's really what it comes down to.

It may be a little dramatic, but there is no inventory in the supply chain. We have examples of when we've experienced that. As my partner just put it, it's not necessarily about strikes or blockades—call it what you will—but very quickly we have a problem.

The Chair: Thank you, Mr. Lessard. That's all the time we have.

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

Mr. Tony Martin: I'd like to ask Mr. Shniad, who actually had his hand up, to talk to us a little bit about the experience in British Columbia. When did this anti-replacement-worker legislation come in? What has been the experience, first of all, with the government that brought it in? I know there were subsequent governments in B. C., and they obviously didn't throw it out. Have there been difficulties in terms of emergency and essential services? Have there been any complications in terms of on-time delivery in some of the industries where that's now the operative way of doing things?

I'd be interested in hearing some comment from you on those.

Mr. Sid Shniad: Mr. Martin, if memory serves, it was brought in by the Glen Clark NDP government originally. We are now in the second term of the Liberal Campbell government. They have not made any move to change the ban on replacement workers in British Columbia. The economy here is booming.

In terms of the questions you asked about the negative impact—as raised by Mr. Jennery, I believe—Mr. Jennery referred to the potential disruption, but Mr. Bradley in his testimony said there have been seven stoppages in trucking in the sector covered by the federal code, and that few replacement workers had been used there. So they're asking for a defence that they have not already deployed even though they are entitled to deploy it.

It's not an issue there, but it has been an issue in telecommunications, both in B.C. and Alberta, at Telus, and in Quebec, where it seems that management has taken a different attempt to maintain and run their operations, and use replacement workers to do so. So there is an existing, concrete, actual threat—not abstract or theoretical—to peace and balance in telecommunications in particular, which is where we have the experience.

● (1700)

Mr. Tony Martin: I know from my experience in Ontario—I was a member of Parliament there from 1990 to 2003—that after the Harris government came in, in 1995, and they changed the labour relations so that there could be replacement workers again, we had, for example, this really long, difficult, and damaging strike at Red Lake, in northern Ontario. It went on for about 10 years. They brought replacement workers in and people literally lost their jobs, lost their livelihood, lost their homes, and that community was damaged irretrievably.

Could you tell me, in your experience, if there has been that kind of work stoppage, or what kind of work stoppages have been the experience in British Columbia since the banning of replacement workers came into effect?

Mr. Sid Shniad: I am unaware of anything remotely comparable to the bitterness and nastiness of the Telus strike, for instance, in British Columbia's provincial experience. There has been nothing remotely comparable in the last 15 years.

The Chair: You have one minute.

Mr. Tony Martin: I've finished.

The Chair: Okay, we'll move on to Mr. Lake.

You have five minutes, sir.

Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC): I want to address the issue of essential services again—in general, the indirect impacts of this bill that maybe weren't considered when it was put together.

On essential services, clearly telecommunications is not an essential service, according to the CIRB. They've ruled on it and it is not an essential service under the provisions of the labour code. Yet the telecommunications industry is vital to the functioning of emergency responders.

To Mr. Barnes, how would a strike in the non-essential telecommunications industry affect emergency services such as 911, police, fire, paramedics, and so on?

Mr. Peter Barnes: Thank you for your question.

I don't want to be an apostle of doom, but a lot depends on the duration and the severity of the labour disruption. If you're thinking of police officers, fire officers, ambulance personnel, medical personnel, they are using their wireless devices, whether they are e-mail devices such as BlackBerrys or cellphones or specialized high-speed wireless Internet equipment, to protect our lives on a regular basis. It's an integral part of their job.

If you were to say to police officers that they had to go out on the street without their cellphones and without the remote wireless terminal in their car and do their job, they would have serious concerns. That's just a very simple way of understanding the significance.

The board made its ruling some time ago. Circumstances have changed since then, and I would probably want to argue that they should reconsider it. But that's not the issue at this table. The issue at this table is that we know from our experience that people in the field of delivering emergency services, whether these are health, security, or police services, are heavily reliant on their wireless services. If that is not maintained and upheld, we are in a very dangerous vacuum.

Once again, it's not as simple as when you could just string a line to the police station. The people are out there, and they are using these services wherever we have coverage, which is for 93% or 94% of the Canadian population.

● (1705)

Mr. Mike Lake: All right.

Speaking to another indirect impact, yesterday we were talking to the ports people from B.C. We were asking questions about how this would impact farmers, for example, in moving their goods.

Mr. Jennery, you said that your industry is not regulated, but that you would yet be significantly impacted by this legislation. How would regular Canadians be impacted indirectly by the impacts that would happen to your organization because of a strike?

Mr. Nick Jennery: The supply chain in our industry is done on a just-in-time basis. If you take a large store that would do about 25,000 consumer transactions a week, as product moves out the door that product has to be ordered. Virtually all of the ordering and distribution is done through a telecom data system. It would be hugely impacted, because you have no inventory to fall back on.

Mr. Mike Lake: So for someone going into the store in New Brunswick or Alberta or somewhere like that...

Mr. Nick Jennery: We have real, live experiences to show that consumers would see that in days, not weeks. There are alternatives, but very quickly you get into a spiral. You can't order. All of our ordering is done through a telecom data system.

Mr. Mike Lake: In your opening comments you spoke to the balance. I was particularly interested in your point number two. You talked about the balance being right now between the right to strike versus the ability to withstand a strike.

Can you speak to what this proposed legislation would do specifically to the ability to withstand a strike? What would the options be for an employer in a situation like this, with this legislation?

Mr. Nick Jennery: What you might do is force that employer to seek alternative means, to go through a non-union supply chain. It's certainly not preferred, but equally—Right now, without the anti-replacement legislation, both are very motivated to keep the industry operational, and the track record shows it. What it would do is clearly favour the unions. Our experience, certainly out west, is that you would have a high-cost settlement, perhaps more than you would without the anti-replacement.

Mr. Mike Lake: Mr. Bradley, I'm specifically interested in hearing what you might have to say on that. For the organizations you represent, what would be the options in a situation where...?

The Chair: Just give a fairly quick response, Mr. Bradley.

Mr. David Bradley: They would have no options. It's difficult to find replacement workers, as was said earlier. However, you can, depending on the marketplace right now—

Mr. Mike Lake: With the legislation as proposed, a replacement worker ban, what would the options be?

Mr. David Bradley: What would the options be in that case? To shut down.

The Chair: Thank you very much.

Thank you, Mr. Lake. We're now going to move to Mr. Dryden for five minutes.

Since you weren't here the other day, I'll welcome you now as a permanent part of our committee.

Hon. Ken Dryden (York Centre, Lib.): Thank you, Mr. Chair.

I have one comment to begin and then a question. I would think that the most useful data would not be in comparing Ontario and Quebec, it would be in comparing Quebec before and Quebec after. It would be comparing Ontario before, Ontario after, and then Ontario after that. It would be comparing B.C. before and B.C. after. It would look at the impact in individual jurisdictions as opposed to comparing across jurisdictions. Labour environments in different provinces may be very different. So I think it'd be quite useful if that information were available.

All sides are arguing balance. All sides are arguing that in fact the implementation of, or the absence of implementation, is going to generate the balance or is going to remove the balance. I think that all of us can imagine the exaggerations of stories, that if this is the case in the hypothetical, then the exaggeration can happen. That's why you have labour relations; you avoid the exaggerations. You use other means to avoid the exaggerations. That becomes part of doing business. The just-in-time business, that becomes part of everything.

To each side here, you've all heard each other. If you had one minute to offer your best argument, after having heard all the other sides of it, what would your best argument be?

Mr. Massy, what is your best argument?

Turning to the other side here, perhaps I'd ask you to decide on somebody to offer one minute's worth of your best argument.

● (1710)

Mr. Peter Massy: Thank you for the opportunity. I didn't realize I only had one minute left.

In terms of making our best argument on this subject matter, the preamble of the code lays it out very clearly: you can't read the anti-replacement-worker legislation or the replacement worker section of the code independent of anything else. You have to read it together. When Mr. Sims put it together, he said that section 87.4 says you have to do this. Even though we've heard other language that says we don't have to, we believe we have to. On the maintenance of activities, we're mandated. We take that responsibility seriously.

On the other hand, we now have an employer who can bring in replacement workers, and the only way to challenge that in the code is to prove that they're doing it to undermine us. I don't believe they need replacement workers. I believe that gives the employer the opportunity they didn't have before, and it's coming to fruition—that's exactly what's happened.

So it's a question of balance. When you look at those two competing clauses in the labour code, it clearly favours the employer. That's why our position is that the replacement worker legislation should be passed.

Mr. David Bradley: Mr. Dryden, my argument is that I've heard no justification for doing this. My industry is not one that likes change for the sake of change. Maybe we haven't read the legislation right. We don't know why we have labour stability in our industry, but we have it. I've heard no justification to change that balance.

Hon. Ken Dryden: And in the last 30 seconds, does anybody else on that side have a comment?

Mr. Nick Jennery: I would just add that the Canada Labour Code and the powers of the Labour Relations Board, with all of its protection, works. As we're hitting our demographics where there is increasingly a shortage labour, the system works.

The Chair: Mr. Silva.

Mr. Mario Silva: Thank you.

It's not so much a question to the witnesses, it's really to you, Mr. Chair. We have, I believe, on February 13, technical briefings coming before this committee. I've raised a series of questions, and did even yesterday, about the differences between the present bill and those of both the Quebec and the B.C. legislation. I believe Mr. Comartin, and the NDP members of our committee, also raised issues about whether we can have the particular information.

I went on my own to ask the Library of Parliament for some information, for the comparisons, because the witnesses keep on raising the fact—especially the ones who are against the legislation, and I've heard comments from the other side as well—that it's not the same as the Quebec legislation. I'm not a legal expert, and neither I think is anybody here on this committee, and I would rely very heavily on those technical briefings that would come before committee.

The briefing that I got from the Library of Parliament, unfortunately, does not answer those questions, so I was a little bit disappointed that I didn't get my questions answered correctly. If we're going to proceed to clause-by-clause of this bill and vote accordingly, then when people state the fact that it's not the same thing, I want to make sure that they point out to me where it's not the same thing. If it is the same thing, then I want to at least have a third opinion that in fact it is the same, and I have not gotten that.

So I'm hoping that by February 13 we'll have that information before our committee.

The Chair: Thanks, Mr. Silva. We'll certainly talk to the clerk and the researchers so that, when we get the departments in, they can have that information ready for us.

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

Mr. Hiebert, you have five minutes.

Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC): Thank you, Mr. Chair.

There has been some discussion among committee members today about whether or not section 87.4 protects telecommunications as an essential service. I just think it's important for all members to know that the board itself has ruled that telecommunications is not an essential service. The concerns we've been hearing from the telecom industry today about the impact it would have on the safety of Canadians is very real. It's not hypothetical.

It's also important to focus on what the impact on ordinary Canadians would be if this legislation were to pass. As an aside, it's ironic that this committee is now looking at this legislation for the tenth time. It has been rejected nine times before. It's hard to imagine how things have changed enough that we should now adopt this legislation.

I want to focus again on how ordinary Canadians would be affected. At the end of the day, we have to think in terms of the global impact on Canadians in general, as well as on labour peace.

What I've been hearing from people like you, Mr. Jennery, is that if there's a strike and it's not even in your industry—it's not even a grocery strike or it's not even your unionized workers who are striking, it's some other section, some other industry that has a hiccup—then in terms of labour relations, the consequences for your industry are tremendous. They're indirect, but they have a direct effect nonetheless.

WIth a business background, I understand the whipsaw effect that can occur when those kinds of hiccups are introduced into a just-in-time supply chain, and how the cost to consumers and to business and to employees is tremendous. I would like the members of the associations here to comment on and elaborate on my general question: what are the ordinary consequences to Canadians in terms of higher costs, loss of jobs, loss of emergency services, and those sorts of things?

● (1715)

The Chair: Mr. Bradley.

Mr. David Bradley: I'll respond, if that's all right. I'll be quick.

The current Canadian government and the previous governments in the last ten years, but particularly in the last six years, have been spending billions of dollars to try to ensure the reliability and predictability of the supply chain, whether it has meant investing in borders, in highways, in intermodal facilities, or those sorts of things.

I would just repeat the point that Mr. Jennery has been making quite well, that anything that impacts upon the reliability and predictability of the supply chain risks direct investment in Canada, risks goods being produced somewhere else, because we can't deliver. That's the impact on ordinary Canadians.

The Chair: Anyone else?

Mr. Barnes.

Mr. Peter Barnes: Thank you for the question, Mr. Hiebert.

I'd just like to give you a very concrete example. Cellphones are an everyday reality. More than 18 million Canadians have cellphones. We have survey information with two vital statistics. Every year, there are more than 6 million calls made by cellphone users to 911, and over half of those 18 million people call emergency numbers during the course of a year.

So the plain, ordinary cellphone is a very vital link, for those 18 million Canadians who have a cellphone, to emergency services. If you weaken that link through a lack of ability to maintain and serve, you clearly have a problem for those people. That clearly is an impact for ordinary Canadians.

Mr. Russ Hiebert: Mr. Jennery, do you want to elaborate?

Mr. Nick Jennery: I think it was articulated well.

Again, we're in a competitive marketplace. In our own situation, we have a newcomer that's four times the size of the entire Canadian grocery industry combined. They're very good operators, so cost-efficiency is everything. What comes with cost efficiency is that you take your inventory out of the supply chain, and you become very dependent on having that infrastructure, which is complex, and hopefully as reliable as it can be.

That's what makes or breaks your interaction with the consumer. And that's what I'm most concerned about.

Mr. Russ Hiebert: So we're not just talking about people not having milk and bread and eggs on the shelf two days after a strike emerges in another industry. We're talking about the loss of an entire industry due to foreign competition.

Mr. Nick Jennery: We order all products pretty much the same way, through telecom data systems. If somebody has an inventory of a product or if there's an inventory of, say, a less perishable product, then the one that is perishable, for which perhaps there isn't any sort of inventory or safety stock, is the one that suffers.

Consumers migrate. They migrate from stores and they migrate from categories. That's real lost business.

The Chair: Thank you, Mr. Hiebert. That's all the time we have.

Once again, I want to thank all the witnesses appearing via teleconference. I want to thank you gentlemen from Vancouver for being here today, and all the witnesses here.

Mr. Peter Massy: Thank you.

The Chair: We need to get into some committee business, but we want to give the witnesses a chance just to step back from the table first.

● _____ (Pause) _____ ●

● (1720)

The Chair: On the agenda, we have committee business to take care of. If we're going to have a subcommittee meeting tomorrow, we have to elect a first vice-chair. Pursuant to Standing Order 106, what I'm going to do is leave the floor to the clerk of the committee.

The Clerk of the Committee (Ms. Christine Lafrance): Pursuant to Standing Order 106, the committee will now proceed with the election of the first vice-chair, who must be, pursuant to the Standing Orders, a member of the official opposition.

[*Translation*]

Now I'm ready to receive motions for the position of Vice-Chair.

[*English*]

Mr. Mario Silva: Madam Clerk, I would like to propose the name of Ruby Dhalla as vice-chair of the committee.

[*Translation*]

The Clerk: It is moved by Mr. Silva that Ms. Dhalla be elected first Vice-Chair of the committee.

[*English*]

Are there any further motions? Is it the pleasure of the committee to adopt the motion?

(Motion agreed to)

[*Translation*]

The Clerk: I declare the motion carried. Ms. Dhalla is duly elected first Vice-Chair of the committee.

[*English*]

The Chair: Now that we have a vice-chair, we can have a subcommittee meeting tomorrow morning. Nine o'clock is the proposed time to have that.

Mr. Lake.

Mr. Mike Lake: I guess we're going to get into a conversation about subcommittee stuff, but I want to move a motion.

I'm thinking that this is a large committee and that we have lots of different things that we're discussing here, obviously, like labour, HR, seniors, and social development. What I want to move is a motion that the subcommittee on agenda and procedure of the Standing Committee on Human Resources, Social Development and the Status of Persons with Disabilities be composed of the chair, two members of the Liberal caucus, one member of the Bloc Québécois caucus, one member of the New Democratic Party caucus, and one member of the Conservative caucus.

● (1725)

The Chair: We have a motion on the floor. Is there any discussion on that?

Mr. Tony Martin: I'm just wondering if there is any standing order on that particular subject.

The Chair: We originally had adopted some routine motions, so this would be an amendment to the existing motion that we have before us.

Mr. Lessard.

[*Translation*]

Mr. Yves Lessard: I'd like to ask two questions, Mr. Chair. First of all, with regard to the regular motions, we have an obligation to give notice. I think it is 24 or 48 hours. Does that obligation apply in this case? And since we haven't received that notice, we cannot debate the matter today, can we?

[*English*]

The Chair: The way that works is that for any new business, it will be 48 hours. Because we are in committee business, this goes back to a pre-existing motion that we had before us under routine motions. This is considered an amendment to the existing one.

So yes, under new business, you're totally correct, but any time we are already on the business that we're talking about, there's no requirement for 48 hours.

Mr. Silva.

Mr. Mario Silva: Thank you, Mr. Chair.

In relation to this particular motion...and just speaking briefly with my colleagues. I've been on two standing committees that don't have striking committees, so striking committees are not always part of standing committees. In fact, they can play a little role or a big role. I tend to like more the approach that the issues of scheduling and witnesses are addressed before this committee, because all of us have opinions on that.

At this time we don't feel there's a need to add another person to the striking committee. Since we're all new to the committee, we're going to keep the status quo. Madam Dhalla, who has been elected vice-chair, will be the person designated to go to the striking committee.

The Chair: Before we go any further, in order to make the amendment.... To make it plausible to work here, it's going to have to start, "Notwithstanding the routine motions adopted". That will have to be added. And instead of two members of the Liberal caucus, it's going to have to be two members of the committee from the Liberal Party, or it has to go back to the whip's office.

Mr. Mike Lake: So it will be composed of the chair and two members of the Liberal Party?

The Chair: It will be two members of the committee from the Liberal Party.

The clerk is actually going to look into that.

We'll go to Mr. Lessard.

[*Translation*]

Mr. Yves Lessard: If I've correctly understood the proposal, Mr. Chair, the motion is that two members of the steering committee come from the Liberal Party and two more from the Conservative Party, because you are from the Conservative Party. So we're adding a Conservative to your chairmanship. We'll vote against this motion, Mr. Chair, for the following reason. There is a certain wisdom in having one representative per party, because that requires each of the parties to make an effort to achieve a consensus. I feel that greatly facilitates the work. When we favour two parties, they impose their will on the other two parties. The problem here, Mr. Chair...

Mr. Chair, with your consent, I'll wait until the dealings are completed. I'll come back to this.

[*English*]

The Chair: Mr. Lessard, if you could finish we'll go to Mr. Lake and then Mr. Martin.

[*Translation*]

Mr. Yves Lessard: Mr. Chair, it's quite curious that, when a motion is introduced by one of the parties and we're in the middle of the debate, someone rises in this manner and we hold a caucus session. Mr. Chair, something's not right here. A motion is normally put to debate, and it's debated on its merits. If there were any dealings to conduct, Mr. Chair, they should have been conducted in advance. The problem now—and I raised this yesterday—is not the quality of the steering committee's work, but rather the fact that we haven't respected its composition.

I consider it wise that we have one representative per party. That forces the representatives of each of the parties to achieve a consensus on the way in which the proceedings are conducted, which has always served the committee well to date. So I don't see why we should change the arrangement today. We're going to vote for the status quo. I invite my colleagues to reject the motion introduced.

● (1730)

[*English*]

The Chair: Mr. Martin.

Mr. Tony Martin: I also oppose this motion. I think that what we've been doing, with one person from each party on a subcommittee to discuss business, has been working relatively well. I'm glad we're going to do that again. We've been able to reach consensus amongst ourselves. It would seem to be a good number. It was respectful of the input from each of the people who participated. Of course, always we have to bring back our recommendations to the larger committee for approval, so there's that check and balance there. I think the smaller number is easier to gather, in terms of meetings, as well, so I would recommend that we maintain the status quo. From the last Parliament, it seems to me that's what happens at most committees.

So I would support that we leave it as it is.

The Chair: Thank you, Mr. Martin.

Mr. Hiebert.

Mr. Russ Hiebert: I actually happen to agree with my colleague Mr. Silva, that in light of the fact that everything has to come back to this committee anyway from the steering committee, why not just eliminate the steering committee and have these discussions as a whole? We all have opinions, as you suggest, and it gives us all an opportunity to participate.

Perhaps Mr. Lake would like to amend or remove his motion, and we could pursue an agreement along those lines.

The Chair: If the motion is to be removed, it has to be removed by the unanimous consent of the committee. I don't know if anyone is proposing that.

Do we have unanimous consent to withdraw the motion?

Okay.

Mr. Lake.

Mr. Mike Lake: I wish to move a new motion. Bear with me on this one.

Actually, for clarification, what was the date that these motions were adopted...the original motion?

Okay.

I move that the routine motion adopted on such-and-such a date—namely, that the subcommittee on agenda and procedure be composed of the chair, the two vice-chairs, and one member of the New Democratic Party—be withdrawn, and that the committee meet as a whole to discuss agenda and procedure.

The Chair: Mr. Silva.

Mr. Mario Silva: Is that during the time allocated, or is that at a separate time?

The Chair: It will be at the will of the committee. Usually we set time aside.

Mr. Mario Silva: Mr. Chair, I just want to be clear...certainly on my conversation with Mr. Lake.

All I basically said was that in the committees that I have been a part of in the past, whether it's been heritage, whether it's been environment, there's been no steering committee. That's up to the committee to decide. I said I liked that practice because it's aired before all the committee members, and they decide how they want to deal with things. It has been, I guess, the custom of this committee for the last year that there's a steering committee. I'm not saying I object to that. I also said if they want to continue that way, it's fine. We didn't want to change that particular composition.

I have my personal preference, but this is a new motion, a new discussion, and I haven't really had an opportunity to discuss it with my colleagues. I'd like to hear what other members of this committee have to say on that also, whether they are in agreement with it or not. Certainly, as a new member I don't want to impose myself in such a way that the other members may see it as a problem.

I don't know, so I'd like to hear what the other members have to say on this one.

● (1735)

The Chair: I'll just add as a comment, before Mr. Martin goes, that we have met as a subcommittee to bring back things. There's been no unanimous consent, so everything has been brought back to the committee to be voted on again anyway. That's the way it has worked. We have met to talk about various agenda items and possibilities, but it has always come back to the main committee for final decision.

Mr. Martin.

Mr. Tony Martin: Yes, and I thought that worked quite well. It was a setting where there was thoughtful consideration and lots of back and forth between the various parties. As Mr. Lessard said just a while ago, it calls on those of us who speak on behalf of our caucuses to go back and do our homework and get some sense of where the caucus is on particular issues. It gives us a chance to do that and then bring recommendations before the committee.

I know that in the 13 years I spent at Queen's Park, for example, that's exactly what we did. I sat on lots of committees and there was always a subcommittee with a member from each party to look at some of the more logistical elements of how the committee would move forward. I always found it helpful to do that, and I would suggest we continue to do that here.

The Chair: Mr. Savage.

Mr. Michael Savage: I've been on committees in my short time in Parliament that have had steering committees and on those that haven't. It can work either way, depending on the will of the people in the committee.

What I would say is that we really haven't had a chance, even as Liberal members, to get together to discuss issues like this. I've been in two committee meetings, and we seem to have spent more time on procedure than we actually have on witnesses.

Why can't we go with the situation as it is now, have a chance to talk among ourselves about whether the idea of getting rid of the steering committee makes sense or not, and bring it back for discussion at a future date?

The Chair: Are there any other comments?

Mr. Lake.

Mr. Mike Lake: This comes out of a discussion yesterday, partly instigated by Mr. Lessard, about how procedure is being developed by the committee, and some concerns I have regarding....

My concerns are probably similar to yours, Mr. Silva, although I don't want to put words in your mouth.

I think we're better off to discuss our agenda and procedure within the larger group, or a larger group composed of more members of the committee than just four members. There are a lot of very important issues we have to deal with in this committee. Each of us, even within our parties, has different views on what those issues are.

For example, your party has three critics, I believe, in three different areas on this committee.

Mr. Mario Silva: We're all critics.

Mr. Mike Lake: All four of you are? Are you saying all Liberals are critics...?

At any rate, there is a wide variety of views to be represented, and I don't think having four people meet to decide the direction of the committee or even to work on that is productive, especially when you have to bring it back. And as you said, nothing is unanimous in this committee, let's face it.

The Chair: Thank you.

Mr. Lessard.

[*Translation*]

Mr. Yves Lessard: Mr. Chair, as you said earlier, once the committee has met, it comes back here. There are of course one or two matters on which we haven't agreed. At that point, it was the Standing Committee on Human Resources that arbitrated and decided. We've cleared a lot of ground with regard to planning the tour. The purpose of the idea of working in this way is to avoid situations in which one party could catch the others off guard, as the Conservatives did the last time. We reversed decisions that had been made. On three occasions, as I told you yesterday, we went over the same motion until it was changed, and it was changed in accordance with what the Chair decided when he ruled.

As regards Bill C-257, we find ourselves in an unbalanced situation. Why? Because there's been some improvisation. As one Liberal colleague said earlier, when a motion is announced, we can debate it together, involving one representative per party. That enables us to return to our caucuses to arbitrate the issue and avoid improvisation.

For some time now, we've seen that the Conservatives' motions, like the one introduced earlier, have been improvised. I wouldn't suddenly introduce an idea that I had just thought of in order to make a motion. First I'd reflect on the matter with my colleagues in order to determine whether it made sense, whether it was consistent with the rules and whether it was of a kind to advance the business of the committee in a constructive manner. Representing one's political position is not everything; you also have to try to advance the committee's business.

Coming back to what my colleague is proposing here, as our friend Mr. Silva said, some committees don't have steering committees. Here, in this committee, we tend to improvise, and that yields the results that we've seen. In my view, it would be prudent to make our committee, which already exists, work. Two hours have been scheduled for tomorrow morning. That should enable us to do an acceptable job and to come back here to make a coherent recommendation. Then we could determine whether it's worth the trouble. For my part, I wouldn't take any other initiative than that one.

I ask our colleague to withdraw his motion, which would enable us to talk with our people and to assess what will happen tomorrow following the two hours of business we'll conduct together. We haven't rejected what was moved yesterday: we've learned of it. Can we give ourselves the time to consider it? Tomorrow morning, a number of proposed elements will be accepted. We'll discuss other aspects.

Mr. Chair, I invite our colleague to withdraw his motion and to reflect on the matter. We will do the same. Let us stop improvising.

● (1740)

[*English*]

The Chair: I'd certainly like to point out, Mr. Lessard, for the sake of our new members, that we did have agreement that we wouldn't bring forward motions, but that was broken by every single party. So let's just be clear here...is exactly what is happening.

In terms of what was done before Christmas, it was based on a motion adopted by this committee that witnesses....

No, you may not like the motion, but that was a motion adopted by the committee that we moved forward on. This committee has been operating based on how motions are set forward and put in place. That is the way it's been operating.

We had an agreement that we wouldn't put forward motions, and yet every party has. We have 30 motions on the docket.

I would say once again that the intent of the committee has been to work that way, but it hasn't always worked that way, and I agree that we should try to move in a direction where we can work together.

For the clarification of the Liberals who are new to this committee, the way we've been operating is fulfilling the mandate of the requirement. If there has been a motion, we move forward on that motion. The question has been whether another motion has come forward and trumped that existing one.

I may not like it any better than you do, Mr. Lessard, but that is in fact the way it has been happening.

Mr. Martin.

Mr. Tony Martin: I tend to agree that where this committee has been effective and has got some work done—and it has got some work done—we have met as a subcommittee to air out some of the positions of each of the parties and had, I thought, a respectful and thoughtful conversation amongst ourselves. I think we achieved some things there.

The object is to make this committee work and to get some work done on behalf of the people of Canada and our constituents. The more we can use a process to get us there, the better.

Where I've been frustrated, Mr. Chair, is when on a couple of occasions—this is why I said it worked relatively well as opposed to perfectly well—an agenda arrived at committee where obviously decisions had been made somewhere that were a surprise to me. I felt I wasn't given an opportunity to really get into that and find out why, how, etc., and how that would impact further work that some of us wanted to get done.

But I thought overall we got some work done. We're into a fairly contentious piece of business right now with Bill C-257, and we have to expect that there will be some manoeuvering, shall we say, going on. But overall, I think we've been achieving some success, and I think the success has been achieved because we have been meeting in that smaller group from time to time, a subcommittee, to air out and deal with some of those areas that might be contentious and get them out of the way or at least addressed so that we can move forward.

It's about relationships, and about building relationships. For me, that's what happened there and caused the committee to be more constructive, proactive, and able to get some things done.

● (1745)

The Chair: Mr. Lessard.

[*Translation*]

Mr. Yves Lessard: Mr. Chair, could we read the motion first?

[*English*]

The Chair: He moves that the routine motion adopted on May 4, 2006—that the committee on agenda and procedure be composed of the chair, two vice-chairs, and one member of the New Democratic Party—be withdrawn, and that the committee meets as a whole to discuss agenda and procedure.

Mr. Lessard and then Mr. Silva.

[*Translation*]

Mr. Yves Lessard: I had announced that I would be expressing my opinion. That's why I wanted the motion read. In view of the office of our party's whip, it is not admissible. It should have been the subject of a 48-hour notice, I believe, as in the case of other motions.

Mr. Chair, if you decide to maintain your position, we will appeal from that ruling and submit the matter to the Speaker of the House.

[*English*]

The Chair: Mr. Lessard, it is a housekeeping motion. It's not in the Standing Orders. We're not changing the Standing Orders, this is routine proceedings. As Mr. Silva and other committee members said, this varies from committee to committee. Once again, it's a direction of the committee that we decide to go in.

Mr. Silva.

Mr. Mario Silva: You've been challenged, Mr. Chair.

The Chair: I've been challenged.

The question is, does this motion stand?

Mr. Mike Lake: Is that what he's doing?

The Chair: Yes.

Does the decision of the chair—to let the motion stand as read—stand?

[*Translation*]

Mr. Yves Lessard: May we vote on the motion, Mr. Lake?

[*English*]

Mr. Mike Lake: We're voting on your motion. You just made a superceding motion. You just challenged the chair.

[*Translation*]

Mr. Yves Lessard: On admissibility.

Mrs. Carole Lavallée: Precisely. Let's go; let's vote.

[*English*]

The Chair: So once again, we're voting.

Mr. Mike Lake: “Yes” supports the chair and “no” supports Mr. Lessard?

The Chair: That's correct.

Mr. Mike Lake: Can we have a recorded vote, please?

[*Translation*]

Mr. Yves Lessard: We're going to vote on the merits and dispose of the matter immediately.

Mr. Chair—

[*English*]

The Chair: We have to vote on this. This is not debatable. We'll have the vote and then we'll move on to Mr. Lake's motion. Unless there's unanimous consent to take the challenge off the table—

Okay.

To my knowledge, we're taking the challenge off the table. Then we're going to go back to vote on the motion—?

● (1750)

[*Translation*]

Mr. Yves Lessard: Let's proceed with the vote on the motion's admissibility, Mr. Chair; in that way, matters will be clear. Based on the information I've received, from the moment a number is changed or added, the motion is no longer admissible. The unanimous consent of the committee is required in order to admit such a motion.

[*English*]

The Chair: This is a vote on whether the decision of the chair stands, which is to leave the motion the way it is.

[*Translation*]

Mr. Yves Lessard: To clarify matters, we're going to vote on admissibility and then on the motion.

[*English*]

The Chair: Let me just repeat it one more time.

I made a decision that the motion is in order. This vote is on whether you're going to overrule the chair and the decision I made to say that the motion is in order.

[*Translation*]

Mr. Yves Lessard: I don't agree with the Chair's ruling.

Ms. Christine Lafrance: The motion is that the Chair's ruling be sustained.

[*English*]

Mr. Mike Lake: (Motion agreed to: yeas 6; nays 3)

The Chair: So the motion stands and is now on the table. If there's no more debate, I'll call the vote.

[*Translation*]

Mr. Yves Lessard: I request a recorded vote, Mr. Chair.

[*English*]

The Chair: Okay.

Now we're voting on the motion as proposed by—

Comments, Mr. Silva.

Mr. Mario Silva: I base my decision on your wise interpretation from the clerk. I believe that the clerk, more than somebody else's whip, is probably right on these rulings.

I would say, on the motion that was put forward by Mr. Lake, that it is probably premature, and it's one of the reasons I will not be supporting it. Our designated vice-chair, Ruby Dhalla, will be going to the steering committee. The hearings from that steering committee, if it's in the day.... Since all of us are new, and presently it is the procedure of this committee to have a steering committee, I would like to hear from her, after a meeting or two, on whether it is useful or not. Then in the future I'll make my decision on how I'd like to vote on whether there should be one or not.

I will reiterate that in the past there's not been a steering committee that I've been part of, or for the committees that I've been a part of, and it's worked extremely well. But right now that's the practice of this committee, and I don't wish to change it by having a steering committee. I'll wait to hear what my colleague has to say, after attending those meetings, about whether it's useful or not.

Thank you.

The Chair: Mr. Lake.

Mr. Mike Lake: I move that adjourn debate on this.

● (1755)

The Chair: The motion before us is that the debate be adjourned.

Some hon. members: Agreed.

The Chair: Meeting adjourned.

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