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Chair

Mr. Phil McColeman

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

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● (1530)

[*English*]

The Chair (Mr. Phil McColeman (Brant, CPC)): I call the meeting to order. Good afternoon, everyone, and welcome.

This is meeting number 4 of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities. Today we are continuing our study on the subject matter of clauses 176 to 238, divisions 5 and 6 of part 3 of Bill C-4, a second act to implement certain provisions of the budget tabled in Parliament on March 21, 2013 and other measures.

For our first hour today we have witnesses here from the department, Mr. Kin Choi and Ms. Brenda Baxter.

I will turn the floor over to our officials for their presentation.

[*Translation*]

Mr. Kin Choi (Assistant Deputy Minister, Labour Program, Compliance, Operations and Program Development, Department of Human Resources and Skills Development): Thank you very much, Mr. Chair.

Good afternoon. Mr. Chair, members of the committee, thank you for inviting us.

I am happy to be appearing before you as the Assistant Deputy Minister of the Labour Program. I am joined by my colleague Brenda Baxter, Director General of the Workplace Directorate.

[*English*]

For over 100 years now, the labour program has been protecting the rights and the well-being of both workers and employers in the federally regulated sectors. This includes creating and maintaining safe and healthy workplaces.

The changes that are being proposed in part 3, division 5, of Bill C-4 will strengthen the longstanding commitment even more.

[*Translation*]

The role of the Labour Program is to support workplace parties in order to enable them to meet their obligations and ensure that the Canadian Labour Code is respected.

[*English*]

I think we—and I mean the larger “we” in the federal jurisdictions—do a pretty good job overall. For example, the number of disabling injuries in the industry under federal jurisdiction has steadily declined by some 22% from 2007 to 2011, but we certainly need to do more, as every accident is one too many.

Here are the amendments to the Canada Labour Code that we're proposing: first, to strengthen the internal responsibility system; second, to clarify the definition of danger; and third, confer to the Minister of Labour the authority to delegate powers, duties, and functions to health and safety officers.

These amendments will place the onus on resolving workplace safety issues where it belongs: with employers and employees. Specifically, workplace committees and health and safety representatives will have a greater role to play in resolving refusal-to-work situations.

The new process would enhance the internal responsibility system, which would improve protection for Canadian workers and allow the labour program to better focus our attention on critical issues affecting the health and safety of Canadians in their workplaces.

Amendments are proposed to clarify the definition of danger, since over the last 10 years over 80% of refusals to work have ended with no danger decisions, even accounting for appeals.

[*Translation*]

That has no impact on employees' right to refuse dangerous work. That is a fundamental right that will remain in the Canadian Labour Code.

Those amendments will also help us increase the support we provide to health and safety officers, in addition to promoting consistent decision making across the country.

[*English*]

The Minister of Labour would have the authority to delegate powers, duties, and functions to health and safety officers, who would continue to do their important job of ensuring that workplaces are fair, safe, and productive. This is not about cutting costs, and it's certainly not about reducing the number of health and safety officers. These changes will simply ensure that the time of health and safety officers is used more proactively and effectively to enforce our regulations and to promote prevention.

[*Translation*]

It's important to point out that the fundamental rights and the protection mechanisms set out in the code will remain unchanged. The amendments are aimed at simplifying the procedures and practices in order to accelerate and increase the quality of decisions and results. The recourse mechanism will remain accessible to all parties.

[*English*]

Again, let me reiterate that fundamental rights and protections for employees remain enshrined in the code.

We are convinced that the changes we are proposing will improve outcomes for the workplace.

We would be pleased to respond to your questions.

Thank you.

The Chair: The first round of questions are five-minute rounds because we are a split session.

We'll go to Madam Sims.

Ms. Jinny Jogindera Sims (Newton—North Delta, NDP): I'm just taken aback, Chair, because I believe the first round is still always seven minutes.

The Chair: Just let me ask.

Ms. Jinny Jogindera Sims: I think a split round is when we take the one hour and we split that even further.

The Chair: I did take a look at the routine orders before coming to the meeting, and I know you're right about that; I just looked down and it said five minutes on the sheet that's been prepared by the clerk's office. We'll go to what I believe I read earlier today, which is the seven-minute round.

● (1535)

Ms. Jinny Jogindera Sims: Thank you.

It's one of the few times we are in agreement. All our brain cells are working at about the same level today. That's so nice.

I have a number of questions. First of all, thank you for coming to make the presentation to us today.

Despite the fact that I've heard your assurances that fundamental rights will remain and protection will remain intact, as you know, there are a lot of concerns about the changes proposed here. We see the changes as far-reaching. They will directly affect the health and safety of Canadian workers, including limiting how an employee may use his or her right to refuse work if he or she feels threatened. None of these changes were announced in the budget, and we have not heard of calls from stakeholders to change the health and safety provisions of the Canada Labour Code.

My questions are, one, could you clarify for the committee what the impetus was for these changes? Did you consult with organizations and unions? If so, how many employers and how many unions? Could you provide us with a list of which stakeholders were consulted on the changes to part 3, division 5, and when they were consulted? Were any discussion papers prepared by Employment and Social Development or the labour program, and if so, can they be tabled for the committee?

These are really some very direct questions that I'm asking for some specifics on.

Ms. Brenda Baxter (Director General, Workplace Directorate, Labour Program, Department of Human Resources and Skills Development): To start with, I want to reiterate that the health and safety of workers is a priority for the government, and the right of employees to refuse dangerous work is paramount and remains in the legislation. There is no intent to restrict the right to refuse dangerous work.

The rationale of the proposed amendments to the Canada Labour Code is responding to feedback regarding the legislation, aligning the definition of danger to the working interpretation of danger in case law, and ensuring that workplace parties are more involved in the work refusal process, given that over the last 10 years, 80% of refusals to work were determined to be situations of no danger. We did rely on particular information, such as our administrative data and metrics. We have a quality assurance process in place, and we get feedback from our officers, as well as feedback from time to time from our stakeholders, and we did look at the amount of proactive work that our officers undertake, understanding that the time they spend focusing on working with high-risk industrial sectors will result in fewer accidents and injuries.

Ms. Jinny Jogindera Sims: Because time is so limited and I only have seven minutes, how many groups and how many unions were consulted, if any? Just briefly, please.

Ms. Brenda Baxter: As I mentioned, it's an accumulation of administrative data. We have regular discussions with our stakeholders.

Ms. Jinny Jogindera Sims: Thank you.

Was a report or a discussion paper written on this, and if so, can it be presented to the committee? Not now, but when you get back.

Ms. Brenda Baxter: No, we don't have a discussion paper, but as I mentioned, we have been looking at our administrative data with regard to refusals to work, and this information has been provided to our stakeholders.

Ms. Jinny Jogindera Sims: Thank you very much. If we could have that data as well, that would be good.

I'm asking through the chair; I'm not asking for a special favour.

In how many of the 80% work refusals that resulted in the decisions of “no danger” did health and safety officers also issue directions or assurances of voluntary compliance because violations of the code were found?

Ms. Brenda Baxter: Our administrative data doesn't allow us to make that direct link.

Ms. Jinny Jogindera Sims: I would suggest to you that is a major link. Having worked in this area in a unionized workplace—in the area of health and safety—and having sat on a committee, I really think that data about voluntary compliance is critical for you to have.

If that data can be extracted, I would certainly like us to have it at this committee, if possible.

Mr. Kin Choi: I think it's an important point you raise, that our officers are out there working, and as part of their process they discover other things. Part of the change is that they can do more of that proactive work and discover the problems before they happen.

It's often very difficult and unfair for health and safety officers when they are looking at a refusal process—and you can appreciate the refusal process has a sense of urgency to it—that they don't have the opportunity to spend the time they need to prevent.... That's where we are trying to put the emphasis with these changes.

● (1540)

Ms. Jinny Jogindera Sims: I heard you saying that, and I have to take you at your word that there is no intention to reduce, that fundamental rights and protections will remain intact.

My question is, if that is so, how can you assure all of us sitting around this table that the reductions wouldn't include the 20% of the types of work refusals where danger was found?

Mr. Kin Choi: I'm not sure I follow your question, Madam Sims.

Ms. Jinny Jogindera Sims: If these measures are not intended to refuse dangerous work...even by the numbers you have put out, 80% of the works resulted in decisions of there being no danger. So how do the measures you're now proposing ensure that the reductions wouldn't include the 20% of the work refusals where danger was found?

Mr. Kin Choi: I think it's important to start by saying that the right to refuse dangerous work remains in the code, so it's not going to take away from people their ability to have that refusal process. The rights of employees to know about hazards in the workplace, the rights of employees to participate in protection from hazards in the workplace, and their right to refuse dangerous work remains.

Going forward, the number of complaints will still be investigated. But the process has changed, and we're hoping the process will improve the quality of decisions. We will still have dangerous situations, and hazards in the workplace will remain, but we'll spend more time allowing our officers to ensure compliance, maintain prevention practices, and promote our compliance.

The Chair: That's the end of this round, Madam Sims.

Now we'll move on to Ms. McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Thank you, Chair, and thank you to the officials.

One of the comments in your opening statement that really stands out in my mind, and it is true to what I believe, is that you're convinced the changes are going to improve outcomes. I think everyone at this table agrees that we want to actually improve outcomes. I don't think there is anyone who would say otherwise. I think that's a very important statement.

I think there's a lot of misinformation out there, and I really think we need to get some quick details on the public record in terms of what we are doing and what we actually aren't going to be doing. You did speak to this briefly. Is this in any way going to limit a worker's right to refuse dangerous work?

Ms. Brenda Baxter: No, it's not. The right for a worker to refuse remains and is enshrined in the code.

Mrs. Cathy McLeod: Thank you.

Is this going to reduce the number of health and safety officers?

Ms. Brenda Baxter: Absolutely not. Health and safety officers remain key to enforcement of the code, and there is no intention to reduce the number of health and safety officers.

Mrs. Cathy McLeod: Is this going to in any way undermine the work and expertise of those health and safety officers?

Ms. Brenda Baxter: Absolutely not. Critical to enforcement of the code is ensuring that our officers have the expertise and skills to assist employees and employers to make sure the workplaces are healthy and safe.

Mrs. Cathy McLeod: One of the things I saw that I thought was very disturbing and very misleading was a pregnant woman stating that she was going to be put at risk due to these changes. Could you talk a little bit about this piece of the act and other areas? There are other protections for pregnant women. Absolutely, as I understand it, this will in no way impact women in their ability to protect themselves from reproductive hazards.

Ms. Brenda Baxter: Thank you for the question. It's a very important point.

The clarification of the definition of danger continues to protect employees from imminent or serious dangers to their life or health. This would include protection for pregnant and nursing women. In fact, under part 2 of the Labour Code, section 132 actually speaks to specific protections for pregnant and nursing women. In addition, under part 3 of the code, under section 204 it also provides job protection for pregnant or nursing women.

● (1545)

Mrs. Cathy McLeod: So this picture that's out there of a pregnant woman stating that this is going to create a danger to her and her unborn child is absolutely not accurate in terms of the changes we're making?

Ms. Brenda Baxter: That's correct.

The definition doesn't limit a worker's refusal to work when they believe they're exposed to any sort of hazardous substance that could result in anything such as an occupational illness. As well, it continues to provide the protections from all hazards, whether the impact is immediate, such as impact from a fall, or longer term, such as an occupational illness.

Mrs. Cathy McLeod: I came from a provincially regulated workforce. We had the ability, between employer and employee, to have the conversation. We had a very active workplace health and safety committee. And we were in a fairly high-risk area. Certainly, health care has issues that could be considered high risk in terms of what they're dealing with. I saw all the issues that we dealt with resolved internally with what we call the internal responsibility system.

If you're going to look at comparing perhaps a provincial system to the federal government system, could you comment on that? I'm certainly familiar with all our resolutions happening within that environment.

Ms. Brenda Baxter: Thank you. It's a very important point.

In the workplace it's the employees and employers who know their workplace and are best placed to determine if there's a particular hazard in the workplace, and best placed to work together to ensure that they identify that hazard and put in place mitigation strategies so that hazard doesn't become a danger. This is what we see as the internal responsibility system. It is the cornerstone of part 2 of the Canada Labour Code.

What we are doing with the proposed amendments is trying to reinforce that internal responsibility system. In fact, this change is strengthening the role of the health and safety committees within that internal responsibility system and within the refusal-to-work process. We're adding a step to ensure that there is an investigation undertaken by the health and safety committee, which is a two-step refusal-to-work process and is consistent with what the majority of the other health and safety jurisdictions in Canada have in place.

It's really ensuring that the Canada Labour Code has the same level of rigour with regard to the refusal to work and the internal responsibility system as the other jurisdictions.

Mrs. Cathy McLeod: The other piece that I'm very familiar with, and again, we're talking provincially, is the number of roles, whether it be licensing or other roles, in which delegation is the norm. Delegation was a very effective tool to ensure consistency in terms of approach and being able to mobilize resources.

Is this a political...or is this an appropriate tool to create consistency across the country?

Mr. Kin Choi: Thank you very much for that.

Moving to this model where the minister will be conferred with the authority to delegate powers and duties to a health and safety officer is not different from what we see in different practices within the federal public service programs. As an executive, I'm delegated, through the minister, authorities on things such as financial delegation. Similarly, in programs from privacy administration to transportation of dangerous goods we see this model as well. We think it's important that we have this so we can support our health and safety officers in doing their work.

It's important to note that our health and safety officers do important and difficult work at times, especially when there are investigations of fatalities and injuries in the workplace. The delegation model ensures that we provide them with the support and training in the certification process so that they're up to that task, so they're supported to be able to do those important jobs. That's why we're moving toward this model.

● (1550)

The Chair: Thank you. That ends your time.

Now we'll move on to Mr. Cuzner.

Mr. Rodger Cuzner (Cape Breton—Canso, Lib.): Thank you very much, Chair.

Thank you for being here today.

The code covers 1.25 million workers and thousands of companies. The rationale for the change is the 80% refusal rate. Over the last 10 years, what is the actual number of cases that would have been dealt with?

Mr. Kin Choi: Brenda is looking up the exact numbers.

We average somewhere between 150 to 200 cases of refusals. It's important to note that sometimes the refusal is a single employee and sometimes it's a group one, so the numbers don't—

Mr. Rodger Cuzner: Yes, because the research we have is that it's under 1,000 over 10 years. We looked at it. It's about 100 a year, so 20% are recognized, but the other 80%, to cover 1.25 million workers, I just wonder.... If they're unfounded, do you immediately recognize them as a bogus file? Or do you measure that?

Mr. Kin Choi: I don't think that's the terminology we would use.

Mr. Rodger Cuzner: A bogus claim? No?

Mr. Kin Choi: No. I think it's important.... Start off with our compliance continuum. Workplace hazards exist as the very nature of just the workplace—

Mr. Rodger Cuzner: Oh, let me ask.... I'm sorry. I only have seven minutes.

Mr. Kin Choi: I'm sorry.

Mr. Rodger Cuzner: From the 20% that are identified...from the ones that aren't identified, how many would have recommendations to act on a hazard from those other applications?

Mr. Kin Choi: I don't have the number in terms of that within the 20% that I think you're driving at.

Mr. Rodger Cuzner: No, no, no. The 20% are identified as a reason to stop—

Mr. Kin Choi: As a danger—

Mr. Rodger Cuzner: It's the 80% that are being....

Mr. Kin Choi: Eighty per cent—

Mr. Rodger Cuzner: Because many times there's a hazard identified, right?

Mr. Kin Choi: There are times when our officers will deal with ones where they'll go out and say, “But I've noticed this.” I think that's what you're driving at—

Mr. Rodger Cuzner: Yes.

Mr. Kin Choi: That's precisely why we're trying to make these changes.

Mr. Rodger Cuzner: There will be a recommendation made.

Mr. Kin Choi: Yes, and it's working with—

Mr. Rodger Cuzner: So there's still merit in that complaint, I would think.

Mr. Kin Choi: But I think, sir, that it continues to be what we're going to be able to do. In fact, we're hoping that this will free us up to do more of that type of work, which is prevention. I think we get ourselves behind the eight ball when we're asked to come in when there's a dispute, when there's a refusal. That's a sign that there's something else going on.

Mr. Rodger Cuzner: Could it be miscommunication? You're asking a worker to go into a particular area and perform a particular function, but the employer doesn't really explain the whole realm of the duty or the whole realm of the job. There may be a miscommunication or a lack of communication, so they think the worst and they say, “I'm going to refuse to take on that job.” Is that common?

Mr. Kin Choi: Well, I don't know if we have statistics on that, Mr. Cuzner, but I think that—

Mr. Rodger Cuzner: That may be a worthwhile statistic, because as Ms. Sims said, the detail in the statistics I think would be of help.

Mr. Kin Choi: In our experience, from what we've seen and what we've heard from our officers, they're spending a lot of time in that type of process and they're not getting the time they need to do the proactive work. I don't think it's in conflict with what you're trying to promote or suggest.

Mr. Rodger Cuzner: Yes.

Mr. Kin Choi: I think we're actually on the same page, in that we want to have more time to do more prevention work—

Mr. Rodger Cuzner: More time to do more prevention? How many officers do you have now?

Mr. Kin Choi: We have about 80 across the country.

Mr. Rodger Cuzner: That's down from 150 how long ago?

Mr. Kin Choi: I don't think it's down from 150. I think we've been at this rate.... We've averaged about 80. I've been in the program for a couple of years now. We've averaged—

Mr. Rodger Cuzner: A couple of years, but it's the last eight years in particular.

Mr. Kin Choi: If I could answer, I think the average is about 80 over the last five years.

Mr. Rodger Cuzner: Okay, because my understanding is that there was a considerable cutback in the number of officers. There's been a decline over the last number of years, and it's gone down from about 150 to about 85.

Mr. Kin Choi: I can tell you that's not the case, respectfully. I think there have been some expressions of that from various quarters. We've had our rates of attrition as well, and as you know—

Mr. Rodger Cuzner: Could you supply the committee with just a sort of chronology?

Mr. Kin Choi: Certainly. Yes, we can do that.

● (1555)

Mr. Rodger Cuzner: So why now? Why is it prompted now? Over the last 10 years you've had about 100 claims per year. It seems to be fairly consistent. There doesn't seem to be a spike. Why the need to make this change now if it's not because of fewer officers in the field? What's your motivation?

Mr. Kin Choi: I think our numbers and your numbers don't match. Certainly we've averaged 150 to 200 cases of activity on refusals per year. That includes individuals as well as groups. So the numbers are quite large, and it takes a fair amount of work for our officers to go through that process. We're a 24/7 organization, so at times that means literally in the middle of the night they're travelling to address these refusals. We find that when those types of workplace issues can be dealt with through internal responsibility systems, then having our officers travel to work sites in the middle of the night is not a good use of our resources.

Ms. Brenda Baxter: I would also add that I think the reinforcement and the strengthening of the internal responsibility system is to get at some of those 80% of refusal-to-work situations that could be dealt with by the workplace parties if they ensured that each of the workplace parties was playing its part in identifying those hazards and mitigating them before they became dangerous situations.

Mr. Rodger Cuzner: One of the outcomes of investigations has been recommendations to deal with the hazard.

Mr. Kin Choi: We feel that it's a better model if officers are able to work with the workplaces in advance, in a situation where the workplace parties are taking care of their hazards together. This situation will free up our resources to do more of that. We're doing that, but when we're spending our time on these refusal processes, which can be very lengthy, the workplaces are put it in a difficult situation. We recognize that. Our officers are put in a difficult situation. We're not advancing our mandate, and we're not making the workplace fair and safe and productive.

The Chair: That ends our seven-minute round.

Now we'll move to five-minute rounds, beginning with Monsieur Boulerice.

[*Translation*]

Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP): Thank you very much, Mr. Chair.

I want to thank our guests for joining us to answer our questions today.

I will try to build on some of the questions my colleagues asked. I will also try to not talk too fast.

I am somewhat concerned that the percentage of the refused worker claims—which is 80%—is used to justify changing the definition of the word "danger" to restrict and limit it in a way that, I think, is not in the best interest of workers. So we see that, in 80% of the cases—according to your figures—the claim would not be accepted. That means that the right to refuse dangerous work would not be granted. That percentage apparently comes from discussions you are holding within your department.

My colleague Ms. Sims asked you whether any problems were nevertheless identified in the cases that account for that 80%. She also asked you whether the directions were issued by health and safety agencies and whether requests for voluntary compliance were sent by health and safety officers. The answer is that the information we have does not enable us to establish a connection between the two. However, that connection is extremely important for determining whether, in those cases that make up the 80%, there were nevertheless some elements of danger that would be enough to warrant a change in the workplace.

I would like it if your data made it possible to establish that connection. If that is not the case, it means that the problem is not due to the old definition.

Ms. Brenda Baxter: Thank you for your question.

Mr. Chair, allow me to answer in English.

[*English*]

I think with respect to the 80% of refusals to work that were found to be not dangerous situations, the workplace may have contained potential hazards. These hazards can be mitigated so they don't create dangerous situations.

Through the amendments, we are reinforcing the internal responsibility system so that those parties can work together to mitigate those hazards before they become dangers. This means those are situations that the parties themselves can resolve, which means our officers can spend their time focusing on the very high-risk sectors and dealing with situations of danger, possibly resulting in a reduction in accidents and injuries.

● (1600)

[*Translation*]

Mr. Alexandre Boulerice: Unfortunately, that's sort of like asking people to figure it out themselves, as inspectors are being removed from the workplace.

A lack of balance of power between workers and management is a problem. We cannot accept that figure of 80% as a justification for restricting the definition of the word "danger".

I am very concerned by the fact that the notion of serious danger is being proposed. In the field, in a workplace, discussions will be held to determine what should be considered a serious danger. Will tearing a ligament be considered a serious danger? Will someone cutting their finger be considered a serious danger? Will intoxication be considered a serious danger? Will the risk of contracting a chronic disease be considered a serious danger? In certain situations, workers could be told that they may get a backache, but that this is not really a serious danger.

[*English*]

Mr. Kin Choi: Hazards in the workplace exist; that's just the nature of the workplace. What's important is looking at it as a continuum and seeing who best can address them. The employers have real responsibility to make sure the workplace is safe, and we're there with our officers and are very passionate to ensure that employers meet their responsibilities. Their responsibility to address the hazards is to ensure that employees have protective equipment, that they have training, and that there's a hazard prevention program in place.

Moving down the continuum, when there's disagreement, the employees have a right to participate, a right to know about danger; they have a responsibility to wear protective equipment; and they continue to have the right to refuse dangerous work.

Looking at that continuum, I don't think what you're arguing is dissimilar to what we're saying, which is that what we need to do is spend our time on prevention. When there is a situation in which there is danger, that's a sign that there are problems in the workplace, and there are other tools within the code, within labour relations, in the collective agreement, that the workplaces have available to them to address such a situation.

In the model we're moving to, I think we're actually arguing the same point, which is that by doing this our officers will be able to spend more time to prevent those things from coming forward.

To your question about whether our officers find other things when they go in for refusal, let me say that they find other things when they go in to do inspections up front. In our experience, and I've shadowed a lot of our officers across the country, that's when we do our best work: when we work with the employer ahead of time, together identify where there are potential hazards, and come back to help them with things they can do to improve.

I think that's the right model. It's the internal responsibility system model. That's the model that we see across various jurisdictions.

The Chair: Time moves quickly. We're on to Mr. Mayes for five minutes.

Mr. Colin Mayes (Okanagan—Shuswap, CPC): Thank you, Mr. Chair, and thank you to the department for being here today.

One of the things I've learned is that when you want to have people take responsibility for doing a job, you give them the guidelines and then tell them, “Please do the job.” To address Mr. Cuzner's issue surrounding the 80 health and safety officers, the fact is that the 80 have reduced the number of incidents by 22.5%. Obviously 80 is enough; they're doing the job and they're professional.

I want to touch first of all on the guidelines and the definition of danger. I understand that the guidelines, which we're changing now as far as a definition is concerned, are more in alignment with the provincial definition. Could you clarify this? I could be wrong about it, but I had some notes on it.

The other thing is that these health and safety officers go through a pretty vigorous training. It's not as if you picked somebody off the street; they are professionals. I wonder whether there was any feedback from those professionals.

This is a little bit of a problem here. I think if we could address it, it would give me more time to do, as you said, the preventative work to ensure that the workplace is not only healthy for the employee but safer.

Ms. Brenda Baxter: Thank you for the question.

With regard to the definition of danger, essentially what we are doing is clarifying the wording of the definition of danger. The previous definition was very long and confusing. The clarified definition focuses on imminent or serious threat to life or health, and it includes incidents that could have an impact immediately or could be long-term. It covers pregnant and nursing women as well. The definition as we've proposed it is consistent with case law and with interpretations of danger within the workplace.

The substance of the definition of danger remains and continues to provide protections for healthy and safe workplaces.

● (1605)

Mr. Colin Mayes: Thank you.

Of course, there is an appeal process, so if you don't agree with the decision, there's an appeal process.

Could you give me a little overview of how that works, who is involved in that appeal process, and how it functions?

Ms. Brenda Baxter: Essentially, when there is a refusal to work process, currently an employee would refuse to work and an employer would be required to undertake an investigation to look at the situation to try to resolve it. If there is no agreement and the employee continues to refuse to work, what we're proposing now is that the workplace health and safety committee would undertake an investigation to also look at the circumstances of the refusal to work, and together with those two reports would try to resolve the situation in the workplace.

If it is not resolved and the employee has a right to continue to refuse to work, the labour program would be called in to investigate the situation and to assist in resolving the situation.

At the outcome—the decision made by our officers with regard to the refusal to work, as to whether there's a situation of danger or no danger—that decision can be appealed by the employer or by the employee, and ultimately the appeal can also be taken to Federal Court, if there continues to be a disagreement with the outcome of that decision.

Mr. Kin Choi: Let me add that this process adds the second step, which a lot of our provincial counterparts have, and it's an important step. We've seen that where there are strong employers with good employer-employee relationships, they do this. We've seen it actually work in the workplace to make things better.

To your question about the appeal mechanism, at the end of the day our officers are still going to be available 24/7, and they will make a decision based on two sets of information, possibly, or maybe one: the employer's information and the health and safety committee information.

If there's agreement, then the employer will react to it. If there isn't an agreement, our officers can go in and investigate or look at the reports and so on. Once they make a decision, the recourse mechanism remains. Either party may go to the Occupational Health and Safety Tribunal, which is independent from our organization, to appeal that decision, and should they still disagree with the decision of the adjudicator of the Occupational Health and Safety Tribunal, they can also appeal to the Federal Court. So those mechanisms will remain enshrined.

The Chair: Thank you.

We'll move on to Madame Groguhé for five minutes.

[*Translation*]

Mrs. Sadia Groguhé (Saint-Lambert, NDP): Thank you, Mr. Chair.

I want to thank our witnesses for joining us today.

I think that your comments are raising so many questions, especially when it comes to the changes made to the definition of danger. In fact, two criteria are being explained again—that of “imminent threat”, which is a temporal notion, and that of “serious threat”. Those two terms are supposed to help determine whether a workplace involves danger.

I have two concerns about that. First, the definition of long-term dangers—such as exposure to a dangerous substance—is eliminated. The danger would not be imminent, but that exposure may be really dangerous over time. What is done in such cases?

Second, I think this is opening the door to too many loose interpretations of the term “serious”. Depending on the workplace, an employer may simply say that they consider an issue to be serious, while another employer, who may be faced with the same type of problem with a different employee, may say that the issue does not seem serious at all to them.

Some clarifications should definitely be made. However, that restriction may be taking away all the elements that play a part in the true protection of workers.

What can you tell me about that?

● (1610)

Ms. Brenda Baxter: Thank you for your question.

[*English*]

If I understand correctly, your concern is with regard to the clarification of the definition of danger and whether or not it continues to provide protections to employees with respect to impacts upon life or health that are longer-term.

The clarified definition does cover that. We're talking about imminent or serious impact to life or health. So if in a workplace employees are not provided with the proper training, the proper protective equipment, and the proper procedures to handle certain substances that could have a serious impact on life or health, whether it is immediate or longer-term, it is still covered within the clarified definition of danger.

Again, just to reiterate, there is no change to the right of an employee to refuse to work. If an employee has a reasonable belief that there is a danger to their life or health, they are able to refuse to work, and to continue to refuse to work, until there is a resolution.

Mr. Kin Choi: If I may add to it, you mentioned that the employer could decide it's not dangerous. With the change to the internal responsibility system, it's important to note that the health and safety committee, both the employer and the unions' employee representatives, will actually have a stronger role in ensuring that the dangers and hazards are being looked at, both throughout the entire workplace processes, if you will, as well as if there's a refusal process. It's not left to an employer to decide that this is dangerous or that's dangerous.

[*Translation*]

Mrs. Sadia Groguhé: Mr. Chair, when an attempt is made to oversimplify things, sometimes the door is opened to too many interpretations. When we look at the changes made to the definition and see that the notion of exposure has been completely removed, that may as well be taking away the protection of certain types of workers.

I will give you an example. Let's say exposure to asbestos is discovered in a workplace. We know perfectly well that exposure to asbestos does not have an impact overnight; it happens over the long term. However, if asbestos is not listed as a dangerous substance that may have an effect on the workers, how will they defend their case? For instance, an employee could end up with pulmonary complications. How will that employee, who has become more fragile, be able to defend their case?

The restriction does include the term “serious”, which is to be defined by the employer. The interpretation of that term may vary from one employer to another.

[*English*]

The Chair: I'm sorry. We do not have any time for your response because the five minutes is up.

We'll move on to the next questioner, and that's Mr. Daniel for five minutes.

Mr. Joe Daniel (Don Valley East, CPC): Thank you, Chair.

Thank you, witnesses, for being here.

I'm going to try to focus a bit more on some of the more important factors of ensuring a safe workplace. What I'm speaking about is the expertise of the men and women who serve as health and safety officers.

I'm pleased to hear that the amendments will not reduce the number of safety officers and that these aren't cost-cutting measures; they're more a streamlining of the services in order that the workplace will be more safe.

It's also worth highlighting the fact that from coast to coast to coast the health and safety officers will continue to be available, as you've already said, for 24 hours, seven days a week, to respond to situations of danger in the workplace.

In terms of the amendment that would give the Minister of Labour the power of health and safety officers, could you please explain why these changes are needed and how these amendments address those needs?

● (1615)

Ms. Brenda Baxter: With regard to the amendments and the move from a designation to a delegation model, essentially what we're proposing is to provide more support to our health and safety officers.

As was mentioned in one of the questions, I think, our health and safety officers deal with a range of issues. They are very difficult and challenging issues at times. We want to ensure that the officers have the right support in order to undertake those investigations. That includes ensuring that they have the proper training, the proper experience, and the proper certification for the various types of investigations they are undertaking.

This is essentially why we're moving from the designation to the delegation model, to provide them with that additional support when they're on the ground investigating these very difficult situations.

Mr. Joe Daniel: Would you say that the independent expertise of the health and safety officers remains vital to assessing and ensuring a safe workplace?

Ms. Brenda Baxter: Absolutely.

They're on site. They're looking at a particular situation, and they're the ones gathering the information with regard to a particular incident.

We need to ensure they have the support from their managers and directors with regard to particular situations, should they need more information and context in making a decision in some of those very difficult situations.

Ultimately, they do make the decision. As we've said, there is the right of recourse for employees and employers with regard to the decisions the officers are making.

Mr. Joe Daniel: Do these amendments have the potential of improving the health and safety of workers, and if so, how?

Ms. Brenda Baxter: That's a very important point.

I think we've given some examples of how we believe these amendments will improve health and safety in the workplaces. That's exactly the intention of the amendments. We've mentioned the improvements to the internal responsibility system and strengthening the role of the workplace parties, as they are best placed to identify and mitigate the hazards in the workplace.

So we need those parties to work together, and it's also enabling our officers to focus their efforts on situations where we do have very high-risk industries and getting in and working with the employers to prevent accidents and injuries before they occur.

Mr. Kin Choi: If I may add, we have a compliance continuum that we look at in terms of looking at our work, supplemented by business intelligence about which sectors, which industry, which companies may be problematic. I don't mean that they're necessarily bad employers, but they just don't know. They could be a new employer and so on.

When you look at that compliance continuum and you look at our officers' roles, if they're spending all of their time on the right side of the continuum, which is responding and addressing issues after the fact, we are missing the opportunity to actually prevent all of that from happening.

As I said, I've had the opportunity to go from coast to coast to shadow and to ride along with our health and safety officers, and I've done both, where they've had to deal with refusals in a very heated capacity, with lots of tensions and emotions and trying to resolve issues. They do a pretty good job of that, quite frankly. But it's a lot of energy spent that they're not spending on the front end, which is going and talking to big employers that have their challenges, that don't have a hazardous prevention program, that haven't built a culture with that. Spending time and energy and effort there has a bigger and a longer-term payoff, in our view. So by moving to this model of an internal responsibility system and freeing our officers up to spend more time in that domain, we think it will have greater results. We have been moving towards that model for quite some time, and you can see the rates for disability and injuries have steadily declined.

Imagine if we can spend more efforts on that, because the accidents and the injuries that are out there are not acceptable. We don't want to see more. We want to prevent them.

The Chair: Thank you.

We're just a little over time, but we've been a little over on most of the questions and the answers and that's working out well.

Now we move back to the NDP and Monsieur Boulerice.

● (1620)

Mr. Alexandre Boulerice: Thank you, Mr. Chair.

This time I'm going to ask my question in English, if it's possible, because my quote is in English.

I have one question. After that I will give the rest of my time to Madame Sims.

I want to understand the new definition of danger, as cut out from the following passage. It “includes any exposure to a hazardous substance that is likely to result in a chronic illness, in disease or in damage to the reproductive system”.

It's disappeared. It's been replaced by occupational illness, which is not the same thing as chronic illness, disease, or damage to the reproductive system. Why are there changes regarding the reproductive system?

Ms. Brenda Baxter: The definition of danger is just to clarify and simplify the definition. The definition that's proposed continues to cover the substance of the previous definition. It covers imminent or serious and its impact to life or health. As was mentioned earlier, there is a specific reference in the code, section 132, that speaks to provisions for pregnant and nursing women. That is considered covered within the definition, but it also has its particular section within the code itself.

The definition does cover impacts that can be longer-term, so occupational illness and non-occupational injuries.

Ms. Jinny Jogindera Sims: Mine is a follow-up question to what Mr. Boulerice has started here.

The definition, for streamlining purposes, to save a few words on a piece of paper, is happening. But how does reducing the wording of the danger definition to only apply to severe and imminent danger possibly make workers safe? That's the bit I'm struggling with.

Ms. Brenda Baxter: As has been mentioned, we need to appreciate that hazards exist in all workplaces. The intention is that workplace parties would identify and mitigate those hazards in the workplace before they become a danger. The workplace parties work together to ensure there is proper training for the equipment, the materials being used, the protective equipment, and the procedures in place.

Ms. Jinny Jogindera Sims: Yes, I understand all that, and I've heard that a few times, so I get that bit. But I'm still struggling with how changing the definition of danger and then applying it only to severe and imminent danger can make workers safe. Using an example, I worked as a teacher, and schools were found to have quite a bit of asbestos, and sometimes that asbestos was exposed. Under these rules, could an employee refuse to work if she believes asbestos is present and could threaten her health?

Ms. Brenda Baxter: Yes.

Mr. Kin Choi: Yes.

Ms. Jinny Jogindera Sims: Now I want to follow up on another question asked by my respected colleague across the way, Mr. Daniel. Why were all the powers previously conferred on health and safety officers—they are the experts, they know what the issues are—now being given to the Minister of Labour? I have serious concerns, because whichever committee I go to, such as my previous committee, more and more powers are being vested in the ministers instead of, in this case, health and safety officers. I know this may be getting into the political realm and you may not have a full answer. I'm okay if you say you do not know why, but I still wanted to get it on the record, that it's really beginning to bother me how much power is being vested in the ministers in all kinds of different ways.

Mr. Kin Choi: Quite a few questions are embedded there. I'll try to answer as many as I can.

I think the issue of danger is about clarifying, if I can go back to that. If you read the two definitions side by side, I think there is some rationale why 80% of it is not coming out as dangerous, because I think there is some confusion. Our goal is not to take away responsibility; our intention is to strengthen the internal responsibility system and make it clear so that people can understand what that's all about. So all the other protections.... I think people raised important points. What about pregnant women? What about asbestos? I think we've clarified today that they are still included in "danger". It's up to the workplaces to address them, to make sure there is a hazards program. It's not to say that you can't work with a hazardous chemical. Inherently, that's what the workplace needs to do, if that is its business. But it's how you are preventing hazards through equipment. How are you addressing it through training and hazards prevention programs?

● (1625)

Ms. Jinny Jogindera Sims: How long do I have left, Mr. Chair?

The Chair: That's it, you're over time.

Going by the official clock, which is our BlackBerry, I'm going to allow one more round and go back to Mrs. McLeod.

Mrs. Cathy McLeod: Thank you, Mr. Chair.

I think we need to recap this conversation.

The definition is not "severe", as indicated, but it's "serious or imminent"? It includes long- and short-term impacts?

Ms. Brenda Baxter: Yes.

Mr. Kin Choi: Yes.

Mrs. Cathy McLeod: The worker has the absolute right to refuse work that is deemed dangerous?

Mr. Kin Choi: Yes.

Mrs. Cathy McLeod: So 80%—and again, this is on appeal—were deemed to have no danger. Is that accurate?

Mr. Kin Choi: That's it, yes.

Ms. Brenda Baxter: Yes.

Mrs. Cathy McLeod: First of all, to have the focus to see if that extra step within the internal responsibility system can resolve 20% or 30%—it's not going to resolve 80%—and then not having to go that next step is freeing up the capacity of our health and safety officers. Is this accurate?

Mr. Kin Choi: Yes, and I would add that it's so important to underscore that second step, as you have highlighted, Madam McLeod, that the health and safety committee will have a greater and stronger role to play in ensuring the workplace is safe.

Mrs. Cathy McLeod: But the worker, if really uncomfortable, still has that refusal opportunity?

Was that a yes?

Mr. Kin Choi: Yes, it's enshrined through the code, and it's yes throughout the entire refusal process.

Mrs. Cathy McLeod: All the appeal mechanisms remain the same.

Mr. Kin Choi: Yes, ma'am.

Ms. Brenda Baxter: Yes.

Mrs. Cathy McLeod: To me, to be quite frank, if we even reduce that 80% to 40% or 60%, and we have expert health and safety officers able to proactively engage in a workplace and look at prevention and do assessments, that is eminently sensible. All of us believe that prevention is much better than reaction.

Mr. Kin Choi: Yes, ma'am.

The Chair: Thank you, Ms. McLeod, for cutting that short. It works out very nicely.

We would like to thank both of you for being here today, for taking the time to answer the questions.

The committee will take a short break while the second panel moves into place.

We're adjourned for a short period of time.

● (Pause) ●

● (1630)

The Chair: We're resuming the meeting.

First of all, I'll introduce our witnesses. We have Sari Sairanen and Lana Payne from Unifor.

Before we ask you for your presentation, I want to clarify something with members of the committee.

Earlier, there was some confusion at the start regarding the amount of time allowed for questioning. I was wrong, and I'll accept that responsibility. We agreed in the Standing Orders to do five-minute rounds when we have two one-hour panels. The reason for this, I believe, is that if we have more than one witness—often there are two witnesses in a one-hour panel—it will allow, because there would be two 10-minute presentations, more members time to ask questions, so we move to the five-minute rounds. That, just to clarify, is our future order.

Because we have one witness today, it's been suggested—and I'll seek unanimous consent—that we move to seven-minute rounds in the first round. We have one witness, and we have time to do that.

Do I see any opposition to this?

● (1635)

Mrs. Cathy McLeod: Chair, I have a point of clarification. We do only have one witness in this panel, and I know in the next we have a number. At the end of this meeting, the last 15 minutes or so, are we also dealing with a motion that's been tabled? That's just so we can think about our timeframe in terms of seven versus five.

Ms. Jinny Jogindera Sims: I'm not planning to move it today.

The Chair: Okay.

We're also on 48 hours' notice from Mr. Cuzner.

Mr. Cuzner, do you intend to move your motion at the end of this meeting today? We perhaps will have time because we have a single witness.

Mr. Rodger Cuzner: I think because of something that's come up it's precluded now, so we'll do that at the next meeting.

The Chair: So you're not doing it today. Thank you.

That being said, we are going to have the first rounds at seven minutes when we get to that point.

Please proceed with your presentation.

Ms. Sari Sairanen (Director, Health, Safety and Environment, Unifor): Good afternoon, everyone.

Unifor is the largest private sector union, with 300,000 members, with over 80,000 women and men working in the federal sector, which includes rail, transportation, airlines, and communications, just to name a few. On behalf of our members, we are concerned that Bill C-4 is not consistent with enhancing workplace protections and will roll the dice with the health and safety of our federal workers.

At the outset, it is worth noting that none of these changes were the product of collaboration or even consultation. The changes proposed in Bill C-4 alter health and safety protections that have only recently been put into place in the year 2000. That is a relatively short amount of time in the life of a piece of legislation. The Canada Labour Code changes of 2000 were reached after extensive consultation with labour, employers, and government, and were themselves a microcosm of what can be achieved through a tripartite system of collaboration.

Words do matter. They certainly matter when they're the words that make up our laws and legislation, and in particular with the laws and legislation that protect workers and public safety.

When we look at the definition of danger, the proposal is a narrower interpretation of what is considered to be workplace danger. Making changes to the wording of a law is to change its original meaning. Gone is the recognition that the outcome of exposure to hazard might not occur immediately. Gone is the explicit language that recognizes that a potential threat to a worker's reproductive system is worth protecting. That threat of exposure to mutagens is a very real threat.

On the right to refuse, as we look at how the right of refusal happens in workplaces, the government maintains that 80% of all work refusals are not justified and are frivolous. What is that number based on? We don't know what the number is based on. Far from progressing frivolous complaints to HRSDC, we are of the opinion that workers are reluctant to invoke their right to refuse even in the face of bona fide dangerous work. Therefore, instead of watering down safety rights around unsafe work, we should be enhancing them, ensuring that workers feel safe from reprisal by reporting unsafe work. In addition, we should be enhancing enforcement and inspection, not rolling back the clock on hard-fought health and safety gains.

When we look at the work refusal investigation, the employer will prepare a written report—this is something new. The workplace committee will prepare a report—this is something new. The employer may provide further information and request reconsideration—again, something new. The employer shall make a decision—something new. If the employer disagrees, it will notify the worker in writing—something new. If the worker continues refusal, the employer will notify the minister and provide a report—something new. The minister will decide whether to continue.

The new emphasis on the immediacy of the danger to the worker is lost in the new prolonged procedure for addressing that danger. Formerly, the legislative process lent itself to taking minutes or hours to determine if the safety officer was required. However, the new proposal, with an emphasis on written reports, would appear to take hours or days, especially in the case of a 24/7 operation, such as the railways or even airlines.

We're quite concerned with the potential of the minister's refusal to investigate work refusals. We're concerned not only by the paper obstacle that seems to be in the new proposal, but also the vulnerability to discipline. To classify as trivial, vexatious, or in bad faith does not certainly bring forward confidence in workers to bring their issues forward. Also, there is no statutory right to appeal from the minister's decision. In addition, the internal responsibility system points out that everyone is concerned with health and safety. Certainly the new proposals are not in that direction. Health and safety officers are neutral and trained. How is a minister going to fulfill that position?

Healthy and safe working conditions are the right of every worker, and a scheme that strips those rights away and puts workers in harm's way is, in a word, a deadly combination.

● (1640)

When we look at some of our workplaces, for example, at CP Rail, despite ever-increasing pressures to increase production and perform new processes, in 2013 to date our membership of 2000 workers under federal jurisdiction progressed two work refusals under section 128, both resulting in directions under paragraph 145 (2)(a) for the employer to stop the dangerous activity—only two work refusals in such a large body. We would therefore argue that any attempt to water down the language in such important legislation is unacceptable. Laws and regulations are only as strong as the education and enforcement that go with them and how those laws and regulations are practised in a workplace and enforced by those charged with the protection of our well-being as workers.

We cannot rely totally on employers to make our workplaces safe, because employers have, by their existence, a goal that competes with safety and is to make a profit. We should accept that as a given and build from there. This is also why we need vigilant and proactive government involvement. This does not happen by watering down rights and, in essence, the legislative authority held by those charged with enforcing our safety.

Since 2000, while lost time to injuries in Canada has been steadily declining, fatalities have remained fairly constant, with over 900 deaths each year. It must be noted that the current legislation, with its superior protections for workers, has failed to reduce these fatalities. This begs the question of why we are not instead looking for ways to enhance worker occupational health and safety, rather than eroding their workplace safety rights. We therefore oppose the changes to the health and safety provisions contained in Bill C-4.

That concludes my report.

The Chair: Thank you.

Are you going to be making any comments, Madam Payne?

Ms. Lana Payne (Director, Atlantic Regional, Unifor): I can respond now or we can respond to questions that....

The Chair: So you don't have a....

Ms. Lana Payne: No, but I would add to one of the points that Sari mentioned, and also to the last witnesses you had, around hazards in the workplace.

I'm from Atlantic Canada, and we have a lot of people working in dangerous work in that part of the country, as we do in many of our provinces. What often happens with a work refusal is that it is really a last resort by the worker. It is because they have made, perhaps, many attempts to already solve these hazard problems in their workplace, through their workplace committee, their occupational health and safety committee, or through other procedures.

To say that we're going to resolve all of these problems around hazards simply because the workplace parties are going to work better together I would suggest is not practically what happens in a lot of workplaces.

Secondly, the previous witnesses talked about the fact that we have 80 inspectors. We have over one million workers in federally regulated workplaces, I think, and 80 inspectors is not a big contingent of workplace safety inspectors to cover that number. As you can imagine, these workers are in thousands of workplaces across the country. Even to do one workplace visit by these inspectors would take many years to complete.

The fact that we have workers who would come forward with problems is incredibly important, I think, and we should be encouraging that and not discouraging it with this kind of legislative change.

Thank you.

● (1645)

The Chair: Thank you.

Thank you for your presentations.

We'll now go to our first round of questions. Seven minutes to Mr. Cuzner.

Mr. Rodger Cuzner: I have to leave right now. Can I yield my time to the NDP, please?

Do we need unanimous consent? I think I can do that.

The Chair: I think we would need consent to do that.

Is there unanimous consent to allow that?

The answer is no, I don't see it.

Ms. Jinny Jogindera Sims: Come on, where's all that friendliness gone?

The Chair: Okay, then. On to Madam Sims.

Ms. Jinny Jogindera Sims: Thank you very much, Chair.

I want to thank you, Lana and Sari, for your presentations.

I have a series of questions and I'll go at them fairly quickly.

First, very simply, will this bill make Canadians safer?

Ms. Sari Sairanen: The workplaces right now are not as safe as they should be, so how is this bill going to be enhancing that safety of workers? I don't see the changes that will enhance what we currently have. Instead, as I said in my presentation, this will be taking us back.

Ms. Jinny Jogindera Sims: Thank you very much.

Was Unifor consulted about the changes to the Canada Labour Code?

Ms. Lana Payne: No.

Ms. Sari Sairanen: No.

Ms. Jinny Jogindera Sims: Can you talk about how changes to the right to refuse will affect the safety of workers? I know you touched on it in your presentation, but if you could just expand on that, I would appreciate it.

Ms. Sari Sairanen: Currently, we don't understand the government's position that 80% of work refusals are frivolous or vexatious. We don't experience that in our workplaces.

Work refusals are the last resort workers use to have their safety concerns addressed by the employer. They have gone through all of the other processes in their workplace. I'm talking about organized workplaces.

In unorganized workplaces, there is a lot more fear of losing employment or experiencing a reprisal. The changes proposed in this bill put a lot more obstacles in front of workers whether they are organized or not. There are lots of reports that need to be written, which was not there. Presumably, it will prolong the process.

When you are exercising your right to refuse, there is danger. You are doing that to bring attention to your situation, because everything else has failed to bring that notice to the employer. So when you're putting more obstacles in front of the workers, it makes the system a lot more onerous, it makes it a lot more cumbersome, and it certainly does not make it a worker-friendly or a health-and-safety-friendly amendment.

Ms. Jinny Jogindera Sims: Thank you.

When the staff came to talk to us on Bill C-4, they talked about 80% being frivolous, and yet we know that there is no data available for voluntary compliance, and that a lot of those issues do occur. And my experience—I agree with you—in my previous life has been that normally people will carry on working in places where there could be danger. It takes a lot of education, and a lot of courage to take that next step.

Changes to the definition of the word “danger” are puzzling to me. We're saying it's not really going to change anything. I usually think if it isn't going to change anything...

Ms. Lana Payne: Why change it?

Ms. Jinny Jogindera Sims: Right, it's only going to save six or seven words on a piece of paper.

The new wording cuts out the following passage:

> [Danger that] includes any exposure to a hazardous substance that is likely to result in a chronic illness, in disease or in damage to the reproductive system.

The question I have is, will reducing the wording of the definition make workers safer?

Ms. Sari Sairanen: We don't see that. By taking words out, what are you accomplishing with the definition? The current definition was a collaborative effort that came out of the 2000 consultation process. A lot of effort went into it from all the parties involved. This new definition has not received a consultative lens. It has not had the participatory lens, so we're not quite sure what the objective is.

I heard the previous witnesses, but, as I said earlier, words matter. So if the words are changed, there is going to be a change in the definition.

● (1650)

Ms. Jinny Jogindera Sims: Really, it's beginning to bother me that there was no consultation with representatives of workers. One of the key things I know about health and safety is this: if you really want to have an actively engaged workforce, you need to engage people in the changes you're bringing about. Any change should make things more explicit. But taking away words allows people to think they don't have rights they actually have.

Under the new code, could an employee refuse the right to work if he or she believed a condition might cause no imminent threat but might chronically impact his or her health in the long term? This is from your reading of it.

Ms. Sari Sairanen: What does that mean to an average worker? What's the education going to be to the average worker? What does that mean?

Ms. Jinny Jogindera Sims: Do you think they could refuse work under these circumstances?

Ms. Sari Sairanen: Well, if they don't know what it means, how are they going to be able...? If they're not educated on it, how are they going to be able to exercise their right to refuse, and then start writing the report that needs to be done according to the new changes?

Ms. Jinny Jogindera Sims: Thank you. That's the point I was trying to make.

You said something else that was interesting, which was that by the time things get to the minister—and I notice it's only the employer who makes the report; the employee is totally out of the picture, and this changes the balance totally.

The other scary fact I heard you mention is that there is no appeal once things get to the minister. Is that so?

Ms. Sari Sairanen: That's correct.

Ms. Jinny Jogindera Sims: Thank you very much.

Chair, how much longer do I have?

The Chair: You have thirty seconds.

Ms. Jinny Jogindera Sims: Well, I'm going to take those thirty seconds to say that this change alone, this lack of appeal, and the fact that only the employer will get to decide and submit a report should be raising major alarm bells for everybody who is sitting around this table.

Thank you.

The Chair: Thank you.

Now we'll move to Mr. Armstrong for seven minutes.

Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC): Thank you, Mr. Chair, and I want to thank our witnesses for being here.

Ms. Sairanen, your president, Mr. Dias, has previously been quoted in an article indicating that the proposed amendments would weaken health and safety laws. But we also just heard from labour officials on the amendments and they've indicated they would have absolutely no negative effect on the health and safety of workers. In fact, they've said that they had the potential to improve overall health and safety by giving officers the resources they require to do more proactive interventions in the workplace. They testified on that earlier today.

Do you agree that increasing the number of proactive interventions in the federally regulated workplace is a good thing?

Ms. Sari Sairanen: Prevention is always a good thing. However, the changes proposed here do not address the participation of all of the workplace parties. A lot of the participatory nature, the internal responsibility system in the workplace, the balance of power, so to speak, is being recrafted. So when you look at how you make changes in the workplace, it's through the workplace parties. But if only one individual of those parties is dictating the outcome and that individual is not listening to the workers themselves, the ones in the line of fire, the ones facing the danger.... It's not the employer, who may be sitting in the office, who is not on the assembly line or in the work process itself. I have a vested interest in ensuring that I'm safe.

Mr. Scott Armstrong: I come from a background that is more provincially regulated, and when I look at the changes in this legislation, it's going to be more effective, more like what we see provincially. Would you agree with that?

Ms. Sari Sairanen: No.

Mr. Scott Armstrong: It's not more in line with what we see in the provinces, with the strengthening of the workplace occupational health and safety committee, and with the number of interventions? Does that not reflect what we see at the provincial level? It does.

To me, it's more reflective of where I used to work in Nova Scotia under the provincial regulations.

Ms. Sari Sairanen: Well, I don't see how putting more obstacles in the form of having to write reports to proceed from one stage of the work refusal to the next gives more powers to a committee. To me that puts a lot of hindrance on workers, and we also have to think of the makeup—

● (1655)

Mr. Scott Armstrong: But you said—

Ms. Sari Sairanen: Let me finish, please.

Mr. Scott Armstrong: But I want to ask the question. I have only a little bit of time—

Ms. Sari Sairanen: When you're looking at the makeup of the workplace parties, they're not just unilingual or bilingual. You have a lot of newcomers to Canada who will have to be writing reports.

Mr. Scott Armstrong: Thank you. I don't mean to be rude. I have only a few minutes.

I know that a strengthening of the interventions and having a stronger workplace occupational health and safety committee is what the provincial governments tend to do. You're saying this legislation is rolling the dice with workplace safety. Since it is more aligned with what we do provincially, are you saying that the provincial governments across Canada, including those in Manitoba and Nova Scotia, are rolling the dice with worker safety? From my experience, they're not. Is that what you're saying when you testify today?

Ms. Sari Sairanen: That's not what I'm saying.

Ms. Lana Payne: Also, I think you missed the point of prevention. There's nothing wrong with enhancing prevention, but I don't believe it should be done at the expense of taking the resources out of dealing with hazards and dangerous work. We can do both, and many provincial jurisdictions try to achieve this. In fact, one piece of legislation before the House of Commons at the moment is amendments to the Atlantic accord, which deals with offshore safety. Two provinces and the federal government came together around these amendments to improve safety for offshore workers, and the language around the right to refuse is completely different from what the Department of Labour is proposing here. It actually is a stronger piece of legislation reflecting what's in place in Newfoundland and Labrador, I would argue.

So I think we can enhance prevention but not at the expense of these workplace rights for workers.

Mr. Scott Armstrong: I'm going to move on.

Do you accept the fact that the right of the worker to refuse dangerous work—imminent, serious, or long-term—would not be affected by this legislation? That's what we heard from the officials when they came and testified about the legislation.

Ms. Sari Sairanen: If the current definition and the new definition are supposed to afford the same protections, why are we making the changes? Why are we going through this process?

Mr. Scott Armstrong: Well, the reason, I think—and I think we asked the officials that—is that the current definition has led to 80% of the work refusals being dismissed as being no danger at all. So obviously there is some sort of confusion with the current definition, which is leading, in part, to some of these refusals that in the end are going through and not being accepted.

By clarifying the definition, don't you think we're going to further reduce the number of refusals that are not supported?

Ms. Sari Sairanen: I don't believe so, because we don't know what's behind the 80%. We have not had a clarification of the numbers or the statistical information it is based on, so I can't answer that question with all legitimacy.

Mr. Scott Armstrong: We also heard from the officials that the number of refusals we're seeing across the country has dropped in recent years by up to 22%. So obviously the work the officials are doing as they travel and investigate workplaces—the health and safety officers—in part or working with a more educated workforce and a more educated employer force, is leading to fewer and fewer refusals to work. Would you accept that? Looking at the data, that seems to be the case.

Ms. Sari Sairanen: I have difficulty accepting that as well when I look at our membership and their feedback to us on exercising their right to refuse, and how few and far between they are, because of fear of reprisal in the workplace and any measures that employers have taken of disciplining workers who do bring health and safety issues forward. I have difficulty accepting that.

Mr. Scott Armstrong: Do you accept, then, that employers, after this legislation passes, will still be responsible for ensuring their workplaces are safe and will be required to take action if they are not? You're going to have officers come in to investigate, and if there are problems in that workplace, the employer will still be required to take action.

Would you agree with that?

Ms. Sari Sairanen: Well, according to the new changes, all of that responsibility will be left with the minister, so is the minister then going to be responsible for that?

The Chair: Thank you for the response.

That's the end of your seven minutes.

Now we'll go on to five minutes, and because Mr. Cuzner is not here, we'll go to Mr. Boulerice.

[*Translation*]

Mr. Alexandre Boulerice: Thank you, Mr. Chair.

I just heard Mr. Armstrong say some things that I did not hear from the officials who appeared before us earlier. He said that, according to the data, 80% of the cases involved no danger. However, we were told earlier that it was impossible to know whether directions had been issued to improve the situation, since a danger was nevertheless identified. That piece of data is probably the reason the legislative amendment proposed by the government is weakened.

Let's say that I am accepting that 80% figure in good faith, even though it seems to have been pulled out of a hat. This would mean that, in 20% of cases, the employee's refusal to work would be considered justified. Do you think that legitimate refusal cases, where workers' health and safety are threatened, may now be brushed aside, while they would have been accepted before? I just want individuals who are in a dangerous situation to be protected.

● (1700)

[*English*]

Ms. Sari Sairanen: I didn't understand the question. Can you repeat it?

Mr. Alexandre Boulerice: Yes. I was too long.

[*Translation*]

Will the definition changes mean that certain cases where the worker's right to refuse would previously have been accepted could now be rejected?

[*English*]

Ms. Sari Sairanen: Well, certainly when you look at chronic illnesses, including cancers, what about hazardous substances, including mutagenic and other substances? We don't see that in that new definition.

[*Translation*]

Mr. Alexandre Boulerice: You think that this is not a definition that provides workers with greater protection. It is more likely to make workplaces regress in terms of health and safety.

[*English*]

Ms. Sari Sairanen: Correct.

[*Translation*]

Mr. Alexandre Boulerice: Okay.

Do you have any examples of your members being victims of threats or reprisals? Did you hear any stories from other workers who, owing to the fact that they wanted to assert their rights in health and safety, jeopardized either their promotion, work schedule, position on the call-back list or permanent status? In real life, this is part of the games played in a workplace, and it's unfortunate when this is done at the expense of health and safety.

[*English*]

Ms. Lana Payne: I can speak to that.

We've had numerous cases where workers after, particularly in the offshore oil industry, which isn't a federally regulated one but I'll speak to it, felt discouraged from reporting—that we would take care of this problem in the occupational health and safety committee in the workplace.

What you very often get in those committees is that things are discussed but not fully acted upon. It may take many, many months for this to happen.

We just had an inquiry into an incident where 17 people lost their lives in a helicopter crash in Newfoundland. What we found out was that we really need to pay attention to what the experts call the "Swiss cheese" model of health and safety in the workplace. The more gaps there are in terms of our ability to deal with hazards, to report problems, the more "paper safety" approach we have to things.

To me, that's what this legislation does: it turns safety into a paper exercise. Then sometimes the holes in the Swiss cheese line up and things happen. When you chip away at people's rights, it becomes another hole in the Swiss cheese.

I see this happening with this legislation in particular.

[*Translation*]

Mr. Alexandre Boulerice: Thank you.

It is proposed that subsection 127.1(7) be repealed. That provision gave the joint committee the power to stop dangerous work.

Do you think that taking away from the joint committee on health and safety in the workplace the power to stop a dangerous activity—even if it is not established that the tasks involved represent an immediate danger—will have an impact in the workplace?

[*English*]

The Chair: Can you give a very quick answer, please?

Ms. Sari Sairanen: Certainly.

The joint health and safety committee is the vehicle in the workplace where you have representation from both sides, in an egalitarian forum, to deal with the workplace issues. But now, when they're removed from that process, where do you have that internal responsibility where health and safety is everyone's responsibility? Now it's very unbalanced and lopsided.

So you need to have participation in that process, all the work parties equally, to ensure that you do have a healthy and safe culture in the workplace.

● (1705)

The Chair: Thank you.

Five minutes, Mr. Shory.

Mr. Devinder Shory (Calgary Northeast, CPC): Thank you, Mr. Chair.

Thank you to the witnesses for appearing this afternoon.

I did meet your president, Mr. Dias, this morning at our international trade committee. I'll tell you that I cannot say we saw eye to eye on the Canada-EU agreement, but perhaps in this meeting we can make some inroads—

Voices: Oh, oh!

An hon. member: Not likely.

Mr. Devinder Shory: Well, maybe we can make some progress on this labour code issue.

But before I do that, I want to put some facts on the record. The fact is that Unifor is a merger of CAW and CEP.

Ms. Lana Payne: Right.

Mr. Devinder Shory: The fact is that CEP...and you can disagree and put it on the record if you don't agree, but this is all research-based, during the presentation he made this morning. The fact is that CEP officially endorses the NDP. During his recent interview with iPolitics in August, Mr. Dias made some comments. One of those was, and I will quote, that "We will do what we can to make sure—"

The Chair: Ms. Sims.

Ms. Jinny Jogindera Sims: On a point of order, Chair, you know, I'm looking at the point of the questioning here. I think whatever people's affiliations are, they have nothing to do with the subject matter that's being discussed here. We're here to talk about changes to the labour code.

I feel that this is a deliberate attempt to undermine the credibility of the witnesses. I think that is not fair to the witnesses who come here. Whatever their outside political affiliations are, when they come to this committee and sit here as witnesses, they're here on the topics that we called them for. They should not be put in a position where they have to comment with regard to questions like that.

The Chair: Mr. Armstrong, would you like to speak to the point of order?

Mr. Scott Armstrong: Yes, it's on the point of order.

I'm assuming that Mr. Shory's time has been stopped.

The Chair: Yes, it has.

Mr. Scott Armstrong: On this point of order, I think we have to give Mr. Shory an opportunity to connect what he is saying with....

He hasn't even had a chance to get to his question yet—to his question. I'm assuming he's trying to talk about some motivation for some of the comments made by Mr. Dias in connection with this legislation.

I think you have to give Mr. Shory at least a little bit of leeway so that he can get to his question.

Ms. Jinny Jogindera Sims: Chair—

The Chair: I'm not going to entertain any more debate on this. This is turning into debate, and I don't want it to turn into debate.

I hear your point of order, and I hear your position on this.

I'll allow some latitude, but I'd ask Mr. Shory to get to his question. I believe if they are publicly held positions of any witnesses, and this would apply to any witnesses who would come with publicly held positions, it's the entitlement of any committee member, if it's on the public record, to ask those witnesses to confirm those facts.

That's my ruling.

Mr. Devinder Shory: Thank you, Mr. Chair.

That's exactly what I'm doing. I believe the public who will read this report has the right to know the affiliation, if there is any affiliation, of any witness.

Ms. Jinny Jogindera Sims: Chair, on a point of order.

Chair, I'm not an experienced member of Parliament. I've only been a member of Parliament since 2011. But I've been a vice-chair and I've chaired meetings before. I believe a person's political affiliations have no role in the questions parliamentarians ask when they are questioning witnesses, especially when the political union president is not here.

The Chair: Excuse me. No more speakers to this. It's turning into debate.

I've made a ruling. The way I'm interpreting it, this is not about an individual. It's not about asking these witnesses, or any witnesses, their personal political position. It's the organization they're representing, like any organization. If another association came here, if the home builders of Canada came here and publicly took a position, I think it's fair for any committee member of any political stripe to state the facts of where those organizations stand.

We're not asking them about their personal political affiliations. That's my ruling. If anyone would like to challenge it, they're welcome to do that.

Proceed, Mr. Shory.

● (1710)

Mr. Devinder Shory: Thank you, Mr. Chair.

As I said, it's my right as a committee member to know what position a witness stands on.

In iPolitics, Mr. Dias said that "the outlining issue..." in 2015 will be "how do we best defeat a Conservative"?

As an organization, is that Unifor's mission?

Mr. Alexandre Boulerice: A point of order, Mr. Chair.

This is clearly not a question about the issue and the study we are having right now. We're talking about Bill C-4. We're talking about specific articles of this bill, about health and safety issues.

I think my honourable colleague here just wants to make political points and embarrass the witnesses. It's not fair and it's not the job of this committee.

The Chair: My ruling stands. I will ask Mr. Shory to get to his questions on the bill.

As I said, my ruling is, to any organization that comes before this committee, that you will have the right to ask its position, if it is a publicly held position. It's not to ask an individual; I will rule against asking an individual. But I will rule on any organization that comes. There could be future meetings where there's obviously a public position held by an organization. It's fair; it's on the public record.

That's my ruling. If you'd like to challenge me on that, go ahead.

Mr. Alexandre Boulerice: Mr. Chair, I think the questions have to be related to the subject. I don't care if the people have political principles or positions in life. I want questions about the study we're making.

The Chair: Now you're making debate on this issue. This is not to be debated. I've made my decision. If you choose to challenge me on my decision, you're within your rights to do that.

No more debate; no more comments about it. If you choose to challenge me, go ahead.

Ms. Jinny Jogindera Sims: I'm going to challenge the chair.

The Chair: Okay, that's a dilatory motion. There's no further debate.

Ms. Jinny Jogindera Sims: A recorded vote, please.

The Chair: We'll have a recorded vote.

The question is, should my decision be sustained?

(Ruling of the chair sustained: yeas 6; nays 4)

The Chair: The decision is sustained.

Mr. Shory, proceed.

Mr. Devinder Shory: I'm moving forward now, Mr. Chair, on Bill C-4.

I have a quote from Mr. Dias, from a Unifor press release. It's on Bill C-4. They say, "The government should look to strengthen health and safety provisions, not destroy them."

Do you agree with that quote?

Ms. Sari Sairanen: Correct.

Mr. Devinder Shory: Thank you.

Well, now we have heard from officials that these amendments would not harm health and safety laws, the Canada Labour Code would continue to be enforced, and in fact worker safety would be improved. The right to refuse unsafe work remains intact. Some of these amendments give a stronger role to unions. Workers will be expected to report to and work with their health and safety committees, which include union representatives.

Is this something you support?

Ms. Sari Sairanen: What was the question?

Mr. Devinder Shory: The question is, do you support the enhancement of union presence in those representations?

Ms. Sari Sairanen: Well, I don't know how union representation...not all workplaces are organized, so this would apply to workplaces that are unorganized as well.

The principle, certainly, of joint health and safety committees is the participation of all workplace parties to ensure health and safety in the workplace.

● (1715)

Mr. Devinder Shory: They have more than 20 health and safety committees.

I want to go back to your previous comments, because officials mentioned that all parties have that right to appeal. One of the answers I heard was that there is no right of appeal, and also that the minister is not responsible for the final decision; it will be the committee.

My question is, do you agree with the previous witnesses that the health and safety of workers under these amendments is maintained and in fact improves...? Of course, taxes are additional resources freed by the streamlining of the system. Do you not feel that it is disingenuous to suggest to workers and their families that there could be catastrophic effects from these amendments?

Ms. Sari Sairanen: I have certainly not used the word "catastrophic". Those are your words. However, we do oppose the changes to the health and safety provisions contained in Bill C-4.

The Chair: Thank you. We'll move on to our next questioner.

It's your five minutes, Madame Groguhé.

[*Translation*]

Mrs. Sadia Groguhé: Thank you, Mr. Chair.

We are called upon to discuss a very important issue for employees. So I will focus solely on that topic.

The previous witnesses talked about a figure of 80%, but it is not known where that statistic comes from. How many cases are covered by that 80%? We don't know that either. What circumstances led to the conclusion that no danger existed? That question could not be answered either. Despite that, amendments to the legislation are proposed, so as to restrict employees' rights as much as possible.

What do you think will be the consequences of transferring to the Minister of Labour the powers of occupational health and safety officers? What will be the consequences of that transfer on the investigation process?

[*English*]

Ms. Sari Sairanen: As I maintained in my presentation, health and safety officers are neutral and they are trained. They are the experts on resolving issues in the workplace. To call a health and safety officer into the workplace, the parties have really reached the end of a resolution process in the workplace. The communication has broken. How do you fix that? Do you bring in a neutral party? But if the minister is getting those issues, how is the minister, then, the neutral and trained party for that? And who will the minister then call in? Why would we not leave the language already in the legislation, having the trained and neutral officers come in to help the workplace party resolve the issue? If we're so concerned about health and safety violations happening in the workplace, you need to have a well-trained workforce. Perhaps the answer is to have more training in the workplace so that the workplace parties have the tools necessary to look at preventative methods of looking at and identifying the hazards in the workplace. That's what health and safety's mandate is in the workplace. It's identifying the hazards and either eliminating or mitigating the exposure to those hazards. That's through training and knowledge.

[*Translation*]

Mrs. Sadia Groguhé: What do you think will be the consequences of removing the words “exposure to a hazardous substance” from that definition?

[*English*]

Ms. Sari Sairanen: As our world of work is continuously evolving, so are the exposures to new chemicals that are entering our workplaces. Nanotechnology is a great example; it is entering our workplaces. If you don't have a broad definition, as we currently have, how would the workplace parties be able to rely on the structure for identifying it consistently so that everyone has the same understanding?

By the shift in this new definition, making it more streamlined—I don't know what “streamlined” actually means—in our belief, you are limiting what the focus will be on the different exposures, especially cancer-causing substances in the workplace, which are becoming more and more abundant.

When we're looking at changes to the global harmonization system and the safety data sheet information that we'll be giving to our members to decipher, how is that going to be helping with the new streamlined definition and all the tools that are available to the workplace parties to mitigate exposures to danger?

● (1720)

[*Translation*]

Mrs. Sadia Groguhé: Following the changes made to the code, what do you think about the role employers will have to play when faced with their employees' refusal to work owing to a danger?

[*English*]

The Chair: A very quick answer, please.

Ms. Sari Sairanen: That certainly places workers in very vulnerable situations. People rely on their work to be safe and healthy. If you are limiting their last resort of ensuring that they go home at the end of the day to their families and that they are able to continue being employed in a healthy and safe manner, it places many people in some very precarious positions.

The Chair: Mr. Butt for five minutes.

Mr. Brad Butt (Mississauga—Streetsville, CPC): Thank you very much, Mr. Chair.

Good afternoon, ladies. Thank you very much for being here.

I think you were here for some, if not all, of the deputation by the two officials from the ministry of labour. They were unequivocal in their assertion that there are no changes proposed in this bill that would not allow a worker to refuse to work in an unsafe condition.

Do you believe this bill will not allow a worker to refuse to work in an unsafe area?

Ms. Sari Sairanen: As we've stated before, if this bill is not creating any changes in a workplace, why are we having these discussions?

Mr. Brad Butt: I think I can answer that.

I hope you were listening to the officials, because they said that 80% of all of the claims for unsafe workplaces were found to be incorrect. They were not. The reason the definition is being changed is to make sure, one, it's a modern 2013 definition, and, two, that it mirrors what the 10 provinces are currently doing in their definitions.

I haven't heard anybody today suggest that the provinces don't have adequate protection in their labour codes for workers. I haven't heard one person say that. We're developing standards that are going to mirror exactly what the provinces are doing.

You're a very large union. You operate in all the provinces and territories. You represent workers in all of that. These are the governments of all three political parties that represent the people in their respective provinces. We're going to have a common set of rules and definitions across the whole country. I would think that's a positive aspect of the changes to this bill.

Why would that not be positive, if the federal government is following the same rules and definitions and the same general practices and procedures as the 10 provinces?

Ms. Lana Payne: They're not, and all 10 provinces are not the same either.

Mr. Brad Butt: Well, I beg to differ.

Ms. Lana Payne: You should get out the codes and have a look and compare all the language. I would suggest that everybody do that.

Mr. Brad Butt: I beg to differ.

Ms. Lana Payne: Second, on the issue of practically putting in a work refusal, you have to put yourself in that place. Something dangerous is happening in your workplace, in your opinion. With the process now—the paper process that you have to go through—it could mean an extended period of time before the danger is actually addressed. The dangerous activity could be continuing in the workplace until we work through these seven or eight paper processes.

This is not how you deal with safety in a workplace, by writing a letter.

Mr. Brad Butt: One of the things that isn't going to change is that right now all companies of 20 employees or greater that are federally regulated businesses must have joint health and safety committees. That is not changing. The first step, I would think, for an employee who believes they're working in an unsafe condition is to report it to the joint health and safety committee. By the way, companies of 20 employees or fewer still have to have a health and safety officer. There still has to be one person within that organization to whom the employee should be reporting the unsafe conditions first. There is nothing in this bill that changes that.

Would you not agree that the first step for an employee who believes they're working in an unsafe condition is to go with credible background and evidence to the health and safety committee or the health officer and make the complaint? Is that not the first right step for an employee?

● (1725)

Ms. Sari Sairanen: For anyone to refuse work, it is a “reasonable cause to believe”. That's what it is. It's for me to believe, not for me to come to you with a litany of facts of what could potentially happen. It's me who reasonably believes what's going to happen.

Mr. Brad Butt: Right, and none of that's changed under this bill.

Ms. Sari Sairanen: No, it does not change that. However, what happens—

Mr. Brad Butt: You can still refuse to work.

The Chair: Thank you. That's the end of that round.

We'll move on to the last round.

Mr. Tremblay.

[*Translation*]

Mr. Jonathan Tremblay (Montmorency—Charlevoix—Haute-Côte-Nord, NDP): Thank you, Mr. Chair.

I want to thank the witnesses for participating in the study of the bill.

Before being elected, I also worked in factories, in the wood processing and construction sectors. So I know about worker safety.

A worker may be concerned about the danger involved in their position—the danger their job may pose to their health over the long term. They may be working in an environment where ambient air is unhealthy due to the presence of dust or other substances. All the required testing may have been done without finding any elements known to be dangerous, but without adequate studies, some elements may be a source of concern. You may think of cases related to asbestos, and more recently, those involving crystalline silica.

With these amendments, does an employee still have the right to refuse to work? If so, is the assertion of that right more complicated? Do these amendments improve workplace safety, decrease it or change nothing at all?

[*English*]

Ms. Sari Sairanen: We certainly don't believe that these changes will be an enhancement to worker health and safety in the workplace. Looking at the changes in the definition of danger, we've certainly heard that it is being streamlined and modified. The definition we have today is working, despite claims that 80% of all work refusals are not justified. We don't understand that 80%. When we hear from our members that they are not confident coming forward in refusing dangerous work because of the fear of reprisal, because of the atmosphere that's in the workplace, because there is a lot of judgment that goes into bringing health and safety issues forward and it is about ensuring production, it is about ensuring that the profit is at the forefront instead of looking at the safety culture in the workplace, we don't believe that any of these amendments will be an enhancement.

[*Translation*]

Mr. Jonathan Tremblay: Let's use a concrete example. A mason-bricklayer may be manually sawing a stone and releasing into the air crystalline silica, a substance that plays a role similar to that of asbestos, which is now recognized as a dangerous substance. If a worker came into contact with a similar element that is the subject of a study, but has not yet been recognized as dangerous, would that employee have the same right to refuse to work as in the past? Would they have the same right to ask their employer to implement the necessary protective measures?

[*English*]

Ms. Sari Sairanen: Certainly with the exposures to a number of different substances in the workplace, the definition that is being proposed will, in our opinion, be limiting that. If you have a worker such as a mason who has dust exposure, it may be that the employer will believe that it is not dangerous, and you will need to have a lot of “proof” to show that it is dangerous, whereas the current definition will have that sort of longer-term application to it, to look at the long term, because there is a latency period in certain exposures to chemicals. That may not happen overnight. It will take a number of years for it to become known as a health effect in your system and to manifest itself in various health conditions.

The current definition certainly takes that into account, but we believe the changes to the definition will be limiting workers' ability to bring forward those kinds of circumstances. That will limit their ability to enforce this or to utilize the right to refuse in their knowledge that there is a potential down the road in terms of a health condition and health effects.

● (1730)

The Chair: Thank you for that.

Thank you for your responses, and thank you for coming today and witnessing here at this committee on this particular bill.

The meeting is adjourned.