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Chair

Mr. Larry Miller

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• (1545)

[English]

The Chair (Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC)): We'll call our meeting to order.

I know we're a few minutes early, but it's Thursday night, and everybody would like to get out of here as early as possible, I'm sure.

I'd like to thank our guests and welcome them here.

With no further ado, I'll turn it over to Mr. Dennis Perrin, please, for 10 minutes or less.

Mr. Dennis Perrin (Director, Prairies, Christian Labour Association of Canada): Thank you, Mr. Chair.

Good afternoon to the committee. It's a pleasure to speak to you today. I thank you for inviting me.

My name is Dennis Perrin, and I'm the prairies director for the Christian Labour Association of Canada, otherwise known as CLAC. My area of responsibility within CLAC lies in the provinces of Saskatchewan and Manitoba.

The committee has already heard a significant amount about CLAC from my colleague Brendan Kooy. I'll refrain from speaking to those points today. I am here to present CLAC's position and thoughts specifically on the closed tendering process that exists with some of Manitoba's large publicly funded infrastructure projects.

Specifically, I will refer to three examples of closed tendering: the Burntwood/Nelson agreement, the Bipole III agreement, and the east side road and floodway expansion agreement. The first two pertain to the construction of large hydroelectric dams in Manitoba. The latter pertains to the expansion of the Red River Floodway, along with the construction of an all-season road along the east side of Lake Winnipeg.

This infrastructure work represents a significant investment of tax dollars, including federal funding. Unfortunately, all three projects are subject to construction monopolies, and limit access for construction workers on the basis of union affiliation. The monopolies on these projects are completely voluntary. There is no binding obligation on the part of the province to award this work on the basis of union affiliation.

The east side road agreement compels all construction employees on the project to pay union dues to one of the approved building trades unions, regardless of what union affiliation the contractor and its employees previously had. The agreements relating to hydroelectric dam construction take it one drastic step further, and force

potential employees to sign a union membership card and join one of the approved building trades unions as a condition of employment on that project. In addition, these employees must pay dues to, and be represented by, one of these building trades unions.

The committee has already heard from many witnesses about how closed tendering construction monopolies are unfair to workers and limit competition. Creating monopolies for certain unions has two major detrimental effects. One is the unfairness for construction workers who cannot access public infrastructure work because they have the wrong union affiliation. The other is the reduction of the bidding pool of potential contractors. This is precisely what is happening in the province of Manitoba.

It is unfair to construction workers in Manitoba to be told which union they must join in order to work on the publicly funded infrastructure projects that their tax dollars pay for. Furthermore, closed project labour agreements restrict competition. This means an increase in price, a smaller labour pool, and a reduced chance that projects will be done on time and on budget.

Proponents of these types of closed project labour agreements have typically argued that they provide greater labour stability on a project. Closed tendering in construction, folks, was yesterday's solution to industry challenges, and is no longer necessary today.

For example, the managed open site model is an alternative to closed tendering. This model has been frequently utilized on large-scale, multibillion-dollar construction projects, particularly in the province of Alberta. Instead of completely restricting access to work to one group of unions, the managed open site model allows access for workers and contractors affiliated with the building trade unions, alternative construction unions such as CLAC, and also the non-union sector.

Eliminating these types of preferential agreements in Manitoba and preferring alternatives along the lines of the managed open site model would increase worker choice, enhance competition, and ultimately benefit taxpayers.

Thank you very much for your time. I'd be happy to answer any questions the committee might have.

The Chair: Thank you.

I missed this at the first. By teleconference from Banff we have Mr. Robert Blakely from the building and construction trades department of AFL-CIO.

Mr. Blakely, can you hear us?

Mr. Robert Blakely (Director, Canadian Affairs, Building and Construction Trades Department, AFL-CIO): Yes.

The Chair: Okay.

With that I'll let you go ahead for 10 minutes, in case we incur technical problems. Go ahead for 10 minutes or less, please.

• (1550)

Mr. Robert Blakely: Thank you.

Throughout these entire hearings I'm the only representative from the organized sector that's been here so I might ask for a little of your indulgence. There are a number of things that have been stated in some of the previous hearings that may require either some correction, or for things to be put into some perspective.

The position of the building trades unions in respect of the whole business of tendering is that we want federal infrastructure money to go further. We pay taxes too. We support competition. It's how our contractors stay in business. We want publicly funded construction to give best value. Value-based procurement is where sophisticated construction purchasers generally tend to go. They're looking at a life-cycle cost.

In the United States the low-bid system that works for almost all the work results in one construction dollar in ten being spent on litigation. We're concerned about quality, schedule, and budget.

The simple fact is that low bid isn't always low cost. Getting the best value is what you should be striving for. You have heard that this reduces competition and makes it difficult to schedule and budget, but there is no empirical evidence of that whatsoever; apocryphal evidence, yes. It would be my respectful suggestion that it would be appropriate for you as a committee to get some people who are knowledgeable and perhaps not self-interested to try to work through these issues.

In Canada 50% of the construction industry is residential. Neither Mr. Oakey, nor the Christian Labour Association, nor I have much presence in it. So the comments that you heard about 71% of the industry being frozen out is simply a fib. We represent roughly 38% of the entire industry or about 70% of the industrial, commercial, and institutional marketplace.

In reading the transcripts, it would seem to me that some of the comments that are made about the evil union monopoly really relate to four municipalities in Ontario. You need to have some perspective on the issue in Ontario.

The municipality was certified by the carpenters in accordance with the Ontario Labour Relations Act for carpenters only. There are 28 other trade groups in Ontario. The City of Hamilton, by self-performing the work, became a construction employer so they get, by operation of law, the carpenters industrial agreement, which has a subcontracting clause in it, but only for carpentry work. The cities of Hamilton and Kitchener, or anywhere else, may have to tender their carpenter work to a union contractor, but it doesn't force them to do that for any other trade.

You need to have some perspective on the issue that contractors generally tend to be frozen out. The problem may well be that they

can't qualify to get on the bid list, but that's an owner decision not a labour relations issue. On any institutional, commercial, or industrial job carpenters are somewhere between 15% and 18% of the work.

If you look at that and you look at how much labour actually goes into the contracts, a residential contract is 50/50, labour and material. Commercial and institutional is between 25% and 40% labour. Industrial is 20% to 30%. The carpenters are less than 6% of all of the work on a commercial job.

To suggest that somehow the fact that they have a collective agreement would cost a 40% cost overrun is ludicrous. Overruns happen all the time. They happen to Merit contractors, Christian Labour contractors, building trades contractors, straight non-union contractors. It's the result of bad estimates; unforeseen circumstances; the inability to get men, material or equipment; disorganization; weather; strikes and lockouts; difficulty in proceeding. Everyone has them.

• (1555)

You have heard a number of estimates as to the cost of the so-called closed tender. In Quebec, they say it's 2% less; Cardus says it's 2% more. If you have a house in Gatineau built by union labour, it costs less than a house in Ottawa. How could that be? The suggestion that is made that 30% or 40% of infrastructure cost is left on the table means that our workers would have to work for free and bring their own material.

There are a host of U.S.-sponsored studies that say project labour agreements are good or project labour agreements are bad. It depends on the sponsor. There is no empirical evidence here, and maybe we need some.

What this seems to be about is the four municipalities in Ontario. This is a tempest in a teapot. If you look at Stats Canada's numbers, they will tell you there are 20,000 general contractors in Canada and 108,000 trade contractors; 95% of which have 10 or less employees. We're not talking about Bob's Painting and Al's Plumbing. We're talking about the roughly 5,000 contractors who are somewhat bigger and are in business. A number of them do not bid any work. They do invitational work from owners they have worked with for generations. A number of them are industrial or pipeline workers, or something else.

The fact is that owners in a public or private business should have a fiduciary relationship in procurement to get best value. How they tender the work should be up to them. There is 91% of the work in Ontario that is done by open tender. Federally, almost all work is open tender—the ship building contract being somewhat different—with qualification and invitational tenders being used for the appropriate kind of work.

The truth is that as an owner you are required to manage risk. You need to use a technique that deals with the risk, how you assume it, who assumes it, and how you ameliorate it. If you're going to do a renovation in a washroom in a school, maybe it's a purchase order. If you're going to do an annex to the school, maybe it's open tender. If you are building a complex new research facility for a \$200 million, maybe it's qualified tenders. If you're going to build a \$2.6 billion airport—I know that's the airport authority—maybe it's an invitational tender. If it's very complex work, maybe it's sole source or maybe it's a project labour agreement.

You've heard how pernicious and evil project labour agreements are, but here are some facts you should consider. BC Hydro, the various privatized electrical utilities in Alberta, SaskPower, Manitoba Hydro, Ontario Power Generation, Bruce Power, New Brunswick Power, Nova Scotia Power, and Nalcor, all use project labour agreements, as do most of the highly sophisticated purchasers of construction in this country.

Those people aren't necessarily the pals of unions. Toyota, a non-union employer, uses project labour agreements for all of its construction and maintenance, and so does Syncrude Canada. Why? They have looked at value, the skill of the contractor, its ability to engineer, and its management, management systems, financial strength, workers who are in good supply, and workers who are available. It's getting the certainty of a no-strike, no-lockout clause, and a workforce that all works under the same terms and conditions of employment, so the workers don't go shopping from place to place on the site.

On handling cost escalation, the truth is that non-union companies do not have fixed wage rates. Not having fixed wage rates means that if they are having a pinch to get people, they have to pay more. Cost is not certain.

With regard to harmony in the hours of work and diversity, in our collective agreement with Nalcor, we put 20¢ an hour into a diversity fund. We're trying to train people and to work with employers and owners to achieve their goals.

● (1600)

You've heard a lot of hogwash about how in Manitoba contractors have been frozen out. The truth is that Kiewit, a contractor, has the work at Wasquatam and the work at Pointe du Bois using the Burntwood/Nelson agreement. That agreement provides for hiring in the following order: northern aboriginal people who live in the Churchill-Burntwood-Nelson area, northern union members, northern aboriginals not living in the preferred area, and then any other northerner not listed above.

At Wasquatam, 40% of the job were aboriginal workers. I'll send you the collective agreement. On the floodway, anyone could bid. They needed to meet the training obligations and pay the same

wages. Part of the work was reserved for aboriginal contractors. Aboriginal content was one-third, and 20% on the bridges. We'll send you the collective agreement. At Voisey's Bay under the collective agreement, 40% of the workforce were aboriginal people. At Nalcor, Innu and Labradorians get to go to work before local members.

The truth is that buying in on the idea that low bid is the lowest cost is an illusion. It is a simplistic solution to a complex question. Low bid is a one-dimensional look at your project. Low bid, completely open tender without qualifications, means that all someone has to do is hand in one sheet of paper, or two if you're going to qualify the bid. It costs a lot of money to do the analysis to prepare a proper bid. It's a half to one per cent of the cost of the work.

If I can get the work by taking a flyer on it, why would anyone want to waste their money in bidding?

The Chair: Mr. Blakely—

Mr. Robert Blakely: Give me about another 30 seconds and I'll shut up.

How's that?

The Chair: That's fine.

Mr. Robert Blakely: There was a good study done in the year 2009 by a guy named Tom Bedford at the University of Toronto, which talks about analysis of low-bid award systems in public construction. I'll send you the article. He finds that clients who don't use pre-qualification of contractors for large projects are more likely to have higher cost escalations. Will the contractor complete? Did the contractor miss something?

If we want to have a litigation-based system, all we have to do is always insist on low tender. We support a pre-qualification system that takes into account the capability of a contractor, financial stability, and its ability to manage the work and get the work done.

I learned as a young officer that time spent in reconnaissance is seldom wasted. I would ask your committee to spend some time in reconnaissance and try to get some expert help on what you ought to do in this particular area.

Thank you for your kind attention.

The Chair: Thank you very much.

We will now move to Mr. Harvey Miller, for 10 minutes.

Mr. Harvey Miller (Executive Director, Merit Contractors Association): I'd like to thank the committee for the invitation to participate in this important study to ensure Canadians are receiving maximum value for their tax dollars.

Merit Contractors Association of Manitoba is the voice of open-shop construction in our province. Our members are primarily engaged in commercial, industrial, and institutional construction projects. Similar to most other Canadian jurisdictions, approximately 70% of Manitoba construction is performed by open-shop companies and their workers.

Our presentation will focus on the need for open tendering on all contracts that involve federal funding. It is our firm belief that all infrastructure projects funded by taxpayers' dollars should be open to all qualified contractors to bid, with no preconditions to join a union or pay union dues.

Open shop fundamentally means freedom of choice and fairness in the workplace. It's a term that describes a workplace where membership or non-membership in a union is not a condition of employment. In the construction sector, it specifically refers to a situation whereby owners, developers, and general contractors do not consider the union status of a contractor's employees when awarding a project.

Despite the fact that most contractors and workers in the construction arena in Canada are open shop, far too many jurisdictions across Canada continue to practise closed tendering policies. In Manitoba our provincial government has instituted the practice of open tendering on closed projects. If it sounds like semantics, it is. The result is the same as other closed tender projects: reduced competition, increased costs, and the violation of workers' charter rights.

It is this differentiation we would like to bring to the committee's attention, as there are those who would suggest that Manitoba Hydro's floodway project, east side road project, Manitoba Hydro generation projects, and the Bipole III transmission line projects are open. They are not. All these projects combined for approximately \$24 billion of construction are technically available to all contractors, however, they are subject to traditional building trades unions collective agreements and in reality, the provisions in these agreements essentially close the project to open-shop contractors.

I'll provide a couple of examples for the committee to consider. The Burntwood/Nelson Agreement for hydro development projects, section 12.2.1, "Union Security and Check off", states:

...all employees shall, as a condition of employment and/or continuing employment, be members or obtain membership in the appropriate Union of the Council, and maintain such membership in good standing.

For the hydro transmission line collective agreement, article 9.2, "Hiring Procedure, Union Security and Check-Off":

The Contractor shall advise persons who are not members of the Unions at the time of being hired that they shall be required, as a condition of employment, to secure membership in the appropriate Union and maintain such membership in good standing.

So a company need not be union to bid the work, but employees must be union to do the work. It's closed and it's wasteful. Open-shop companies do not bid and when the competition is removed, costs are driven up. In addition, agreements that force workers to

join a union against their will deny freedom of choice, and the imposition of mandatory union dues on those workers are violations of the Canadian Charter of Rights and Freedoms.

Our association, along with five individual workers incensed by these agreements, filed a statement of claim in the Manitoba Court of Queen's Bench on July 9, 2012. The claim states that the requirement to secure and maintain union membership as a condition of employment, as contained in the Burntwood/Nelson Agreement and the transmission line collective agreement infringes on sections 2(b) and 2(d) of the Canadian Charter of Rights and Freedoms, the sections on freedom of expression and freedom of association.

The Manitoba floodway and east side road project management agreement, in article 12, "Union Security", 12.2:

All Employees employed by Contractors who are not members...shall not be required to join the Union but shall be required to pay an amount equal to the amount normally required to be paid by a Union member in respect of [Manitoba Building Construction Trades Council] assessments and applicable Union dues....

● (1605)

Although a segment of the competition was forced out of the bidding due to the union provisions in the floodway and east side road agreements, general contractors bidding on the project found that in some instances there was a sole-source bid and profoundly higher costs.

Open-shop contractors forced to deduct union dues from their non-union employees were obligated to increase employees' pay to offset those costs and fees required by the workers. Other companies did not bid simply because their employees requested that they not bid. Rather than improving labour relations, the removal of workers' choice was seen by workers as driving a wedge between them and their employers. While there is no apparent value to open-shop employees, these costs all contributed to higher costs for the project, money that would have been better spent on Manitoba's infrastructure needs.

More appalling to many of our contractors and their employees is that open-shop companies are paying dues that are subsequently used to take jobs away from open-shop construction. The IBEW December 2011 newsletter contains the following:

This past Summer, we were very aggressive working with our contractors streamlining our Market Recovery Program to go after some large scale projects.... Our largest non-union competitors have been forced to scale back their workforce and transfer employees to other shops as a result of targeting jobs....

In a fair and just construction climate, all contractors should be treated equally. If owners believe that a project management agreement is warranted, the conditions of employment should not be seen to violate the charter rights of workers.

Our ask is simple. When government funds infrastructure, all qualified contractors should be allowed to bid on those projects and tender documents must be written to respect the rights of open-shop, single-company employee associations, any alternative unions, and the traditional building trades unions.

Thank you. I look forward to answering questions.

● (1610)

The Chair: Thank you very much.

We'll move to questions.

Ms. Chow, go ahead for seven minutes.

Ms. Olivia Chow (Trinity—Spadina, NDP): Is Mr. Blakely still on the phone?

Mr. Robert Blakely: Yes, ma'am, I am.

Ms. Olivia Chow: One of the issues this committee is dealing with is that this is really not a huge issue, because the majority of the contractors have 5,000 workers or less.

Mr. Robert Blakely: Ninety-five percent of Canada's contractors employ fewer than 10 people.

Ms. Olivia Chow: Right. So if we look at Toronto, for example, in the city of Toronto are most of the construction trade workers unionized whether they are carpenters or electricians?

Mr. Robert Blakely: I would say in the city of Toronto probably 85% of construction is done by the unions, whether the workers are unionized through LIUNA Local 183, or they are in the residential sector, or they are doing industrial work or commercial or institutional work.

Ms. Olivia Chow: I'm not talking about residential. I'm talking about—

Mr. Robert Blakely: No, no. I'm talking about the whole schmeer.

Ms. Olivia Chow: For the institution—

Mr. Robert Blakely: Unionized contractors do almost all of the institutional stuff.

Ms. Olivia Chow: So whether there is an open bid or a non-open bid, it's not a big issue, because the majority of the workers are part of a union? I'm trying to get to—

Mr. Robert Blakely: The answer to that is yes. There are a couple of large contractors in the Toronto area who have a relationship with the Christian Labour Association. They manage to find work too, and they seem to manage to get bigger, so the market seems to be able to tolerate all—

Ms. Olivia Chow: In the grand scheme of things, because there is a balanced force and the majority of them, whether they belong to the Christian Labour Association or to your organization, belong to something, there is enough work for everyone.

Is that what you're saying?

Mr. Robert Blakely: The short answer is yes.

Ms. Olivia Chow: Mr. Chair, this is really difficult. I've never had a situation where I couldn't see the person.

This meeting was originally supposed to be over at the Promenade. At that building we're able to see the person, right? I

don't know why the meeting was moved here. It's really quite difficult to just have a telephone conference. Why did we move the meeting here?

It's neither here nor there, but....

The Chair: The reason is that there was no place in Banff.

Ms. Olivia Chow: Oh, in Banff. It's the other side, then, and not us.

The Chair: Yes.

Ms. Chow, please finish your time.

Ms. Olivia Chow: Mr. Miller or Mr. Perrin, are you suggesting that the federal government should tell different municipalities, different territories, different provincial governments what to do?

The Conservative Party, every time we talk about a national transit strategy, for example, tells me, "Well, we should just let them govern; let them do their own thing. We shouldn't tell the mayors or the premiers how to plan. We shouldn't dictate to them. They're a level of government, and it's really up to them to make their decisions, because they're duly elected".

I've heard that from the minister many times, and I've heard that from the parliamentary secretary many times, that we really should let the municipalities govern and let the provinces govern.

Are you suggesting that we should go to each of the provinces across Canada—the different territories, different municipalities—look at the contracts, look at whether they're open or not or whatever it is you called it, and get involved in the fine details of how the contracting is done and how procurement is done?

Is that what you're suggesting?

● (1615)

Mr. Harvey Miller: Well, this committee is about government spending efficiencies. It would be our view and our request that if there are federal tax dollars being spent, those dollars would be spent in a fair way that would permit anyone who's qualified to bid on a project.

So it has to do with how the federal government is spending their dollars.

Ms. Olivia Chow: Are you suggesting that there should be a condition placed on the funding?

Mr. Harvey Miller: We believe that federal funding should be open...or that any funding that's provided has to have a condition, yes, that the money is spent in an open and fair way.

Ms. Olivia Chow: What other conditions do you think would be appropriate? Should we say that everything needs to be transparent, needs to be accountable?

Do you think the money should come up front or that funding should come after the money is spent, and then you judge on receipts and the government pays by the receipts?

Mr. Harvey Miller: I didn't understand your question.

Ms. Olivia Chow: There are two different ways in which funding is given. In the United States of America, funding is given at the beginning, once a project is determined, is approved. Then a legal agreement is signed. Then the funding gets transferred. Of course it's tracked, etc.

In Canada we do it the other way. We approve a project and then the money needs to be raised. Then it gets spent, and then the federal government would pay out according to the receipts they receive. So it's a different system.

Is that a system that you support?

Mr. Harvey Miller: The ask remains the same, I think. The federal government is spending money. Regardless of how they choose to implement, the request is the same—that the funding would have that condition, that it would be open.

It's taxpayers' money. It should be free and open to anyone to bid.

Ms. Olivia Chow: But if a municipality has already spent the money and the agreement was there, then the money would get paid out. There is really very little opportunity for any conditions to be placed, because the money has already been spent. It's a very different system, whereas in the United States they have the Buy American policy, where you have to hire American workers first, right? It's a very different style, and they have a lot of conditions.

In the past, the Canadian government, by and large, has been fairly open. These are the funds, and once the grant is approved, the money is spent. Then there are receipts and then the government pays out. There haven't been any so-called conditions being applied. I was just wondering whether there is a complete reversal now, such that we want conditions placed on the funding. It's a very different approach.

The Chair: Does anybody want to comment on Ms. Chow's comment?

• (1620)

Mr. Dennis Perrin: I would submit, similar to what has already been said by Mr. Miller, that we wouldn't be terribly concerned at the end of the day as to how that money was spent, whether it's up front or a reimbursement of receipts after the fact, considering that the allotment has been granted.

To go back to your original question about allowing municipalities and provinces to self-govern, if you will, versus having more of a hands-on approach, at the end of the day micromanagement doesn't work particularly well in any realm, whether it's government, business, labour, or what have you. But I would also submit that when you look at the amount of federal funding that goes into these projects, the federal government obviously has a very significant interest and is a major stakeholder. I don't need to tell this committee that.

At the end of the day I'm less concerned about the mechanics and the types of conditions that you would place upon it. There certainly is a very keen interest that ought to be taken when you look at the amount of money that's coming out on this.

The Chair: Thank you very much.

Mr. Simms, you have seven minutes.

Mr. Scott Simms (Bonavista—Gander—Grand Falls—Windsor, Lib.): Thank you, Chair.

Mr. Blakely, I'm going to start with you on an issue that you brought up. I want you to expand on it further for the sake of understanding fully how this operates. Following that, I'll give the gentlemen here in the room a chance to respond.

This is about project labour agreements. You mentioned several as examples. One of the examples I'd like to bring back is the one regarding the east coast, which is Nalcor. That is happening in a major project in Labrador.

If I have this correct, in a project labour agreement, there are certain carve-outs there for employees who are Inuit?

Mr. Robert Blakely: Carve-outs, no. They get priority placement.

Mr. Scott Simms: Pardon the expression. That's what I meant. Sorry.

So they get placement. How does that happen in the case of a low bid? Does that arrangement go off the rails if you have a low bid sort of mechanism?

Mr. Robert Blakely: That's an interesting point. If you look at the owners who have specified local hire, you will see that they are generally looking at local hire or aboriginal hire because they're going to be in the location for a very long time.

If you say to the people who are building Muskrat Falls that you want them to hire as many local people as they can and provide training and give them experience, I think the hope from that owner is that during the operation of that power plant, which will take 50 years, there will be a local workforce to operate it, to do maintenance.

Mr. Scott Simms: But these are permanent employees, correct? In the case of—

Mr. Robert Blakely: No. These are construction employees—

Mr. Scott Simms: Okay.

Mr. Robert Blakely: —who are being hired for the construction project and the construction term. But once the job is over, they will be trained people who will be in situ. The owner will go out and generally try to hire the best they can find, so that they're meeting their own resources. Plus, Nalcor is planning to move on and build Gull Island, which is three times bigger than Muskrat Falls, so it's in their interest to help encourage a local workforce. If it costs a little more on this end, they're going to get it out on the other end.

The people who are designing the labour relations strategies for Nalcor, or for Syncrude, or for a resource company in the Ring of Fire aren't stupid people. They are looking at this on the basis of the life cycle that they are going to get out of the facility they're building.

Mr. Scott Simms: I understand what you're saying. The title of the study is how competition can make infrastructure dollars go further. From your point of view this is essentially project labour agreements versus low bidding. Is that correct?

Mr. Robert Blakely: No. I got two issues out of reading the transcript. One is that project labour agreements are pernicious and ought not to be allowed. The other is that all tendering should be open tender without qualification. Mr. Miller was the only person who has ever said, “contractors who are qualified...”.

• (1625)

Mr. Scott Simms: Mr. Blakely, I have to cut you off there because I need a rebuttal, I guess you could call it, from the gentlemen.

Mr. Robert Blakely: No problem.

Mr. Scott Simms: Mr. Miller, we'll start with you.

Mr. Harvey Miller: Just for the record, my comments were that contractors who bid should be qualified. I've also said that if there are project management agreements, those agreements should be written in such a way as to not violate the Canadian Charter of Rights for workers.

Mr. Scott Simms: I won't ask you to talk about a specific project, unless you'd like to. Do you think some of these agreements contravene the charter, as you point out?

Mr. Harvey Miller: In my opinion, absolutely. We instituted a lawsuit in Manitoba to that effect.

Mr. Scott Simms: Perhaps you'd like to expand on that. Based on what?

Mr. Harvey Miller: I mentioned that in my presentation. Along with five individuals, a statement of claim was made in the Manitoba Court of Queen's Bench that the conditions I mentioned in section 12, stipulated in the Burntwood/Nelson Agreement, violate employees' rights, freedom of expression, and freedom of association.

Mr. Scott Simms: Do you think something like a local hire policy infringes on basic rights?

Mr. Harvey Miller: Absolutely not.

Mr. Scott Simms: Mr. Perrin.

Mr. Dennis Perrin: Thank you.

I'd like to speak specifically to project labour agreements. I want it to be on the record. From our perspective, we certainly are not opposed to them. It's quite the opposite. We support them, but we support them in a different context than we've talked about today. I spoke a bit earlier about the managed open site model. That is the predominant model on all major construction projects, particularly in the oil sands industry in northern Alberta today. It's being used more and more throughout the heavy industrial construction industry in Saskatchewan, and it's a movement that's certainly taking hold.

A variety of project labour agreements may exist, but at the end of the day, regardless of the mechanics within which they're structured, they allow the different labour groups to bid on and secure that work. The building trades unions that Mr. Blakely is with, CLAC, the CEP

Mr. Scott Simms: You don't have that advantage? This is unequal footing in your opinion.

Mr. Dennis Perrin: Yes. In the province of Manitoba right now, that provision does not exist with these agreements we've spoken of.

Mr. Scott Simms: How much time do I have left?

The Chair: You have about half a minute.

Mr. Scott Simms: Mr. Blakely, would you like to comment on what was said? I don't have a lot of time to get into a new topic.

Mr. Robert Blakely: All right.

Mr. Scott Simms: Just as a follow-up.

Mr. Robert Blakely: Yes, there are management open site agreements. Those generally tend to be owner preference based on their theory of risk management. It is all about managing the risk. There are as significant a number of Christian Labour Association project labour agreements as there are ours.

Mr. Scott Simms: Mr. Perrin, is that the case?

Mr. Robert Blakely: On the issue of the project labour agreement

Mr. Scott Simms: Sorry. Is that the case, Mr. Perrin?

Mr. Dennis Perrin: In the province of Alberta, potentially Saskatchewan, but definitely not in Manitoba.

Mr. Scott Simms: I think my time is up. Is that right?

Mr. Robert Blakely: If I could conclude, Mr. Miller told you about his lawsuit. We have defended the lawsuit. It is being vigorously opposed. I think something is supposed to happen this month, as the matter progresses. One day the Supreme Court of Canada will give us its verdict of whether project labour agreements create forced ideological conformity with the union or not.

The Chair: Thank you.

Just for the record, I wanted to make sure we're clear that when Mr. Blakely is referring to Mr. Miller, he means Mr. Harvey Miller and not the chair.

Mr. Robert Blakely: Yes, sir, that is exactly correct.

The Chair: Mr. Poilievre, you have seven minutes.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Thank you, Mr. Miller.

Mr. Blakely, I want to clarify one mistake in your presentation. No one here is suggesting that bidding should move to exclusively lowest price criteria. Everyone here agrees that quality and qualifications are essential parts of the best value calculation. We are not focused on that. The study has not examined that question because there's unanimity, as far as I can tell, that qualitative matters must be taken into consideration in an open competition.

The question we're debating is whether or not certain contractors and their employees should be excluded simply because of their status as union-free workers or employers.

I haven't yet heard a single witness who is prepared to defend the Province of Ontario's decision to impose labour monopolies in the four jurisdictions you've mentioned across Ontario. The closest we've heard to a defence was your own, when you said it's not a big deal because it's only four jurisdictions. Actually, one of them is Toronto; another is Hamilton. We're starting to deal with very large numbers of taxpayers and very big infrastructure projects. If, as these municipalities report, the costs inflate by as much as 40% as a result of these forced labour monopolies, then it is a very big deal.

Are you of the position that the Government of Ontario should continue to impose these labour monopolies in jurisdictions across the province?

• (1630)

Mr. Robert Blakely: Firstly, what you're calling a labour monopoly is a certificate awarded by the Ontario Labour Relations Board, which certifies an employer for a unit of employees. There aren't one or two of these. There are thousands, literally tens of thousands of them. They certify grocery stores. They certify municipalities for their own employees. They certify hospitals. They certify nurses. They certify a host of people under the Labour Relations Act.

The labour monopoly does not come from the operation of the Ontario government. The Ontario government does not say you get to have a monopoly.

Mr. Pierre Poilievre: Actually—

Mr. Robert Blakely: They give a right to bargain to the union.

Mr. Pierre Poilievre: Wait a second, here.

Mr. Robert Blakely: In this case the union is.... Under the designation system in the Province of Ontario, the employer is represented by the employer bargaining agency. The employer bargaining agency comes up with a collective agreement. The collective agreement has a clause.

Mr. Pierre Poilievre: Chair, that was just a very long way of saying the Ontario government does in fact impose a labour monopoly. What you've just said is that it is the Ontario government's certification process that requires that all workers on projects in given municipalities must be members of a specified union. That is a labour monopoly, and it is imposed by the Ontario government, even at the opposition of the local municipalities in question.

Hamilton, for example, opposed the imposition by a very small number of workers of a jurisdiction-wide certification, yet it is stuck with that certification. It says that monopoly will cost 20% to 40% on its projects.

Are you in support of the practice that led to this labour monopoly in Hamilton?

Mr. Robert Blakely: First of all, it's not a labour monopoly. Second of all, certification, whether it's in Hamilton, or Toronto, or Kalamazoo, gives the union certain rights that flow from the Labour Relations Act. If one of those rights is the right to bargain with the employer, they can then make a deal. The deal governs their relationship. It is a matter of contract.

If you and I pooled our money and started Pierre and Bob's Balloon Company, and we went to the people who manufacture balloons and said, we will give you x amount of dollars in exchange for a right to be the only people who sell your balloons in Canada, it might give us a monopoly, but it is a monopoly we're entitled to get as a matter of contract, and should be protected by Canadian law.

Mr. Pierre Poilievre: Okay. Let me just take your analogy further.

Imagine the City of Hamilton needed balloons. Imagine, then, our balloon company was able to impose a legal monopoly on them so that they could buy balloons from nobody else.

That is precisely what has been imposed on Hamiltonian taxpayers by the system that you took a long time to describe. That would make for very expensive balloons. I'm afraid that for taxpayers the balloon has burst. They can't afford to pay any more.

Let me quote from Peter Shawn Taylor, the editor-at-large of *Maclean's* magazine:

The same union pulled the same trick on Hamilton in 2005: two workers

—two—

signed carpenters' union cards and were thus able to impose a union agreement on the entire city forever. As a result, the pool of eligible bidders for construction contracts in Hamilton was reduced by over 90 per cent. Of the 260 firms that had previously bid on city jobs, city staff calculated that only 17 were affiliated with the carpenters union.

In other words, 90% of competition was banned, and every single worker in Hamilton who wanted to do government work in the carpentry field had to be part of this union because two people chose it.

Do you really believe that's a fair system of labour relations?

• (1635)

Mr. Robert Blakely: It is the Canadian system that has been extant since P.C.—

Mr. Pierre Poilievre: It's the Ontario system.

Mr. Robert Blakely: No, it's the Canadian system that has been extant since—

Mr. Pierre Poilievre: This is Ontario law, sir.

Mr. Robert Blakely: It is the Canadian system that has been extant since P.C. 1003 was enacted in the year 1944.

It is a system that has been perpetuated through various Ontario labour relations acts up to the present.

Mr. Pierre Poilievre: Okay. I still haven't heard a defence of any of this, other than a very long explanation of how the Government of Ontario actually imposes this labour monopoly.

I'll turn to the other witnesses here.

The Chair: You have time for one quick question.

Mr. Pierre Poilievre: All right.

To the contractors, are your members prepared to engage in open competition, on a best-value basis, for infrastructure business?

Mr. Clyde Sigurdson (Treasurer, Merit Contractors Association, and President, Ken Palson Enterprises Ltd.): Yes. We are prepared to openly bid, to be previously qualified, to show the standards, whatever needs to be done, as long as we can bid in a fair and open way that doesn't force our members to change to a union affiliation.

Mr. Pierre Poilievre: So open competition: yes?

Mr. Clyde Sigurdson: Open competition, absolutely yes.

Mr. Pierre Poilievre: Mr. Miller?

Mr. Harvey Miller: Absolutely.

Mr. Pierre Poilievre: Mr. Perrin?

Mr. Dennis Perrin: Absolutely.

Mr. Pierre Poilievre: Mr. Blakely, I'll give you a chance. Are your members prepared to engage in the same competition, or do you support the labour monopoly?

Mr. Robert Blakely: We support competition. We engage in competition.

In the case of the City of Hamilton, having made itself a construction employer under the provisions of the act, it's bound by its collective agreement to contract in accordance with the act—for carpenters only.

The Chair: Thank you.

Mr. Toet, you have seven minutes.

Mr. Lawrence Toet (Elmwood—Transcona, CPC): Thank you, Mr. Chair.

I want to welcome our guests here. I just want to start with some clarification.

Mr. Sigurdson, I had talked to you a while ago, back in Winnipeg, and invited you to come and join our committee as the president of Ken Palson Enterprises Ltd. At that time, I had no idea even that you had anything to do with Merit construction.

I think it's important that's on the record, that the Merit Contractors Association... That was not an invite that was placed to you on the basis of that but as a local construction company that I know had some concerns about some of the tendering processes. I just feel it's important that's on the record.

I want to start with a question that I've asked several of the witnesses here who have come forward. It's very much in regard to Mr. Blakely's surmising, based on the evidence, that this whole process has been about low bid. I've asked this question of almost everybody, and I also want to ask it of the people who are here today.

If all things are equal from a company as far as capability, quality, etc., are concerned, does price become the only factor even then? Or should historical factors weigh in, such as having been on a site before?

I use the example of an expansion on a hospital. There's a certain familiarity with that hospital, a certain familiarity with the needs of building a particular operating room or whatever it might be. I use the example of an operating room, where you want continuity from one operating room to another to another, so that there are some

familiarities for the nurses and for the doctors who are working in there.

Would you see that as part of the process, where, everything being equal, somebody could have a particular knowledge of a particular project area or particular structure, and that would also be part of the process?

• (1640)

Mr. Clyde Sigurdson: I believe this happens a fair amount in the private sector, with some contractors you work with. If you've been doing a job for them and your prices are very similar, for a matter of 5¢ you're not going to go to the low bid. That practice is very good if you're qualified and you're open to do it. But if you've been doing that work for a long time for a certain customer, I think there should be nothing wrong with taking that customer and staying with that work.

Mr. Robert Blakely: A whole bunch of tender evaluation systems actually have those sorts of things built into them. If you're building 100 kilometres of road, 40 kilometres a season, you bid the entire road so they can stockpile the material, and they'll have the workforce and the equipment. You can actually get your costs down. If somebody knows how to do that style of work, then they're perhaps the preferred bidder over somebody who would be doing it for the first time.

Mr. Lawrence Toet: Mr. Perrin.

Mr. Dennis Perrin: For the record, at no point would we ever advocate for the lowest bidder or the lowest cost. Obviously, doing that could impact quality. All of the things you mentioned weigh significantly into the decision-making process within tendering. Other factors to take into account are things like health and safety. Those are paramount in the construction industry in this day and age, and the safety of our members is certainly the number-one priority.

Back to the question of competition and some of the items that the committee is wrestling with, we continue to say that we would absolutely never say that you want to go towards the lowest bidder. Lowest cost doesn't mean the cheapest at the end of the day, as even Mr. Blakely has said. But in these particular types of agreements, specifically in Manitoba, it's the same end result in that you've taken the pool of a potential workforce from what it could be into what it is because of the restrictions specifically based on union affiliation. That's where we say this is not fair to Canadian taxpayers.

Mr. Lawrence Toet: Mr. Miller, are the members of the Merit Contractors Association in Manitoba held to exactly the same safety standards and regulations as any other construction company in Manitoba?

Mr. Harvey Miller: Yes, they are. In order to bid on any of the government projects in Manitoba, all companies are required to be COR certified. It's a safety standard, and they're all certified to the same standard in order to bid.

Mr. Lawrence Toet: I'm quite familiar with COR certification from my own work in Manitoba, so there's a common playing field there as far as safety and health issues go, also.

Mr. Miller, from what I've understood there are some examples of cost overruns, or increases in costs, on the Manitoba floodway project because of the lack of competition and the lack of openness. From what I understand, there are some questions and concerns about some of the pile drilling and the costs of that. Would you be able to tell me what the cost of a pile in that kind of construction would typically be in Manitoba, and what some of the costs are actually driven up to today?

Mr. Harvey Miller: I'm sorry I don't have the direct costs on that for you. We had information that came to us that the cost of piles had increased as much as threefold on the project. Having heard that, I prepared my presentation, and the best I could find was that there had been a significant increase, but I couldn't get specifics on that.

Mr. Lawrence Toet: Okay, but there are significant increases. What do you attribute those to from what you've heard? I know there are a limited number of people in Manitoba who have that capability. How many are able to bid on this particular work on the floodway project due to the contract?

Mr. Harvey Miller: One of the largest and most competitive contractors who does piling didn't bid on the project. His employees had requested specifically that he not bid on the job because of the collective agreement and the union components that were imposed. As a result, when that company no longer bid, in some cases there was just one bidder and it was a union company bidding, and the costs were considerably higher because obviously there was no competition.

• (1645)

Mr. Lawrence Toet: Typically in Manitoba, for the one contractor you're talking about, do you have any idea of what percentage of work he actually does overall in this particular aspect in Manitoba?

Mr. Harvey Miller: What his market share would be prior to the agreement...?

Mr. Lawrence Toet: Yes.

Mr. Harvey Miller: It was much smaller than it was during the period of the....

Clyde, maybe you...?

Mr. Clyde Sigurdson: I couldn't say exactly what the numbers are, but I would say that the amount of work he does is very significant compared to anybody else in the province.

The Chair: Your time has expired, Mr. Toet.

Mr. Aubin, you have five minutes.

Mr. Robert Blakely: Mr. Chair, just before Mr. Aubin asks his question, may I—

The Chair: No, we'll move on. You'll probably get a chance there.

You have to understand, Mr. Blakely, that it's supposed to be that the time allotted for each member of the committee includes the question and the answer.

Mr. Robert Blakely: All right.

The Chair: I'm sure you'll get a chance to get it in there.

Mr. Robert Blakely: Thank you.

The Chair: Mr. Aubin.

[Translation]

Mr. Robert Aubin (Trois-Rivières, NDP): Thank you, Mr. Chair.

My thanks to our guests for participating in our meeting.

How competition can make infrastructure dollars go further—that is the topic of our present study. I admit that I have a problem with this title, because I feel that the only question we have been asking since the beginning of the debate is whether we should favour open or closed tendering.

Yet practically 100% of the witnesses who have appeared before the committee since the beginning of the study have the same opinion on this issue. I fully understand that position and I keep it in mind. However, I would like to hear the other side of the story and I am well aware that it won't be you who will tell it to me.

Can we agree that all the elected members at the various government levels, whether it be the municipal, provincial or federal level, must have the same concern to get the most out of every taxpayer dollar? Can we quickly have the consensus, yes or no? I am keen to find out, because once we have the consensus on this, we will be able to hear from municipal and provincial representatives who will tell me why they need to have the closed tendering process.

Mr. Blakely, do you have any thoughts on that?

[English]

Mr. Robert Blakely: Well, I do, in fact. You know, the closed bidding process sometimes is used by an owner to facilitate other goals that the entity is going to have: to secure a workforce, to make certain there is training, and to make certain that the work is executed safely.

The piledriver contractor in Winnipeg who was referred to had to bid for the work. Chances are he did not bid the work at three times the rate, because the municipality would not have accepted that particular bid and would have gone on a re-tender. If he bid the work at a reasonable rate and came in with a request to be paid three times for the same work.... Sometimes that is going to be frowned on. It may be that they drove three times the number of piles because it's a floodway drilled in silty soil.

The idea of building something like the floodway to protect the community and having it done right strikes me as a pretty laudable goal for the City of Winnipeg and the Province of Manitoba to have.

[Translation]

Mr. Robert Aubin: Thank you, Mr. Blakely.

I would like to ask you another question.

We are often told that open tendering should be mandatory whenever the federal government invests in an infrastructure project, for example. In actual fact, I see that, although the federal government is often a financial partner in most infrastructure projects, it is not the only investor.

Does that imply that the federal government should have overriding authority in requiring the provinces and municipalities to have an open tendering process under penalty of withdrawing its share of the funding in a tripartite project?

• (1650)

[English]

Mr. Robert Blakely: Who did you ask that question of, please?

[Translation]

Mr. Robert Aubin: My question is for the three of you.

[English]

Mr. Robert Blakely: If the Government of Canada were to say to Hamilton, we will not fund your infrastructure because some of your employees certified with the carpenters union and got a collective agreement as a result, I would say that would be grossly inappropriate.

[Translation]

Mr. Robert Aubin: Thank you.

Mr. Perrin, what do you think?

[English]

Mr. Dennis Perrin: We would suggest that as a government you ought to be very concerned about these kinds of processes when federal money is allocated. From the numbers we've looked at, as far as we can tell, with the Red River Floodway expansion project as well as the east side road project, those two together received approximately \$324 million from federal coffers.

At the end of the day, whether you put stricter bidding restrictions in front of them, I'm not exactly sure about that, but you do have a very keen interest in it. If I'm a shareholder in a large company, I care about the way in which business is conducted within that company. I have a stake in it. Whether you go as far as you're suggesting, I don't know the answer to that. But without doubt it is a very significant item of interest to this committee and this government.

The Chair: Thank you.

We now move to Mr. Holder for five minutes.

Mr. Ed Holder (London West, CPC): Thank you, Chair.

I would agree with Ms. Chow on one point in that it's always better to see the whites of their eyes. Mr. Blakely, thank you for participating in this fashion as well. I'd certainly like to thank all our guests for being here.

Mr. Blakely, to start with you, I appreciate that you have an organization and an agenda. We all have agendas, and I understand that. Every witness whom we have has something to protect. But I get the distinct impression in listening to your testimony that you feel that organized labour or unions are the only ones that can do the job right. Tell me I've misunderstood.

Mr. Robert Blakely: Oh, no. A significant number of excellent contractors are non-union, or are in alternate unions. Union contractors aren't the only ones who can do the job right.

Mr. Ed Holder: So you're not making a distinction between.... As long as someone is qualified, and I've heard that from every one of the witnesses we have had since we started this whole study, but if I've heard you correctly, you're not saying that non-union labour is not qualified to do a job.

Mr. Robert Blakely: I'll answer your negative with a negative. They're not unqualified. Union, non-union, alternate union, contractors do great jobs.

Mr. Ed Holder: Fair enough.

Mr. Robert Blakely: There are some union, some non-union, and some alternate union contractors whom I wouldn't let in my yard to sweep up.

Mr. Ed Holder: Got it. I'm not even going to go down the road to suggest there are union folks who don't do good work that you wouldn't have in your backyard. That wouldn't be a fair thing to say.

So let me ask....

Mr. Robert Blakely: Like everybody else, 2% are bad.

Mr. Ed Holder: Sir, my turn to talk, please.

I know you're trying to get all your testimony in, and I respect that.

Here's what I'm trying to understand. Every witness that we've had to this point who has supported what I will call the open-shop concept has never said they mind competing against organized labour. By the way, to be fair, so I could bring in our other guests, Mr. Perrin, is that a fair comment?

Mr. Dennis Perrin: That's correct.

• (1655)

Mr. Ed Holder: Mr. Miller, is that a fair comment?

You can't nod. You have to say something. You can't read a nod.

Mr. Harvey Miller: Yes.

Mr. Ed Holder: Mr. Sigurdson.

Mr. Clyde Sigurdson: Yes.

Mr. Ed Holder: Here we have three more witnesses. I say this to you perhaps, Mr. Blakely, that having said all they're looking for when federal tax dollars are involved—and I'm not challenging the right of labour in Ontario to do what it has done within those jurisdictions, but imagine those jurisdictions that don't have these formal clauses that compel them to use only organized labour to do the jobs. As much as organized labour has the right to do the work, why wouldn't labour that is not unionized, not be able to do the work when federal dollars are involved?

Mr. Robert Blakely: Whether it's with federal dollars, or with provincial dollars, or with municipal dollars only, there are very few places in this country where there are union-only provisions. In some project labour agreements, yes—

Mr. Ed Holder: So if that's the case, sir, then what's your concern about it?

Mr. Robert Blakely: My concern? I guess my concern is twofold. Every witness you've had here, with the possible exception of me, comes from the open shop and has something to gain.

The concern, I suppose, is this. If the federal government is going to tie to its support of infrastructure projects a way in which municipalities are not free to exercise the choice that an owner would make as to how they do their project, I think that's out of school. I think that if the City of Toronto—just because it happens to be a big place—decided it was going to have a fair wage policy, or a union-only tendering policy, or a non-union tendering policy, that's up to the municipality, and the voters in that municipality get to rule on that every so often.

Mr. Ed Holder: Okay. Just following that logic, when I look at the concerns I've heard.... I don't mind that the other guests who have testified in front of us want to have some skin in this game, because they are taxpayers the same way that unionized workers are taxpayers.

I've always not made the financial argument, as those around the table thoughtfully do. I argue from the sense of moral imperative. That is to say, how do I deny, notwithstanding those jurisdictions that have it legally in place...? I'm not challenging their right to do that, but I'm suggesting to you, as I am to all of our guests, that for taxpayer dollars from people who are in open shops or non-unionized labour, why wouldn't they, with tax dollars, have that same right to be able to bid on jobs that any unionized shop would?

Because I've heard a fair amount from Mr. Blakely—and thank you for that—perhaps I could ask Mr. Perrin if he has any thoughts on that.

Mr. Dennis Perrin: I would submit, as I've submitted in my brief, that when it's taxpayer dollars that ultimately contribute to or pay for these projects, those same taxpayers ought to have access to work on those projects. The reality, the end result in many of these situations, is that quite frankly they don't. In some of these agreements, it's merely semantics. In the Manitoba story, if you will, the end result is that they do not.

Mr. Ed Holder: Could I ask for comments on that—

The Chair: Thank you, Mr. Holder, but if Mr. Miller has a comment, or Mr. Sigurdson...?

Mr. Harvey Miller: I would just echo what Mr. Perrin had to say. Thanks.

The Chair: Thank you.

I just want to correct the record on something that Mr. Blakely said about him being the first witness to basically have a difference of opinion from some of the other witnesses. That absolutely isn't true. The first two meetings of this study.... I'll give you the benefit of the doubt, Mr. Blakely. You probably didn't read the committee Hansard for all the meetings.

I'll turn it over now to Mr. Sullivan for five minutes.

Mr. Mike Sullivan (York South—Weston, NDP): Thank you, Mr. Chair.

Part of what's going on here is that there's a gross misunderstanding—by the Conservative folks on the other side of the table—of how labour relations work in this country in the construction sector. What is really happening is that there has been a steady stream of contractors that haven't been successful in getting either collective agreements or work, and that are asking the federal government to give them an advantage where they don't now have an advantage. That's really what.... We don't really want to undermine the collective relations system in all of Canada as a result of a discussion here at a transportation hearing, but that's apparently where we're headed.

Is it true or false, Mr. Miller, that if an owner decides to procure a service, it's a free-market choice they make? They decide. The free market determines whether or not they choose you or someone else.

• (1700)

Mr. Harvey Miller: I believe that owners have a free-market decision. If it's a government that's tendering a project and using tax dollars, then the decision they make has to be available and equitable for everyone, and not necessarily the same thing held to private owners....

Mr. Mike Sullivan: Why is there a difference?

Mr. Harvey Miller: They have a charter right to decide on their own free will. They're not using tax dollars. They're not accountable to the public in the same way.

Mr. Mike Sullivan: So if they're accountable to the public, then free market doesn't rule, essentially. Okay, that's fair enough. We should get away from the free market.

Mr. Blakely, can you give us some examples of the major contractors who deal with project labour agreements and deal with construction trades—who they are and what they do and what kinds of projects they're involved in? We haven't heard from any of them, although we've put some names forward.

Mr. Robert Blakely: PCL, for example, provides unionized commercial institutional work across the country. I think it's the seventh-biggest contractor in the country. It does all its work with the building trades in Ontario and does its industrial work with the building trades in the west, with the exception of its spinoff, Monad, which I think is with the Christian Labour Association. There are EllisDon, Aecon, Bechtel, Fluor, Black & McDonald, Comstock, Kiewit. The list goes on and on.

There are literally 500 significant contractors that are at the top of the pyramid. Then there are another thousand contractors, slightly smaller than that, who do it regionally. Then there are another couple thousand contractors who do it locally.

Mr. Mike Sullivan: We haven't heard from those folks. I'm not sure why.

Mr. Robert Blakely: No. If you were to look at where to get the answer from those folks, consider Ron Martin from CLR in Ontario and Pat Dillon from the Ontario Building Trades.

Mr. Mike Sullivan: Mr. Miller, your organization is essentially the competition of the building trades unions. You're like a business competitor for work. You have a vested interest in getting work for your organization, so you are the competition and your vested interest is ensuring that the money flows to you. Is it not?

Mr. Harvey Miller: The Manitoba Merit Contractors Association supports good business practice. We're involved in benefit plans, pension plans, and training. We're there to support open-shop contracting.

Mr. Mike Sullivan: But essentially, if you limit access somehow through undoing collective agreements that have been signed, if you limit access to the building trades, that is to your advantage, because then you have access where they used to have access.

I guess this is part of the problem with this whole thing. There are two stages to a collective agreement. There's certification first, which comes to a union and not to a contractor. It's the workforce that becomes unionized, not the owners. Then the second stage is that the owners and the union have to sit down and sign a collective agreement. If they don't then it's still open. They're free to choose how to do that—both sides. There are two parties. It's not, as the opposition would have us believe, somehow forced. A collective agreement isn't forced upon anybody, by any government or by any fiat of a province or city. In fact, two sides get together and decide what they want to see in a collective agreement, do they not?

• (1705)

The Chair: You've made your point on that, Mr. Sullivan.

Do you want to comment on that, Mr. Miller?

Mr. Harvey Miller: I would like to.

That is the concern we're raising. In our companies the employees have chosen not to be unionized. The conditions that are imposed in Manitoba on these projects are that non-union workers, workers who have chosen freely not to be unionized, are being forced into a union

for employment. We feel it's wrong that you should be forced to be a union member just to feed your family, if it's your choice and your desire not to belong to a union.

The Chair: Thank you.

I want to clear up an issue that you mentioned a couple of times, Mr. Sullivan, as to witnesses we haven't heard from.

We have invited a large number of witnesses put forth by your party, who have been unable to come. They will get a chance at some point, if we can do it, and the study goes long enough. I also want to point out that on Tuesday we had four of your witnesses who were here in Ottawa, but due to circumstances that were not the fault of any of the parties—we ended up with votes—we weren't able to have our meeting on Tuesday. That didn't happen, and that is very unfortunate because we paid to have the witnesses here.

I don't like the insinuation, because we are working to get everybody here. The NDP are four members of a twelve-man committee, and get 33% of the witnesses, more or less. That's what the clerk and I strive to have at the end of the day. This study is not over yet, so give us time.

With that, I move on to Mr. Poilievre for five minutes.

Mr. Pierre Poilievre: Mr. Sullivan said that giving you a level playing field would constitute an unfair advantage. Do you believe you would have an unfair advantage if you were given a level playing field to compete?

Mr. Dennis Perrin: With respect to CLAC's perspective, we would certainly not have an unfair advantage to compete. We are already three steps behind the eight ball, because of how these agreements are put together.

Mr. Pierre Poilievre: You're not looking for an unfair advantage, you just want to compete on a level playing field.

Mr. Dennis Perrin: Absolutely.

Mr. Pierre Poilievre: The next point that Mr. Sullivan said—

Mr. Mike Sullivan: I have a point of order, Mr. Chair.

The Chair: There's a point of order.

Mr. Mike Sullivan: I have a point of privilege. I don't believe I said "unfair advantage".

Mr. Pierre Poilievre: You did.

Mr. Mike Sullivan: I said "advantage", not "unfair advantage".

Mr. Pierre Poilievre: Whichever....

If he just said “advantage” then I guess he's implying that the union-free contractors are, by their nature, advantaged over the unionized ones. That's not my suggestion; it would appear to be his. I believe all of them can compete on a level playing field but it's news to me that the NDP believes otherwise. It might want to take issue with the unions, if it believes so.

He also suggested that the Merit Contractors Association and the Christian Labour Association of Canada contractors want to block building trades. Do you want to block building trades from competing?

Ms. Olivia Chow: I have a point of order, Mr. Chair.

The Chair: You have a point of order, Ms. Chow.

Ms. Olivia Chow: You mentioned earlier that Mr. Sullivan said that on this issue—

The Chair: On what issue?

Ms. Olivia Chow: On the issue that there was the question, I think there was a bit of discussion as to—

The Chair: About advantage...?

Ms. Olivia Chow: About witnesses.

The Chair: You and I have had a discussion. We're not going to waste committee time on it. I want to clarify. You and I have had the conversation.

Ms. Olivia Chow: Exactly, on the side.

The Chair: Yes.

Ms. Olivia Chow: I didn't mention it publicly at any point.

The Chair: No.

Ms. Olivia Chow: But you did.

The Chair: Yes, I did.

Ms. Olivia Chow: I know.

The Chair: Okay.

Ms. Olivia Chow: So let me be clear.

The Chair: This is not a point of order on this topic. If you want to have a discussion about this afterwards, Ms. Chow, absolutely.

Ms. Olivia Chow: No. It is a point of order because you mentioned that Mr. Sullivan—

The Chair: It's been five minutes since I brought up what Mr. Sullivan said.

Ms. Olivia Chow: I believed you were trying to be fair. That's why I didn't challenge it immediately.

Then I asked Mr. Sullivan if he had submitted some names. He then showed me the list of the names he had submitted. I was told most of these people haven't been called.

If that is the case, whereas Merit has been here three times, the Christian Labour Association has been here twice.... This is the second time now.

I wasn't going to talk about it or raise it until this came up. I thought he hadn't submitted the names, or I thought they'd been called. I was told that Mr. Sullivan submitted a list of names, and these people have not been called. I want to set the record straight.

The Chair: That's fine.

Ms. Olivia Chow: I wasn't going to raise it, but you did. There was this discussion. I want to be very clear—

• (1710)

The Chair: Okay. That is not a point of order.

Ms. Olivia Chow: —that so far, this is not a balanced discussion.

The Chair: I know there was a large number, whether they were the ones that Mr. Sullivan submitted or not is irrelevant. We invited a number. I will check it out and maybe none of his were. I don't know.

Mr. Poilievre, continue.

Mr. Pierre Poilievre: Mr. Sullivan suggested that you want to block building trades from competing. Do you want to block building trades?

Mr. Harvey Miller: No, we don't. In fact, what we are asking is quite simple. We would like a fair playing field and that the rules and the conditions of the tenders be the same for everyone.

Mr. Pierre Poilievre: You're happy to compete with building trades and any other organization on a level playing field.

Mr. Harvey Miller: That's all. That's what we've asked for.

Mr. Pierre Poilievre: Okay.

Do you want to institute a ban on all unionized companies from competing for work in a given municipality?

Mr. Harvey Miller: Not at all.

Mr. Pierre Poilievre: I don't think anybody wants that.

In fact, if anyone ever tried to impose such a thing there would be unanimous opposition to it. This is why I find it hard to understand the absence of unanimity, in opposition to the inverse, which is to ban union-free and alternate union competitors.

Mr. Sullivan then said that this is really free enterprise and that it's the owner who is making this decision.

Actually, the owner of the infrastructure in this case is a municipality, and the municipalities have decided against these labour monopolies. They've been imposed by a provincial regime. It is anything but parallel to a free market system where an owner would choose his or her procurement process.

Is that not so?

Mr. Harvey Miller: I'm sorry, I didn't quite hear that.

Mr. Pierre Poilievre: The owner of the infrastructure, in the case, for example, of Ontario, is the municipality. The province has imposed rules on the municipality banning competition for infrastructure in that municipality. The municipality has not made the decision in that case then to ban competition; it is the province.

Mr. Harvey Miller: Yes, I would see it that way.

We're talking about who is responsible for policy that governs how infrastructure contracts are tendered. Is that what you're asking?

Mr. Pierre Poilievre: Yes. That's right.

I know your situation is different in Manitoba.

Mr. Harvey Miller: Yes.

Mr. Pierre Poilievre: I was referring to the Ontario situation.

What you're really looking for is a free market for competition, to determine who can deliver best value to the taxpayers on public projects that are federally funded.

Mr. Harvey Miller: That's correct.

Mr. Pierre Poilievre: Thanks.

The Chair: Mr. Aubin.

[Translation]

Mr. Robert Aubin: Thank you, Mr. Chair. I will share my time with Mr. Sullivan.

Let's go back to the idea of competition. Correct me if I am wrong, but I get the impression that two things are being confused. There seems to be an assumption that there is a direct link between whether the tendering process is open or closed and whether there is competition or not. In other words, if the process is closed, the competition will magically disappear.

In addition, a number of witnesses have told us that that makes prices go up, by 2% to 40%, which may well create problems with meeting deadlines. However, those are still very vague estimates.

Can you back up your statements with studies, empirical data that can be extrapolated to the whole country and that would allow us to compare the level of competition in the two processes? If not, the real issue is still a moral issue and we will come back to it. However, do we have empirical data to back that up?

The question goes to everyone.

• (1715)

[English]

Mr. Dennis Perrin: We would submit that, first of all, closed bidding doesn't entirely eliminate competition. It drastically reduces it, so it's not completely done away with.

In these different models that we've been looking at—the Manitoba situation today, and the Ontario situations you've looked at previously—the end result is that you substantially reduce the competition from what it could be to what it actually is.

[Translation]

Mr. Robert Aubin: Could you back that up with data? You are saying that it drastically reduces competition, but by how much? What studies are you basing your statement on?

[English]

Mr. Dennis Perrin: From my understanding, some of the witnesses you've already heard from at this point have presented a lot of that empirical data. I know that there have been studies that were brought forward by Cardus, a think tank organization. From what I've observed of these proceedings, there already has been evidence that has been brought forward.

[Translation]

Mr. Robert Aubin: Thank you.

[English]

Mr. Mike Sullivan: One of the suggestions is concerning Manitoba, and I want to draw attention to a letter we all received

this morning from the Manitoba Building and Construction Trades Council, which suggests the assertion that the Manitoba work is somehow closed flies in the face of the facts. It says that in fact:

Kiewit Contractors, a CLAC affiliated contractor, was a successful bidder on, and received from Manitoba Hydro a contract to do work, at the Wuskwatim Generating Station. Also, Kiewit Infrastructure is currently working on the Pointe du Bois Spillway Replacement Project for Manitoba Hydro.

So how is it that it's closed if those contractors are getting the work? It doesn't actually jive.

Mr. Dennis Perrin: Yes, thank you. I'm glad I'm able to speak to that matter.

The truth is that Kiewit Infrastructure is not a CLAC contractor in the province of Manitoba. There is no union affiliation between CLAC and Kiewit Infrastructure Manitoba. There's no bargaining certificate in place. There is no binding collective agreement in place either. In fact, on this particular project, Kiewit is signatory to those building trades unions for the specific project because they have to be. The terms and conditions as outlined in that agreement for that project bind them to that. Otherwise they would not have been able to be a part of it.

Mr. Mike Sullivan: But my point is that they have not been limited from bidding.

Your assertion all the way along is that competition is limited because contractors who are affiliated with CLAC can't bid. In fact, that's not the case, Kiewit actually bid and got the contracts, even though they aren't normally a contractor that is affiliated with the building trades, because they signed building trades agreements.

It comes back to the whole notion of collective agreements versus.... I guess what we're resisting on this side is the notion that we should allow the federal government to force open, to void, collective agreements that have been duly signed between provinces—as in Manitoba—and unions, or in the case of cities in Ontario, between Toronto and unions, or between Hamilton and unions, or between Kitchener and unions.

Those collective agreements are in place, and what you folks are suggesting is that those agreements should be voided if there's federal money, and that those agreements should just cease to exist because those agreements are what determines the work relationship between organized labour and those municipalities or provinces.

Mr. Dennis Perrin: With the Manitoba situation specifically, I'll go back to saying that Kiewit is not a CLAC contractor in Manitoba. It is not fair to say that by and large they are a CLAC contractor. They are in specific areas. They have building trades affiliations in other areas. So there's probably pretty equal weighting at the end of the day.

To suggest that collective agreements ought to be made null and void, it's interesting that in the Manitoba situation, this is not something that is provincially imposed. It comes through no natural order of law, if you will. It's not binding, as in the situation in Ontario with a certificate from the Ontario Labour Relations Board.

What you have before you is an example of essentially a voluntary recognition agreement that exists between, in this case, Manitoba Hydro and these building trades unions. What we're simply saying is that you ought to look at a different model, the model that I talked about a bit earlier with the managed open site, where you can have project labour terms and conditions but there is opportunity for everybody to come to the table, the building trades, the alternative union movement of which CLAC is a part, along with many others and the non-union folks Mr. Miller represents.

● (1720)

The Chair: Thank you very much. Your time has expired.

That letter, Mr. Sullivan, you referred to is from Mr. David Yallits?

Mr. Mike Sullivan: Yes.

The Chair: Yes. Just for the record, he declined to appear, so....

With that, Mr. Blakely, Mr. Perrin, Mr. Miller, and Mr. Sigurdson, thank you very much for being here today.

Mr. Mike Sullivan: I have a motion, Mr. Chair.

The Chair: Go ahead and read it into the record, Mr. Sullivan.

Mr. Mike Sullivan: The motion is that the Standing Committee on Transport, Infrastructure and Communities conduct a study on the pension situation at Canada Post.

The Chair: That's a different motion from the one we have.

Is that a notice of motion?

Mr. Mike Sullivan: Yes, it is.

The Chair: Okay. My apologies. We had another one here that was—

Mr. Mike Sullivan: That one isn't....

The Chair: Okay. Very good.

The meeting is adjourned.

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