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Mr. Phil McColeman

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

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● (0850)

[*English*]

The Chair (Mr. Phil McColeman (Brant, CPC)): Good morning, everyone, and welcome. This is meeting number 11 of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities. Today is Tuesday, February 11, 2014, and we are beginning our consideration of Bill C-525, An Act to amend the Canada Labour Code, the Parliamentary Employment and Staff Relations Act and the Public Service Labour Relations Act (certification and revocation — bargaining agent). The short title is the employees' voting rights act.

For the first half-hour of our meeting today, we are joined by the bill's mover, Mr. Blaine Calkins, member of Parliament for Wetaskiwin, to give his eight-minute presentation and to answer any questions from our committee about the bill.

We now turn the floor over to Mr. Calkins for his presentation.

Mr. Blaine Calkins (Wetaskiwin, CPC): Thank you, Mr. Chair.

Thank you, colleagues, for being on time.

I apologize in advance to the interpreters because I'm now going to condense 10 minutes into eight.

It's a pleasure to be here today with you to discuss the employees' voting rights act.

The employees' voting rights act proposes amendments to the Canada Labour Code, the Parliamentary Employment and Staff Relations Act, and the Public Service Labour Relations Act. The employees' voting rights act is all about ensuring that employees in a workplace have the absolute right to cast a secret ballot in order to determine if a union should either be created or be disbanded. The bill uses a threshold of 45% of employees indicating that they wish to call a vote and sets a threshold of 50% plus one of the employees voting in favour to either create or maintain the existence of a bargaining agent on their behalf. Critics of the employees' voting rights act claim that the bill is unfair, unbalanced, and undemocratic.

I say nothing could be further from the truth. The employees' voting rights act simply takes what is optional right now in current legislation and makes it mandatory. If you look at the current regime, if a union signs up 50% plus one of employees in the workplace through a card check system, the union automatically becomes certified. What about the other 49% and change of the employees in the workplace? They may not even be aware that a union certification drive is in progress. They may not be in favour of that particular union as their representative. Is it fair for them to not even be consulted? They wouldn't even need to be consulted and would then be subject to paying union dues and to being a member of that bargaining unit. Do we really know for sure in the current process that the employee signed the union card free from intimidation?

Justice Richards, in his Saskatchewan Court of Appeal ruling, stated that a secret ballot is a hallmark of a modern democracy. So why isn't it in place when it comes to the creation or decertification of a union? How can anyone say it's unfair and undemocratic for employees to have a secret ballot vote if we as parliamentarians face a secret ballot vote during general elections?

I would say to all of you, colleagues, that this is the great equalizer. It's what keeps us all honest in the deliberation of our duties. If it's democratic to elect members of Parliament with a secret ballot, why is it then undemocratic for workers to have a secret ballot vote in the determination of either certifying or decertifying a union?

Balance has also been an issue I've heard about from critics and people in the opposition. The allegations are about whether it is fair and balanced to have a framework that tips the scale in favour of one party. That is what we currently have. The regime currently employed to certify a union makes the process to certify a union easier than the process to decertify one. The employees' voting rights act seeks to harmonize these regimes so they strike a balance. The process is the same to either create a union or to decertify a union, should the workers choose to do so.

This current imbalance is in favour of unions, and, in my opinion, it's time to put the boots over the suits when it comes to making these kinds of decisions, and to put the power exactly where it belongs, in the hands of the workers. Some union leaders have also forgotten that their representation is contingent upon workers placing their trust in them to act in their best interests. The employees' voting rights act ensures that workers have the final say on who they want to have represent their interests.

The bill, the employees' voting rights act, is centred on the will of workers. Contrary to claims, this legislation does not trample on the rights of Canadian workers at all. The right to associate is protected under section 2(d) of the Canadian Charter of Rights and Freedoms and has been affirmed in various Supreme Court of Canada decisions related to labour organization. The Supreme Court of Canada, though, has never stated that any government must make the framework to certify or decertify a union as easy as possible. It is the domain of parliaments and legislative assemblies to decide what the process actually should be.

Currently, five out of ten provinces have a secret ballot vote regime and at least a mandatory secret ballot vote regime. Two provinces—B.C. and Saskatchewan—have a threshold to trigger that vote at 45%. It's also a fact that three out of ten provinces—Quebec, Prince Edward Island, and New Brunswick—have similar thresholds related to the concept of a majority support of workers voting in favour of the union when a vote is called in those provinces.

What the employees' voting rights act proposes is not undemocratic or trampling on the rights of workers as some would have us believe. It simply places the democratic choice of a worker squarely in the hands of that worker where it should be, free from intimidation by the employer or the union leaders.

Some critics have attacked the majority threshold, saying that if it applied to general elections, no member of Parliament or prime minister would ever be elected. This is simply a red herring. First it's important to note that union certification and decertification require a referendum vote, a yes-or-no vote. It's 50-50.

Second, general elections are multi-party, multi-option ballots, conducted by way of a secret ballot vote. The ballot in a general election does not say, “Do you want Party X to lead the country, yes or no?” It has the list of all candidates, sometimes five, six, seven candidates, and it's a first past the post system. So comparing the two doesn't make any sense at all. But from the principle of actually having a secret ballot vote, the effect is still the same. To my knowledge, no member of Parliament or prime minister has ever been elected by way of referendum vote in Canadian history in a general election. So, like I say, it's a red herring put in place by the detractors of the bill.

I firmly believe that it is not unreasonable to expect that a union seeking to represent workers should have to achieve and maintain the support of the majority of the employees that it claims to represent. Some have complained that the employees' voting rights act will lead to increased worker intimidation by the employer, or harassment and even threats. This is unfortunately an over-simplistic view, and, frankly one that is very biased in my opinion.

The choice to organize is a workers' choice, not a union's choice, nor is it the employers' choice. If you were to believe that the employers are the only party to intimidate, threaten, or harass workers, then unions would be beyond reproach and they would be so pure that everyone would want to be in a union, which we know is simply not the case. But we know the reality is, for whatever reason, and those reasons are personal to a worker, some workers don't want to be part of a union or they don't want to be part of a particular union seeking to certify in their workplace. But “to deny that they should not have access to a pillar of our democracy”, again quoted by Justice Richards in Saskatchewan, “that a secret ballot vote makes me question the motives of those who are posing it”.

I have listened to my constituents and they tell me their fears. They are hesitant to give me their names because they're afraid, all because they challenged the decisions of their union representation at one point or another. The concerns I have heard from my constituents and the polling information that is out there and broadly available in the public domain all led me to realize that this is a very reasonable change that I'm proposing.

Just think about this, because this is what happens in a union certification. All of us have been in a general election. If we walked up to the door of somebody and knocked on the door, and when they answered we put a ballot in front of their face and said, “I want you to vote here. Right now, right in front of me, cast your ballot, and, by the way, it might be in your best interests if you actually vote for me”, this is exactly the same process that can be used in a card check in the workplace. The person is not free from intimidation. They don't have the privacy of a secret ballot vote. There's that intimidation factor that's actually there forcing you to sign that card. It's not a true and realistic representation of the will of that worker.

Imagine, just imagine, if you or I, or anybody else running for a federal election, were to go up to a doorstep and put a ballot in front of somebody and demand that they vote right there for us. The howls of outrage across this country would be coming from all four corners. It would never ever pass muster. It would never pass muster in a general election, so why does it pass muster in the workplace when trying to determine whether a union is wanted or not?

There is nothing to fear by providing workers with a secret ballot vote. If anything, it actually solidifies the voice of the workers and an argument can be made that it strengthens the position of the union at the bargaining time knowing that they have the support of the majority. If you are actually truly elected in a secret ballot vote, like all of us at this table are.... We have no hesitation or qualms about the legitimacy of the fact that we're here today representing our constituents. It would be no different for a certification vote in a union certification drive.

There's been a lot of rhetoric in this direction on this bill. As a member of Parliament I'd like all members here today to take a look at this legislation seriously. As members of Parliament, we may only get one chance to put this legislation forward. I brought this forward after calls from my constituents, concerns that they've had. I researched the options that were available to me. What they're looking for is accountability from their union leadership. They want to be actively engaged in the process of deciding what's in their best interests.

Mr. Chair, how much time do I have left?

● (0855)

The Chair: You are over time.

Mr. Blaine Calkins: I'm there right now.

Well, Mr. Chair, let me just wrap up by saying I brought this bill forward with my best intentions, to create a level playing field in the workplace, and I look forward to your questions and comments.

The Chair: Thank you, Mr. Calkins.

We will go on to the first round of questioning, five-minute rounds.

Monsieur Boulerice, from the NDP.

[*Translation*]

Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP): Thank you for giving me the floor, Mr. Chair.

Mr. Calkins, I am sorry to say that this is one of the worst presentations I have heard since I was elected. I have a few simple questions to ask.

Your bill amends the Canada Labour Code by eliminating the most efficient and simple way to organize workers in order to improve their working and living conditions, in this case signing a card, thus indicating one's commitment to defend one's rights and unionize. Not only have you swept this aside in order to impose an electoral campaign—indeed, a secret vote is an electoral campaign which makes opponents of the employer and the union that is trying to organize itself, but does not yet exist. You are also imposing rules that are so biased in favor of the employer or against the union, that it is difficult to view your bill as fair or even balanced.

According to the rules you are introducing, for example, if 100 employees working in a unit are asked whether they would like to form a union and 49 of them vote in favor of the union whereas 51 do not vote at all, the union could not see the light of day, even if the employees who voted supported the union 100%, since votes that are not cast are also counted. You presume that those who did not vote are automatically opposed to forming a union.

Furthermore, as you said earlier, none of the 308 House of Commons MPs would have a seat if your rules were applied to federal elections. That is quite extraordinary. Welcome to "Absurdistan".

How can you claim that this is a democratic rule when you are counting ballots that have not been cast? Can you explain this?

● (0900)

[*English*]

Mr. Blaine Calkins: Again, Mr. Boulerice, I congratulate you on obfuscating the issue. The reality is you can't compare federal election results—which is a first past the post system, with multiple names on the ballot—with a referendum question that's yes or no. If we're going to use the example of 100 people in a bargaining unit, Mr. Boulerice, in any other way other than an absolute majority, you're going to have the will of the minority overruling the will of the majority. If a union in a certification drive can get 50% plus one person to sign a card, what is so difficult about getting them to come to a ballot box and express their will in the exact same way? That's something that nobody's ever been able to explain: if you can get it one way, why can't you get it the other? The answer to that question is, because of the interference and the pressure tactics and other mechanisms that are sometimes employed by unions during the certification process that don't let a worker, for fear of reprisal.... And if you think people aren't taking names during a union certification drive, you're fooling yourself. Mr. Boulerice, you know this very well.

But if we applied it in a different manner, I'll put it back to you this way. Let's say there's a workplace bargaining unit of only 50 people, and only 26 of the 50 vote in favour, and 24 vote against, you now have 26 people determining the fate of 74 if you simply had a simple majority ballot system in place. That's 26 people forcing union dues to be paid by the other 74—

[*Translation*]

Mr. Alexandre Boulerice: Thank you Mr. Calkins, I think we have all understood...

[*English*]

The Chair: I would just remind both questioners and the witnesses to put their comments through the chair instead of directly to each other.

Mr. Blaine Calkins: Sorry, Mr. Chair.

The Chair: Ms. Sims.

Ms. Jinny Jogindera Sims (Newton—North Delta, NDP): Thank you very much.

First of all, I was pleased to hear my colleague saying that we need to take a serious look at this piece of legislation. Well, this whole process is a farce. There is nothing serious about it. Within two meetings we're going to hear from you, we're going to hear from the witnesses, we're going to do clause-by-clause, and that's the end of it. So if you're saying "take this bill seriously", we need far more time than this.

The other thing is, I find it hard to believe that a member of Parliament thinks they know exactly what's happening in the minds of workers, workers who are struggling to make ends meet.

I want to ask my colleague a very, very simple question, and I want a yes or no answer, please. Should we count everybody who does not turn out to vote on election day as a vote against the existing government?

Mr. Blaine Calkins: Again, the question is not relevant. You're comparing apples to oranges, Mr. Chair. The question—

Ms. Jinny Jogindera Sims: I am not comparing apples and oranges. I'm comparing—

The Chair: Madam Sims, let the witness answer.

Ms. Jinny Jogindera Sims: Okay, thank you.

Mr. Blaine Calkins: Mr. Chair, the questioner is not making a fair comparison in that particular case. I will remind the honourable member who asked me the question that in one of my general elections I did actually get 50% plus one of the eligible voters. I might be an anomaly in that particular situation, but given the fact that if there were only two questions on the ballot, Mr. Chair, I would suggest to you that there would be a lot of members of Parliament who are elected 50% plus one throughout the country—

Ms. Jinny Jogindera Sims: I'm talking about the ones who do not turn out to vote.

The Chair: Your time is up, Madam Sims.

Ms. Jinny Jogindera Sims: Thank you.

Mr. Blaine Calkins: Now, insofar as what Ms. Sims says, in regard to her question—

Ms. Jinny Jogindera Sims: He gets to go over.

The Chair: No, that's time.

Mr. Blaine Calkins: Okay. Sorry, Mr. Chair.

The Chair: We'll move on to Mr. Butt from the Conservative Party.

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

Thank you, Mr. Calkins, for being here this morning.

I think it's a great honour and privilege as a member of Parliament to be able to have the opportunity to present a private member's bill based on things that you're hearing in your constituency, and to be able to present that in front of the committee in a truly democratic fashion. It sounds like my friends on the other side are not great supporters of true democracy, but it certainly looks as if you are.

Can you please state for the committee what your main concerns are about the current card check system?

Mr. Blaine Calkins: Thank you very much, colleague.

Mr. Chair, as I had wanted to get to in my opening remarks—I left myself a little bit short on time—I have had a lot of constituents come to me and voice their concerns over the intimidation, fear tactics, and pressure tactics they face.

Now, I'm not suggesting that's all one-sided, but the legislation I'm proposing puts the power, the empowerment, right where it belongs, Mr. Chair, and that's in the hands of the worker. There's nothing undemocratic about a mandatory secret ballot vote when it comes to determining whether or not somebody wants to be a member of an association or an organization.

I looked at the various options that were available to me, understanding the rights of association, the current statutory and legislative framework, and the jurisprudence we have surrounding these particular issues, and I said, “We have an optional secret ballot vote that's in place. What about a mandatory secret ballot vote?”

When I did further research, Mr. Butt, I found that in poll after poll that was conducted asking Canadians if they thought a secret ballot vote for union certification and decertification in the workplace was something they wanted, they overwhelmingly indicated, at between 80% and 90% in almost every province, support for a mandatory secret ballot vote in the workplace.

Not only that, but it's higher in Quebec than in any other province in Canada, for a mandatory secret ballot vote. And when you compare people who have never been a member of a bargaining unit with those who have been a member of a union, or are currently a member of a union, the support is even higher amongst those individuals, because they have clearly been through the process, and there is support for what I am proposing here today.

● (0905)

Mr. Brad Butt: Just as a follow-up, can you explain how a mandatory secret ballot vote...?

I'm not from a union background. I've never been a member of a union. I don't know particularly how these things necessarily work. But it seems to me that a secret ballot vote, where I can go in, in the privacy of the ballot box, and vote my conscience on certifying or decertifying a union, is just basic democracy.

Can you explain how the secret ballot vote would address some of the concerns that have been raised?

Mr. Blaine Calkins: We've all heard the allegations. As I said, they've been brought forward. It's very legitimate, it's been documented in various cases before labour boards at the federal level where the certification process was flawed. We've had people voting by proxy on card checks. We've heard instances of employees who don't understand the language being presented with a paper saying, “You have to sign here to get your paycheque,” while not understanding that they're signing a card in a union certification drive.

These things can and do happen. I'm not saying they always happen, but these things can and do happen. The only way you can level the playing field and put the power where it belongs is through a mandatory secret ballot vote. The option is already there to have an optional secret ballot vote at the discretion of the labour board in the private sector component, so why don't we just make it mandatory and get a true result? For one to argue that we don't have a true result through a secret ballot process is I think just completely illogical.

Mr. Brad Butt: Can you just quickly, Mr. Calkins, explain the difference...?

Again, how we are elected as members of Parliament has been woven into the discussion and the debate on this bill. Can you just again explain the difference between how we are elected as members of Parliament, whether we get 50% plus one of the vote or not? We obviously have many constituents who stay home, who don't vote at all.

Can you explain the difference again between how we're elected, what the goal is, and how this bill would work if passed?

Mr. Blaine Calkins: The reality is, Chair, the first past the post system dealing with multiple candidates running at the same time is a completely different question than a referendum-style question, which is a yes or no answer. If you look at the ballot for union certification, when those votes are actually held, the answer is either yes or no, and it's not unreasonable to expect that 50% plus one of the workers in a workplace should have to support the creation of a union, which then requires everybody else in that bargaining unit or that employee workplace area to be subject to the rules of that bargaining agent. So I don't think it's an unreasonable thing to do, but we all do, Mr. Butt, face a secret ballot vote.

The Chair: Thank you, Mr. Calkins.

On to Mr. Cuzner from the Liberal Party, for five minutes.

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

Mr. Calkins, good to see you. We'll get right to it; we only have five minutes.

I know in your comments you said this is about striking a balance, and I say that probably the most significant labour relations review that's been undertaken in the past 20 years is the Sims task force's *Seeking a Balance*. What did you draw from that in your research? What did you draw from that report as the repeating theme that came out of that report?

● (0910)

Mr. Blaine Calkins: There was a lot of information from various sources that I looked at, Mr. Cuzner.

Mr. Rodger Cuzner: Did you study the Sims report?

Mr. Blaine Calkins: The Sims report, yes, it was taken into consideration along with a lot of other information that I took—

Mr. Rodger Cuzner: You would know from that—

Mr. Blaine Calkins: Mr. Cuzner, are you going to let me answer the question?

Mr. Rodger Cuzner: You said you didn't study the Sims report.

Mr. Blaine Calkins: That's not what I said, Mr. Cuzner.

Mr. Rodger Cuzner: Did you study the Sims report?

Mr. Blaine Calkins: I said it's been studied, along with all kinds of other information that I looked at in the creation of the draft legislation—

Mr. Rodger Cuzner: Mr. Chair, just for clarification, the Sims report clearly identified that consultation and consensus is the process in which labour relations should come forward. Did you speak with any labour practitioners?

Mr. Blaine Calkins: If consultation through a secret ballot vote through a general election is consulting the Canadian electorate on who they want to have as a government, Mr. Cuzner, is any indication, then certainly—

Mr. Rodger Cuzner: Okay, can I get a yes or no, Mr. Chair?

The Chair: Just a second. Again, I'm going to remind the witness and the questioner, through the Chair, please, that you're engaging in debate back and forth, and I'll have to cut it off if it continues that way.

Mr. Rodger Cuzner: Mr. Chair, if we could, was the Canadian Industrial Relations Board consulted?

Mr. Blaine Calkins: I consulted with my constituents in the formulation of my bill, Mr. Cuzner. I've been clear about that.

Mr. Rodger Cuzner: Okay, so not the Canadian Industrial Relations Board.

Any major unions, those that it impacts—CLC, Unifor—had they been consulted?

Mr. Blaine Calkins: They've made no effort to consult me.

Mr. Alexandre Boulerice: What? You're joking.

The Chair: Mr. Boulerice, this is Mr. Cuzner's time. Please control yourself.

Mr. Rodger Cuzner: The Bankers Association, would they have been consulted?

Mr. Blaine Calkins: I have consulted widely with the various stakeholders in the formulation of the bill. Some of those people are actually going to be here—

Mr. Rodger Cuzner: Would FETCO have been consulted, Mr. Chair?

Mr. Blaine Calkins: Yes, they have, Mr. Cuzner.

Mr. Rodger Cuzner: Did they voice any reservations about your bill?

Mr. Blaine Calkins: They voiced no reservations about the principle of my bill; they were simply concerned with the process.

Mr. Rodger Cuzner: What was the concern with the process?

Mr. Blaine Calkins: The concern with the process was the process. You can ask FETCO what their concern with the process was. As a member of Parliament, this is the only process that I have, Mr. Cuzner, as do you when you table your private member's bill.

Mr. Rodger Cuzner: The province of Newfoundland has gone from the secret ballot to the card check system, and that was a Conservative government. What was the rationale for that province —

Mr. Blaine Calkins: You'll have to ask the members from that province. You had an opportunity to put forward your witness list. If you didn't bring in somebody from Newfoundland to explain it, then that's your issue, Mr. Cuzner.

Mr. Rodger Cuzner: It wasn't really a list, it was more of a....

Academics Riddell, Slinn, and Lynnk are probably three of the foremost experts in this country on certification and decertification. Share with us the position they've taken on your bill.

Mr. Blaine Calkins: The positions that they have are out there in the public domain, Mr. Cuzner. If you want to have those people come here and discuss the merits, or the lack thereof, that you might think are in my legislation, then you should have invited them to this committee. I'm not here to repeat what others have said.

The Chair: You have about a minute and a half.

Mr. Rodger Cuzner: Take it.

The Chair: Thank you, Mr. Cuzner. That does help.

Mrs. McLeod, for five minutes.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Thank you, Mr. Chair.

To the private member's bill, Mr. Calkins, certainly philosophically there are pieces that the government thinks are important and that reflect democratic principles. There are also some areas in which I think we will certainly be hearing from the witnesses and will be considering input from the witnesses.

I do have to make a comment, having seen the unionization certification and decertification process in work sites. I don't care whether it's the employer or the union, what I witnessed was a very important piece of the privacy of the ballot. The particular example I'm thinking of was in a health care setting. It was a very difficult choice for the workforce, and it was a very private choice. There were no pressure tactics from anyone, the employer or the union. There was a lot of peer pressure in terms of how some people were going to gain advantage by the change while others, because it was going to be seniority for chefs, were going to lose opportunity with the change.

Can you talk a little bit about not the union, not the employer, but how a secret ballot is important, perhaps for employee relations within the workforce?

● (0915)

Mr. Blaine Calkins: Well, that's exactly what my bill is aiming to address. You've hit the nail right on the head. Not that I want to get into the weeds on this, but I've been a member of several unions myself. In some instances, I've been served well by that, and in some instances, not so well. That's fine. That's the process that we had. In none of those cases was I every given an opportunity to vote whether or not I actually wanted that.

It does create issues within the ranks. We may have differing views and differing opinions. Just like Canadians have every right to talk around the coffee shop about what their thoughts and feelings might actually be during a general election, they still have the right to go into a secret ballot booth and cast their ballot after they've heard all of the concerns from their friends at the coffee shop, from listening to the media, from listening to candidates at public forums, whatever the case may be. Everybody's had an opportunity to make their pitch.

At the end of the day, Canadian voters have that right at a general election to go in and cast their ballot in secrecy, in privacy, free from intimidation, free from prying eyes, and make the decision that's best for them. That is what my bill is seeking to do. It's seeking to do no differently in the workplace. You've got a pitch being made by a union that's doing the certification drive. They'll make certain claims that they're going to be able to look after the interests of the employee better than the current conditions. An employer should have every right, as the employer, cutting the paycheque for those individuals, to make a similar pitch.

The ultimate decision lies within the hands of the worker, to decide whether or not they want that. We should all be free to go make that choice, one that's in our best interest, free from intimidation and prying eyes from all parties that are interested. Ultimately, that power should lie with that worker.

Mrs. Cathy McLeod: The last quick comment is on the issue of the secret ballot. You alluded to it briefly in your opening comments. It's not unknown in Canada. Certainly if you look at the provinces that already have secret ballots, I would expect they represent a considerable portion of the workforce.

Could you maybe just briefly address the concept and how provinces deal with it?

Mr. Blaine Calkins: Notwithstanding the only example that Mr. Cuzner brought forward, currently there are five provinces—B.C., Alberta, Saskatchewan, Nova Scotia, and Ontario, I believe—that do have mandatory secret ballot votes. Federally in the United States, the federal jurisdiction, there are mandatory secret ballots when it comes to union certification and decertification. Like I said, in three of those ten provinces in Canada, the vote threshold when a vote is cast is 50% plus one of the workforce.

I put forward that the underlying principle, Mr. Chair, of my bill is the secret ballot vote. I don't hear any ideas for amendments. Nobody proposed any amendments. They simply voted against the opportunity to provide democracy for workers. If there are amendments that somebody wants to bring forward that are reasonable and constructive to the process and make my legislation better, then that's in the hands of this committee to decide, and it's in the hands of the House of Commons to decide after that.

I would certainly welcome constructive changes to the legislation. That's the goal of this, but ultimately, the purpose of the bill is to make that optional secret ballot vote mandatory and give the workers the right to that secret ballot vote to determine what's in their best interest.

The Chair: Mr. Calkins, that's the end of questioning. Thank you very much for being here today and telling us about your plan.

Mr. Blaine Calkins: I appreciate that this is a divisive issue for some and is going to be hotly debated. I look forward to hearing whatever—

The Chair: The committee will break now to move on the next panel of witnesses.

● (0915)

(Pause)

● (0920)

The Chair: Committee, I call us back into session and welcome everyone back to consideration of Bill C-525.

For the next hour and a half, we have a full panel of witnesses who have joined us to provide testimony.

From the Canadian Labour Congress we have Mr. Hassan Yussuff, secretary-treasurer, and Mr. Chris Roberts, senior researcher for the social and economic policy department.

From the Federally Regulated Employers—Transportation and Communications, or FETCO, we have Mr. John Farrell, executive director.

From the Public Service Alliance of Canada we have Ms. Robyn Benson, national president; Ms. Magali Picard, regional executive vice-president for Quebec; and Ms. Shannon Blatt, legal officer.

Appearing as an individual we have Mr. George Smith, fellow and adjunct professor at Queen's University. Also appearing from Queen's University, by video conference as an individual, we have Mr. Kevin Banks, assistant professor, from the Faculty of Law.

Finally, from the Department of Employment and Social Development we have Mr. Anthony Giles, director general for the labour program, strategic policy, analysis and workplace information directorate.

I will now turn the floor over to our witnesses and remind them that we'd like them to keep their remarks to seven minutes in length. I will be indicating the time and cutting you off at that point, given the large number of witnesses we have today and that we want to leave time for questioning.

Perhaps we could start with Mr. Yussuff from the Canadian Labour Congress.

● (0925)

Mr. Hassan Yussuff (Secretary-Treasurer, Canadian Labour Congress): Thank you, Mr. Chair.

On behalf of the Canadian Labour Congress and its 3.3 million members, we want to thank you for giving us the opportunity to present our views regarding the private member's bill, Bill C-525.

The CLC brings together Canada's national and international unions, along with our provincial and territorial federations of labour and our 130 labour councils across the country. Our members work in virtually all sectors of the Canadian economy within occupations including workers under federal jurisdiction.

Bill C-525 makes three significant changes to the current certification process in Canada: one, it adds an unfair, redundant, mandatory vote, giving employers time to interfere with the workers' choice for collective representation; two, it imposes a threshold of 45% to access a certification vote, a threshold that a committee of experts from the International Labour Organization, the ILO, has found to be excessive; three, it proposes that the voting rules require a majority of workers—not voters—to form and retain a union, which is undemocratic. It considers workers who don't vote as casting a “no” vote ballot on the question of having a union. This gives those who don't vote power over those who do.

The CLC is of the opinion that the proposed Bill C-525 will make it virtually impossible to form a new union in the federal jurisdiction. It will thus restrict workers' freedom of association and collective bargaining rights protected by section 2(b) of the Charter of Rights and Freedoms. The bill politicizes labour relations and starts a dangerous pendulum swing in the federal labour relations regime. It disturbs labour peace in the workplace and will promote confrontation instead of cooperation. It will reduce productivity and increase intimidation from employers while costing business and the federal government. It will give an undemocratic right to a minority of workers to dissolve a union in a workplace and will contradict fundamental principles of our democracy. It will continue the deterioration of working conditions and increase income inequality in Canada.

For all these reasons we call on members of Parliament to defeat this bill.

In support of this bill, MP Calkins makes several claims that members of this committee should examine more closely.

First, Calkins claims that the federal legislation has lagged behind that of our provincial counterparts. This is false. The majority of jurisdictions in Canada use a card-based certification process, with many moving back and forth between card, check, and mandatory vote over many years. This pendulum swing politicizes labour relations between employers and workers and creates instability. We echo the finding of Andrew Sims in the 1995 report examining potential reform to the Canada Labour Code. Sims stated that swings in the labour relations pendulum with successive changes in government will, over time, adversely impact a labour relations system that is working rather well.

Second, MP Calkins claims that the current certification and decertification process has to be changed because it leaves open the opportunity for employees to be intimidated. He refers to a mountain of complaints from workers being intimidated during a certification process. The current federal certification law protects workers against intimidation from other employees, a union, or their employer. A search of CIRB decisions shows no evidence of a mountain of complaints from workers being intimidated during the certification process. In actual fact, most cases of intimidation and unfair labour practice during the certification process involved the employer. Here are two simple but well-publicized examples: retail giant Target showing anti-union videos to employees, and Couche-Tard's CEO video threatening employees with closure and layoffs should they consider unionizing. Amending the certification process will increase the opportunity for intimidation mainly coming from employers.

Third, MP Calkins claims that Bill C-525 will strike a balance in the certification and the decertification process. How does the MP know that these proposed changes in Bill C-525 will achieve the right balance in labour relations? The sponsor of the bill lacks relevant experience in labour relations. Labour relations between employers and workers are very complex in nature.

To be effective, labour relations laws have to reach a balance between the interests of all stakeholders, and this balance is best reached when all parties are involved. Neither employer nor worker groups has called for changes to the certification and revocation process. They have not been consulted by MP Calkins for these proposed changes.

The current federal labour regime works relatively well. Since 2005-06, 85% of certification processes mandated by the CIRB, Canada Industrial Relations Board, were conducted without a secret ballot vote.

● (0930)

Finally, MP Calkins called for more democracy, but the bill does not respect two elements of our democratic system: the principle of political equality, by giving people who don't vote the power of those who do, and the principle that the greatest number of votes is required to win the election.

The fact that the voting rules proposed under Bill C-525 require the majority of workers, not voters, as a threshold for having a union is unfair, hypocritical, and undemocratic. If it passes, the outrageous part of this bill is it will require a union to gain more than the majority of votes. It will do this because it will consider workers who don't bother to vote as casting a "no" ballot on whether to have a union. This will arbitrarily assign a position to those who don't vote, giving them power over those who do.

Furthermore, if the proposed bill passes, an employer could simply find ways to convince employees not to attend the vote. It would then be safe to assume that all those who attended the vote support the union. Such a process defeats the entire rationale for a secret ballot and encourages employers to intimidate and commit unfair labour relations against workers.

Even worse and more hypocritical, the proposed section 96 of the Public Service Labour Relations Act will decertify a union if only 45% of employees in a bargaining unit have not voted in favour of continued representation. Again this rejects the general principle favoured by our democratic society that winning the most votes is required to win an election.

In conclusion, we urge the federal government to stop the introduction of one-off changes to the Canada Labour Code. Amendments should not be made through private members' bills. They should be made with concerted, pre-legislative consultation that engages employers, unions, and government. Bill C-525 is tampering with the labour relations system that has worked very well for many decades in the federal jurisdiction.

Thank you so much.

The Chair: Thank you, Mr. Yussuff. You're right on time.

We'll move on to Mr. Farrell from FETCO.

Mr. John Farrell (Executive Director, Federally Regulated Employers - Transportation and Communications (FETCO)): Thank you, Mr. Chair.

FETCO consists of most of the major companies in the federal jurisdiction. FETCO members employ approximately 450,000 employees. My comments will cover two main themes: FETCO's concerns regarding the use of private members' legislation to amend the Canada Labour Code, and our specific recommendations regarding Bill C-525.

First, FETCO has serious concerns regarding the use of private members' bills to amend the Canada Labour Code. The preamble to the code notes that one of the purposes of the code set out by Parliament is:

> ...to continue and extend its support to labour and management in their cooperative efforts to develop good relations and constructive collective bargaining practices, and deems the development of good industrial relations to be in the best interests of Canada in ensuring a just share of the fruits of progress to all;

Good labour relations and constructive bargaining practices promote stability and limit conflict and the economic impact of conflict in the federal jurisdiction, which provides critical infrastructure services to Canadian business and Canadians.

Over the years this preamble has been given practical application through the support of successive governments, by putting in place an effective consultation process covering labour relations in the federal jurisdiction by engaging employers, unions, and government. This process ensures that fact-based and informed decisions are taken with respect to federal law and regulations. FETCO believes that this consultation model has permitted federally regulated employers to successfully advance the interests of its members and has contributed to both the stability and the economic well-being of these important sectors to the Canadian economy.

This critical consultation process is completely bypassed when changes to the labour relations regime are proposed through the mechanism of one-off private members' bills. It provides no meaningful way for pre-legislative consultation to take place in an open and transparent manner, and it seeks changes without the required engagement of practitioners, recognized third-party neutrals, and the resources of government agencies charged with the responsibility to implement, adjudicate, and monitor the industrial relations system in the federal jurisdiction.

We believe that the use of private members' bills sets the federal jurisdiction on a dangerous course, where, without adequate consultation or support, unnecessary or unworkable proposals come into law, and the balance, which is so important to the stability of labour relations, is upset. We strongly believe that it is not in the long-term best interests of Canadian employers and their employees, and it has the potential to needlessly impact the economy by destabilizing the basic foundation of union-management relations. Again, it is our view that federal employers can only adequately represent their interests and those of the economy to which they contribute, through the consultation process that has been the practice in the federal jurisdiction.

In sum, FETCO believes that Bill C-525, as currently drafted, will disrupt the widely respected and stable process through the labour law reform, which has traditionally been developed at the federal level. The use of private members' bills as a method of labour law reform may create a situation in which the pendulum will swing between labour law extremes, as successive federal governments with different political perspectives attempt to reverse their predecessors' reforms. This will create labour relations instability.

FETCO believes that the consultative process in place in the federal sector will ensure that the principles established in the code's preamble, noted above, are best and truly served.

I can elaborate in more detail, Mr. Chair, on a process that we would propose and I will cover that if time permits. I would also be prepared to cover that in the question period.

Now I want to turn our attention to Bill C-525, in particular.

The major issue, of course, is the question of certification/decertification of employees under the code. It appears that under the system proposed by Bill C-525, the Canada Industrial Relations Board could only issue a certification order if a majority of bargaining unit employees actually vote in favour of union representation. This is a standard that does not conform to the democratic norm in Canada. It requires amendment.

FETCO members prefer a secret ballot vote to a card check system for the purpose of determining if a union acquires the right to be a certified bargaining agent for the employees in an appropriate bargaining unit.

● (0935)

It is FETCO's view that, in order for a union to become the certified bargaining agent for an appropriate bargaining unit, fully 50 % plus one of the employees in the unit who cast secret ballot votes must vote in favour of union representation. The vote should be conducted by the Canada Industrial Relations Board.

We believe that this is the most appropriate democratic process. It allows employees to express their true wishes by secret ballot without undue influence or disclosure of how they choose to cast their ballot. This is the mechanism that is used for the electoral process in Canada for good reason. This is the fairest process that permits all employees to express their true wishes. Indeed, that is how most unions conduct their own ratification votes.

Furthermore, the certification process by means of a secret ballot vote exists in many of the jurisdictions in Canada, namely: Alberta, British Columbia, Nova Scotia, Ontario, and Saskatchewan.

The Chair: One minute, Mr. Farrell.

Mr. John Farrell: The other issue that we must deal with, of course, is the question of decertification or the revocation of bargaining rights. Under Bill C-525, in the event that the Industrial Relations Board receives a decertification application with 45% support, then the onus would shift to the union to prove, in a secret ballot representation vote, that it retains the support of a majority of the employees in the bargaining unit as opposed to the majority of employees casting a secret ballot vote in favour of decertification. The standard for decertification proposed in Bill C-525 goes beyond an acceptable norm. FETCO believes that the decertification process should require a vote of 50% plus one of the employees in the bargaining unit who cast their secret ballot votes.

For both certification and decertification, FETCO believes that the threshold in order to call a vote should be somewhere between 40% and 45%.

In sum, obviously, Bill C-525 poses a genuine dilemma for FETCO.

It pits the long-held and consistent view that employers in the federal jurisdiction prefer a secret ballot vote for certification over a card check system against our strongly held view that the legislative process of using private members' bills to change labour legislation without the opportunity for genuine pre-legislative consultation is the wrong approach.

The Chair: Mr. Farrell, I'm going to have to end it there. Your other comments could perhaps be addressed through questioning.

Now on to the Public Service Alliance of Canada. Ms. Benson, are you going to be the spokesperson, or sharing your time?

Ms. Robyn Benson (National President, Public Service Alliance of Canada): Good morning.

I'm going to be sharing my time with Magali Picard, who is the regional executive vice-president for Quebec. And of course, should there be any questions, then I also have Shannon Blatt, who is our legal officer, and she'll be able to respond.

I want to thank you for inviting us to appear before the committee.

Bill C-525 proposes to change how unions are certified and decertified under three pieces of legislation. It affects hundreds of thousands of workers in the federal public service, in the parliamentary service, and in all federally regulated industries and crown corporations.

The purpose of labour law is to ensure fairness and balance in the workplace, to protect the rights of workers, and to promote harmonious labour relations. Bill C-525 upsets some of the democratic safeguards in the current laws that enable workers to express their wishes free from interference and intimidation. As a private member's bill, it was introduced without the usual broad consultation process that involves employers, unions, and the government. It was introduced without any evidence that the rules for certification and decertification need to be changed in this way.

Bill C-525 introduces some disturbing elements that will interfere with the ability of workers to unionize federally. They go against the very spirit of the right to freedom of association enshrined in the Canadian Charter of Rights and Freedoms. The bill eliminates the right to automatic certification when a majority of workers show their intent to form a union by signing a union card and paying a fee when they sign. This is known as card check.

Bill C-525 imposes a mandatory secret vote even where a majority has already signed a union card. Contrary to what you may have heard, PSAC has no issue with voting by secret ballot. We do it regularly to elect our officers, ratify collective agreements, and vote for strike action, as examples. What we object to is forcing workers to show twice that they want to unionize. We know that signing a union card is a step that employees don't take lightly or carelessly. We believe their wishes should be respected. Studies have also shown that the elimination of card check reduces the ability of workers to actually unionize.

We also expect that the labour boards will not be given any more resources, so the time between an application for certification and an actual vote is going to increase. This will allow more time for employers to intimidate workers into not voting. Unlike labour laws in Ontario and B.C., Bill C-525 does not impose a short timeframe for a vote to be held.

Bill C-525 is also profoundly undemocratic in several ways. In the case of decertification, a minority of workers will be able to overturn the wishes of the majority. The bill would change the Public Service Labour Relations Act to allow a mere 45% to be able to dissolve the union regardless of what the majority wants.

I will now turn it over to my colleague, Madame Picard.

● (0940)

Mrs. Magali Picard (Regional Executive Vice-President (Quebec), Public Service Alliance of Canada): Thank you, Robyn.

[*Translation*]

As you know, votes on certification or decertification will henceforth depend on the total number of employees in a bargaining unit. Currently, the law stipulates that the majority rules when there is a vote, whether it be for certification or decertification. However, Bill C-525 demands that the union get an absolute majority, which is to say the majority of the entire bargaining unit. It also stipulates that not casting a ballot or abstaining means a vote against the union.

Why allow non-voters to decide what is to become of an entire group of employees? If you, as MPs, cannot vote or if you abstain from voting on a bill before the House of Commons, are you presumed to be voting against it?

In Quebec, labour legislation requires an absolute majority for certification and decertification votes. It is the only province in the country to do so. However, this legislation is very different from Bill C-525. Indeed, it allows automatic certification by counting out the cards. A vote is only held when there is no majority. Bill C-525 would remove this mechanism from federal labour legislation. Unlike Bill C-525, Quebec legislation makes it mandatory for each employee to vote, and they cannot abstain without a legitimate reason.

As we have already stated, the more votes have to be organized, the longer the certification or decertification process will be. This favors the employers, who will have more time to encourage workers to vote against the union or to simply abstain from voting. Furthermore, under Bill C-525, an abstention is considered a vote against the union.

Let us be clear. Bill C-525 offers no protection whatsoever to workers' democratic rights. Its aim is to prevent them from unionizing and allowing the employer to interfere in the process.

Barbaric tactics used by the government are of grave concern to us. First of all, it is using a private member's bill to upset the balance between workers' and employers' rights. Furthermore, the government is trying to rush the adoption of Bill C-525 in order to avoid questions and debate.

We strongly urge members of this committee and all MPs to reject Bill C-525.

Thank you.

● (0945)

[*English*]

The Chair: Thank you very much for being under time.

Now, as an individual, we'll move on to Mr. George Smith.

Mr. George Smith (Fellow and Adjunct Professor, Queen's University, As an Individual): Thank you, Mr. Chair, and good morning members of the committee.

My name is George Smith. I'm currently a fellow in the School of Policy Studies at Queen's University. I'm also an adjunct professor in the School of Industrial Relations and the School of Business at Queen's University where I teach graduate courses in collective bargaining and strategic human resource management. Prior to joining Queen's in 2010, I practised labour relations for 37 years on the front line of Canadian business where, among other responsibilities, I acted as the chief management negotiator for Air Canada, Canadian Pacific Railway, and CBC/Radio-Canada. I've spent virtually my entire life studying, practising, and teaching labour relations in the federal sector and it is that lifetime of experience and study that inform my comments today.

I'm here on a matter of process and what I see as a disturbing pattern of random intervention and piecemeal change to the Canada Labour Code that flies in the face of decades of consultative and consensus-based reform of which I was part. That consultative process was developed and supported historically by both Liberal and Conservative governments with recognition that in the complex world of federal labour relations, legislative stability provided one less wild card for labour relations professionals to deal with.

While provincial jurisdictions—and we heard about some of them this morning—experienced legislative instability and politicized labour relations reform, which affected capital investment in those provinces, the federal sector has had an impressive record historically. Despite working with 19 ministers of labour—all of whom I met personally—and under seven prime ministers, both Liberal and Conservative, I experienced only a handful of significant changes to the Canada Labour Code and most often with consultative input.

The most comprehensive changes to part I in recent history were the result of a full consultative process chaired by Andrew Sims with labour and management co-chairs producing a report seeking a balance, which formed the basis of legislative reform. That tripartite consultative process is recognized internationally as a model of labour relations legislative reform. Unfortunately, that model and the labour relations stability that accompanies it are now threatened. Federal labour relations risk becoming politicized as they were in Ontario, British Columbia, and other provincial jurisdictions. And last I heard, the federal sector is the leader not the follower of the provinces.

Bill C-525, when taken with the interventionist approach to labour impasses, changes in the way labour negotiations are conducted at crown corporations, and the way unions are funded, signal a new role for government as a player in the labour relations arena when they have historically been a neutral referee or facilitator.

We currently face a situation where the right to strike and the right to join a trade union are being threatened, all without any of the big-picture public policy debate necessary when challenging such fundamental Canadian rights. The irony of this rush to judgment approach is that it's justified on the basis of the economic recovery. But the destabilizing and politicizing of the labour relations system in the federal sector will negatively impact the economy in the run long.

Today we are dealing with a private member's bill to amend a significant section of the Canada Labour Code without any view of how this change will impact overall labour relations policy in the federal sector, without any of the necessary due process and public consultation to examine the intended and unintended consequences to such amendments. Who knows, this legislation might even be a good thing. But without full exposure to, and scrutiny by, the affected parties, we can't judge its overall impact. We need to see and debate any supporting research or studies, and this simply can't be done under the current approach and with the current timelines. One thing for sure, this legislation creates another “us versus them” circumstance in the Canada Labour Code when that legislation still speaks of labour-management cooperation being its purpose and “.... the encouragement of free collective bargaining and constructive settlements of disputes”.

My position is that this significant change to the Canada Labour Code requires a full consultative process with all potential amendments on the table, a tripartite consultative process that gives unions, companies, and citizens an opportunity to understand and react to proposed changes in their entirety. After such a consultation the government may decide to act but with full knowledge of all perspectives and with some comprehension of the potential impact that the amendments might have. This approach recognizes that consensus, to the extent possible, trumps unilateral action, which may be reversed by future governments.

● (0950)

In the words of Andrew Sims, “We want legislation that is sound, enactable, and lasting”.

My contention is that citizens, both unionized and non-unionized, and the key affected parties deserve to be part of that labour relations policy debate. If this is truly what Canadians want, then the Conservative government should welcome broader public debate. Canadians deserve nothing less.

The Chair: Thank you again, Mr. Smith, for being under seven minutes.

Now we move to Mr. Banks via video conference from Queen's University.

Mr. Kevin Banks (Assistant Professor, Faculty of Law, Queen's University, As an Individual): Good morning. Thank you very much for the invitation to speak.

I'm appearing as a researcher. I've worked in labour relations law and labour employment law for about 20 years as a practitioner, and now as a teacher and a scholar, and I also serve as an arbitrator. I'm appearing to offer personal observations on what the research can tell us about the issues you're dealing with today and not to present my personal views or to take a partisan position on this bill.

I'll begin with some observations on certification procedures. A secret ballot vote is normally understood as safeguarding employee choice. The reasons for this are fairly obvious. It provides an opportunity for quiet reflection and private decision-making, but voting procedures, research shows, can also pose risks to employee free choice. Specifically they tend to increase the opportunity for—and the effectiveness of—coercive employer tactics such as retaliations, dismissals, or threats of dismissals.

Not all employers are inclined to do this, but there's good evidence that some employers are, for economic reasons or because they are opposed to unionization. Experience suggests that a significant number of employers will do this from time to time. There is also good empirical evidence from research done in Canada that those kinds of tactics can be effective in reducing employee support for unionization. It's also well known that it's challenging for labour relations boards to provide timely and effective remedies in the face of those kinds of tactics. The reasons for this are multiple. It takes time to fairly adjudicate allegations of unfair labour practices. Labour boards need to be able to expedite hearings, to provide interim remedies, and so on.

Now why might it be the case that a secret ballot vote procedure would provide an opportunity for more effective employer opposition to unionization and in particular for unfair tactics in certification campaigns?

First of all there's more time, so an employer who's inclined to engage in those kinds of tactics has more time to mount such a campaign, and there's less opportunity for those who are sympathetic to unionization to respond to the effects of such a campaign on those whose support is wavering.

There's a very good study by Chris Riddell, an economist who looked at something of a natural experiment that took place in British Columbia when the labour relations regime there moved from card check to vote and then back to card check. In B.C. there was a relatively short time period within which the vote needed to take place; it was a ten-day time period. Nonetheless the study found that the success rate of unionization in the private sector dropped about 20% and in the public sector barely moved at all, suggesting that the economic incentives that affect private sector employers had a lot to do with it.

Riddell then went on to study the effect of unfair labour practices on the level of support for unionization and found that during the period in which votes were permitted, unfair labour practices were more than twice as effective as they were under the card check regime. He also found they accounted for at least 25% of the drop in union success rates. He notes that the rate of applications by unions declined significantly during this period as unions probably tended to pick their stronger cases for certification and to leave others behind.

● (0955)

All of this suggests that if you're going to consider moving away from card check to a vote, part of the package might usefully be a short time period within which to implement the vote, effective interim remedies for unfair labour practices, expedited unfair labour practice procedures, and the availability of remedial certification—none of which seem to be addressed in the bill as it currently stands.

The only other observation I would offer with respect to the certification provisions is that in most jurisdictions, the failure to vote is treated as a decision effectively to let others decide the outcome rather than as counting against certification of the union.

The decertification procedures outlined in the proposed bill focus on voting, which is quite normal in this kind of a process, but it is anomalous to base the outcome on what percentage of employees do not vote in favour of continued union representation. As others have observed, this effectively counts the decision of those who abstain from voting as a decision against continued union representation.

Among the provinces, all legislation but that of Nova Scotia expressly require that a majority positively vote that it no longer supports the union before the labour board can decertify. No jurisdiction requires that a board decertify if a majority of employees do not vote in favour of the union, whether the majority be determined on the basis of ballots cast or on the basis of the bargaining unit as a whole. Most jurisdictions measure this on the basis of ballots cast, but some jurisdictions require that those wishing to decertify show that the union no longer represents an absolute majority of the bargaining unit. Why? Well, because a positive showing that the union lacks support is generally thought to be necessary to undo an earlier positive showing that it had support.

Counting abstentions as being effectively against continued union representation is a potentially unreliable measure. It perhaps also puts too much emphasis on the ability of the union to get out the vote. The public sector provisions of the—

The Chair: Mr. Banks, I'm going to have to cut you off there, sir. I'm sorry. You're over time. Perhaps some of your last points can be made when you're answering questions from members.

We'll now move to Mr. Giles for seven minutes.

Mr. Anthony Giles (Director General, Labour Program, Strategic Policy, Analysis and Workplace Information Directorate, Department of Employment and Social Development): Thank you very much, Mr. Chair.

For those of you who are anxious to get to the questions, you'll be delighted to hear that I don't have an opening statement. I would simply inform the committee that as this is a private member's bill, the department was not involved in the preparation of the bill. Once it was tabled, though, we did undertake some analysis of the implications of the bill, comparisons with the other jurisdictions in Canada, and possible effects of the bill.

I would be delighted to answer any questions you might have in that vein.

● (1000)

The Chair: Thank you for being here from the department to be available to answer those questions.

Now we'll move to our five-minute round of questioning, beginning with Madam Sims from the NDP.

Ms. Jinny Jogindera Sims: Thank you very much.

I want to thank all the witnesses for being here today at such short notice. As you know, we believe that this bill is significant and that its study warranted a lot more time than is being allocated here with only two meeting times and two and a half hours for witnesses. Out of that, let me tell you that members of Parliament have only 44 minutes—44 minutes— to ask the six witnesses the myriad of questions we have. As well, you've had very little time to put your perspective forward. But this is what happens when the majority gets its way.

The NDP was afforded the opportunity to have only three witnesses before this committee today—only three—but I want you to know that we had to disappoint many: 27 others are being restricted by not being here. That number is not an exaggeration. We've submitted all names of organizations, unions, and individuals to the clerk. I heard earlier that Unifor had never asked to present. Well, they did ask to present to this committee. I want to be very, very clear about that. All of these organizations want to express their grave concerns and outrage, frankly, over the bill. We did submit all 30 names, as I said. But that's a majority government for you.

Since my time has been extremely limited, I will begin with my first question to Mr. Yussuff and Mr. Roberts.

Can you tell me what the normal process is to amend labour law federally, and do you consider the politicization of labour relations in this bill to be appropriate?

Mr. Hassan Yussuff: We've had, up until recently, a fairly robust system in terms of the federal jurisdiction in regard to amendments to the Canada Labour Code, whether it be part I, part II, or part III. In all three of those reviews that have taken place over the past, the congress has been fully engaged with a very broad consultative process that went on for quite a long time.

Subsequently, with any changes brought forward, both the CLC and FETCO worked very diligently to ensure that the right balance was reached in regard to what the government was proposing.

More importantly, we were on record saying that we supported those changes when they were brought forward. A large part of that is because of the collaborative approach we've taken, but more importantly, we also figured out that our views were represented in the consultation process. The review was very broad and extensive, and it allowed us to air any misgivings we may have had in terms of a proposal that was made.

Historically and contemporarily, in the last bit, that has changed significantly because most of the changes have come about through private members' bills with very little or no consultation, as has been previously noted before the committee and by our witness here today.

Mr. Chris Roberts (Senior Researcher, Social and Economic Policy Department, Canadian Labour Congress): I would just very quickly add to that, that it's not just the Canada Labour Code. In 2005, when the Public Service Modernization Act amended the PSLRA and the PESRA, there was extensive consultation at that point as well.

Ms. Jinny Jogindera Sims: Thank you very much.

Mr. Smith, I was really struck by the comment you made about random intervention, and the need to have a coherent and consultative process when we put together the labour code that governs, as you said, millions of people across this country. Can you expand on that a little bit more, please, and how will politicization actually harm labour relations?

Mr. George Smith: I think Mr. Yussuff has given you some of the background in terms of how historically employers, unions, and others, were consulted in legislative reform. That includes under majority governments, both majority Liberal and majority Conservative governments.

The recognition seemed to be at that time that this is complex business, and it's not business for parliamentarians. It's not business for bureaucrats. It's business for labour relations professionals. The labour relations professionals can't stop the will of Parliament, but they can certainly assist in terms of legislative reform, which may be coming from different directions, and make sure that all the unintended consequences are discussed.

What we've seen recently with the intervention in collective bargaining, and an apparent removal of the right to strike in spite of that being enshrined in the Canada Labour Code, is unprecedented in my 40 years in the business.

Private members' bills to amend significant parts of the Canada Labour Code, politicizing it, creating a situation where another election, another political party, may be forced to have the pendulum swing back another way, is fundamentally against the principles of sound, stable labour relations systems, which the federal sector has had for decades.

● (1005)

Ms. Jinny Jogindera Sims: Fundamentally flawed process.

Thank you.

The Chair: The time does move fast, we realize this.

Mrs. McLeod, for five minutes.

Mrs. Cathy McLeod: I just have to make a brief comment. I would presume, given the NDP's comment, that they're going to vote against their own private member's bill, Bill C-504 because of course it does seek to amend the Canada Labour Code. I think that when you have a principle around Canada Labour Code amendments, I would presume that you'll follow through on that.

I hear a number of concerns that have been raised. Perhaps if I could just ask you to do a quick yes or no, and I'll go quickly around the table because I do want to try to get in a number of questions.

Do you believe that if there is a secret ballot, it should be 50% plus one of those who vote, and not those who are present members?

Mr. Yussuff.

Mr. Hassan Yussuff: The 50% plus one is the norm.

Mrs. Cathy McLeod: Mr. Farrell.

Mr. John Farrell: Yes, I agree it should be 50% plus one of those who vote.

Mrs. Cathy McLeod: Of those who vote, okay.

Ms. Benson.

Ms. Robyn Benson: Yes, I agree.

Mrs. Cathy McLeod: Mr. Smith?

Mr. George Smith: If there's going to be a secret ballot.

Mrs. Cathy McLeod: Thank you.

Mr. Banks.

Mr. Kevin Banks: Yes, I would agree. If there's a secret ballot, that's the better way to go.

Mrs. Cathy McLeod: Thank you.

So if there are to be changes to this bill, it sounds like we have unanimous consent that it should be 50% plus one of those actually voting.

And on the question—we will also go around the table—of secret ballot for decertification, it shouldn't be a reverse onus, it should be, again, a 50% plus one in that case?

Mr. Yussuff?

Mr. Hassan Yussuff: I think that rather than answering yes or no, I just want to give you my opinion.

Different jurisdictions will set a lower threshold, in other words, to meet the revocation process, but clearly it would be the same if there were people who wanted to leave the union. They should be at least on the same process for certification.

Mrs. Cathy McLeod: So decertification should be the same actual votes, and it should be a clear question.

Mr. Farrell.

Mr. John Farrell: Fifty per cent plus one of those who are voting should be the measure, or the standard, for decertification, from our view.

Mrs. Cathy McLeod: Thank you.

Ms. Benson.

Ms. Robyn Benson: We would agree.

Mrs. Cathy McLeod: Mr. Smith.

Mr. George Smith: I just can't believe this is down to a simplistic yes or no in a matter as complex as this, so I abstain.

Mrs. Cathy McLeod: Thank you.

Mr. Banks.

Mr. Kevin Banks: I would say 50% plus one of those who vote in favour of decertification. It should be clear that there's a positive vote to remove the union of 50% plus one of those who vote.

Mrs. Cathy McLeod: Thank you so much.

I would maybe go to Mr. Giles. Can you talk to me about how secret ballots would be conducted?

Mr. Anthony Giles: I can speak to the Canada Labour Code and the Canada Industrial Relations Board. I can't speak to the public sector side.

Secret ballot votes are conducted by the board in three different ways. The first way is on site with a ballot booth, if you will, where, just as in a general election, workers go and vote in privacy. The second method that is sometimes used is a mail-in vote. This is used when in the federal jurisdiction you have an employer that is spread across the country and so on site is more difficult. A mail-in vote is used and each member of a bargaining unit receives a ballot and returns it by mail.

The third and more recent method that the board has experimented with is electronic voting, either by telephone or by online voting. That has proved quite successful because, to begin with, it's set up in a way that you can't spoil a ballot accidentally. There's a check in the system. And second, it seems to have a higher participation rate than mail-in ballots. So it's one method that the board has been moving toward in recent years.

I do think the chair of the board will be appearing at your next hearings, and she may be able to give you more details on that.

● (1010)

The Chair: Thank you. That's five minutes. It does go very quickly I understand.

Mr. Cuzner, for five minutes.

Mr. Rodger Cuzner: Thank you very much, Mr. Chair.

Let me first say that I'm sure what everybody, no matter what side of the issue we're on with this particular bill, would like to see is that for those who come down to make that decision whether or not to join a union or a work site is certified, the decision is allowed to be made in an informed and free manner. So I think that we're unified on that.

Let me ask the stakeholders, have your groups been seized with this issue? Has this been identified as a priority issue at any time? We'll start with CLC and FETCO.

Mr. Hassan Yussuff: There's no evidence, and I repeat, should the committee have such evidence, we'd be more than happy to hear it. There has been no evidence in any form, shape, or way that demonstrated that anybody has been calling for these changes, whether from our side or from the employer's side, in the process of looking at the code, thinking about what's wrong with the code or how we could fix a problem in the code. There has been no evidence to suggest this particular bill is necessary or has been called for by the parties, recognizing the process we have had in place up to date.

Mr. Rodger Cuzner: The same?

Mr. John Farrell: While employers would prefer a secret ballot vote, this issue was not on FETCO's agenda. This is not on FETCO's agenda.

Mr. Rodger Cuzner: PSAC?

Ms. Robyn Benson: Certainly for us we have been organizing, and it's not something that those who we were organizing have called for, nor those who are currently organized have called for.

Mr. Rodger Cuzner: Your department wouldn't be inundated with concerns about this as an issue?

Mr. Anthony Giles: No.

Mr. Rodger Cuzner: The Sims report, of which I'm sure Mr. Smith has an autographed copy, should be a reference point for any changes to the labour code going forward. But it's clearly stated there that legislation should only be changed when it's no longer working or serving the public's best interest—that's one of the reasons—and also, that it's done on a consensus basis.

Nothing has changed with the stakeholders, nothing has changed, from your view...that the current system was not working—number one—or that it wasn't serving the public's interest.

Mr. Hassan Yussuff: If I can, Mr. Cuzner, we have a very good system in place. I know people are maybe shocked to hear this, but we have a very good system in the Canada Labour Code structure. Its work has been very effective. Yes, from time to time there will be issues that the parties can reach an agreement on. But the department, in regard to the services it provides, helps the parties bridge those challenges there.

We do have a good code, because the right balance was found by ensuring that no parties are disenfranchised in regard to how the code has been rewritten when the last major changes came about from Sims. So we need to start by remembering that foundation.

The reality is that it works for both sides. We didn't get all the things we wanted in terms of labour, nor did my friends from the employers' side get everything they wanted, but we both recognized it was the right balance that was found. We both accepted the end result of what that code represents today.

Mr. John Farrell: FETCO genuinely values pre-legislative consultation. We think we can make it work. We do engage with the unions. We have a good working relationship. Our objective is to try to solve problems and reach collective agreements satisfactorily without disruptions of the workforce.

● (1015)

[*Translation*]

Mrs. Magali Picard: We are very proud of the Canada Labour Code. I would go so far as to say that people around the world would like to imitate it. I believe that here in Canada, we have a certain history, a degree of maturity, a relationship that has existed for many years that allows us to raise issues and deal with them with various governments. I find it extremely sad that a problem is being created where none exists.

[*English*]

Do you want me to repeat the last phrase?

Mr. Rodger Cuzner: No, that's great.

I just want to get one quick one in with Mr. Smith.

For those on the committee who aren't aware of the Sims report, give just an overview of the consultation that went into that document.

Mr. George Smith: Well, there was a management and union—

The Chair: I'm sorry, you're going to have to answer that perhaps in another round of questions; we're just over time there. We will try to get that in.

We're on to Mr. Mayes for five minutes.

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

I'm a backbencher, that's my title. It's interesting because I have some rights with that. I have a right to bring forward a private member's bill on any issue except for something that's going to spend money. I think we've got to be very cautious here as we discuss that if this were a government bill, a process of consultation would have taken place about those issues that Mr. Smith and Mr. Farrell brought forward.

This is a private member's bill, and this is the public way that we are dealing with this private member's bill. I think you need to keep that in perspective. As the department said, they have not done any research or had any consultation with regard to this bill. I think that is a right I have and I think you shouldn't deny that right, for me to bring something forward that I believe my constituents want. Let's not think it's the government's bill. Many bills have been brought forward by private members in our government that I voted against because I didn't agree with them, but they had the right to do that. Let's be clear on that.

The question now is the bill. Mr. Farrell, you've talked about the mandatory private voting, secret ballot, as being a good part of this bill, but you talked about the threshold of 45% might be a little bit high. Do you see some amendments that this bill could have, and I ask this to each one of you, that maybe this bill could work, or is it absolutely not going to work? I'm sure you have different opinions about that. I think this is going to be reviewed. This is the purpose of these discussions with you, to see what actions might be an option on this bill for this committee. I've got open ears and I'm open-minded.

Madam Blatt, you haven't had a chance to speak yet.

Ms. Shannon Blatt (Legal Officer, Public Service Alliance of Canada): The question is amendments that we would wish to see to this bill. First, I think we would prefer to see the threshold for the filing of an application for certification or decertification remain where it is.

Critically, as I think it's been touched on by other witnesses, we think it is absolutely crucial that the outcome of any vote conducted be determined by a majority of the actual ballots cast, and that we eliminate the possibility that a non-vote could count as a “no” vote. That's just fundamentally undemocratic and unfair, in our view.

Another very important amendment, I think, would be to address the problem that we see in the amendment to the Public Service Labour Relations Act, where in fact despite what we've heard about majoritarian principles, we see a tyranny of the minority in that amendment, where a mere 45% of voters can decertify a union. We're completely at a loss to understand how that could be consistent with any democratic notion whatsoever.

Mr. Colin Mayes: I've got limited time. Can I give it to Mr. Smith and Mr. Farrell to make a comment?

Mr. Farrell first.

Mr. John Farrell: Thank you, Mr. Mayes.

First of all, we obviously respect the right of members of Parliament to present private member's bills, but we do make a comment that in the context of labour relations it's something that you have to consider very seriously because governments will change. It's a slippery slope. We don't want political ideologies to be fought in labour relations legislation because that only hurts labour and management. We want you to understand, from the practitioners, that this is a serious issue for us in terms of the way we prefer to deal with labour relations legislation. The shoe can be on the other foot after any general election.

With respect to your questions regarding the bill itself, we support, for both certification and desertification, a secret ballot process with 50% plus one of the people who vote in determining the outcome. With respect to the threshold of determining whether or not a vote should take place, when you consider what happens in other jurisdictions and you understand that you have to have some threshold before you engage in an important process like this, we would say a threshold somewhere between 40% and 45% makes sense. We think that is a fair balance.

Thank you.

● (1020)

The Chair: We've run out of time again.

Mr. Smith, I'm sorry about that. That's two in a row for you. Hopefully we can get your views out on other questions here.

On to Mr. Marston for five minutes.

Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP): Thank you, Mr. Chair.

I want to begin by putting something on the record. I had 28 years in the labour movement as a voluntary president and vice-president of the communication workers for Bell Canada and 14 years, again non-salaried, as the president of the Hamilton and District Labour Council.

Mr. Smith and Mr. Farrell, in the subtext of what you've been saying here today, I think you've both hit the nail on the head. It's not appropriate for a private member's bill to move forward such significant changes as proposed recently in Bill C-377 and currently in Bill C-525.

It's pretty clear to us—and we're allowed to have a divergence of opinion—that this is ideologically driven. It has not been given the due consultations, and I would suggest that the committee would be well advised to forgo this piece of legislation in favour of government legislation. If we go through the consultative process as we should, and it calls for change, that's very important. We've had 70 years of labour peace.

Mr. Smith, you pointed out capital investment at risk. I'd like you to expand on that, if you would, sir.

Mr. George Smith: First of all, let me say we've dealt with, through the consultative process, some very difficult issues. That's an arena where partisan issues can be discussed and debated. The overwhelming view of the governments of those times, though, was a workable piece of legislation that practitioners can embrace, but we didn't always agree. Government sometimes made decisions and enacted legislation, but they heard us out. That's the difficulty with the process we face.

The evidence in Ontario was that when they had the wild swings in labour policy as a result of change in government, as the world got more global and competition got more international, companies that were going to revitalize their plants or companies that were considering investment in Ontario took one look at that environment for business and said that they could find a different environment where they wouldn't have to deal with those wild swings in labour legislation.

Mr. Wayne Marston: Thank you.

Mr. Banks, with your experience, sir, are you aware of any precedent of a 45% decertification threshold, and is it possible that this bill violates the conventions of the ILO?

Mr. Kevin Banks: When you talk about the 45% threshold, you're talking about the one for the public sector labour relations legislation?

Mr. Wayne Marston: That's right.

Mr. Kevin Banks: No, I'm not. That would be unprecedented.

Yes, it could possibly violate our commitments under convention 87 of the International Labour Organization. That provides the right to organize and implicitly the right to bargain collectively. We have undertaken under article 8 of that convention not to enact laws that would impair those rights.

If you have a law that effectively allows a minority.... Let's say you have a situation where 100% of the bargaining unit turned out to vote, and only 54% of them supported the union, under the legislation as I understand it, that would produce a situation where the majority didn't have the right to organize under the legislation. There isn't any alternative mechanism under other legislation. That could be a potential problem from the perspective of our compliance with ILO convention 87.

● (1025)

Mr. Wayne Marston: My friend Mr. Mayes across the way talked about the private member's bill and the right. I certainly respect that, sir, because it is certainly a right of any member to put forward anything that they see as in the interest of their particular constituency.

On the other hand, when you look at the impact that this can have on hundreds of thousands of federal jurisdiction workers around the country, Mr. Banks, wouldn't you advise that it would have made a lot more sense to have this as a bill from the government where it had proper consultation?

Mr. Kevin Banks: I have a lot of sympathy for that view. I haven't prepared remarks on that, but I did spend some time as an official in the federal labour program earlier in my career. There was a great deal of emphasis there, I think well advised emphasis, on building consensus among the stakeholders to the extent that was possible, getting their buy-in for legislation, particularly in labour relations legislation where, at the end of the day, it's a framework for their relationships. They should have a strong say in influencing the public policy and helping to shape a workable framework that will serve both parties well in the long run.

The Chair: Thank you very much.

We'll go on to Mr. Cuzner for another round.

Mr. Rodger Cuzner: Mr. Chair.

I want to echo the sentiments of Mr. Marston with regard to the private member's bill, and with the utmost respect for Mr. Mayes, whom I have a great deal of respect for, but you know we're looking at the usual list of suspects trying to bring some sense to something that doesn't make a whole lot of sense. We've been through this with Bill C-377, and here we are again sort of thing.

Mr. Calkins said it was motivated by people in his constituency. This is my 14th year here and I've never had a constituent come up and say this is really a burning issue in my riding. His comments in the House were:

> ...we see the mountain of complaints that end up at the labour relations board, it is concerning to me.

Mr. Giles, could you give us some indication as to what the numbers are? You guys have done some work on this already. What are the problems? What's the level of the issue?

Mr. Anthony Giles: I think you're better off asking the chair of the board itself, who will be here on Thursday. Any complaints about the certification process don't actually come to the department, they go directly to the board. They would have the statistics and information on that.

Mr. Rodger Cuzner: Okay.

Getting back to my first round, Mr. Banks had cited a couple of studies at length. He made reference to the Riddell study. Mr. Smith had made reference to the Sims work, the task force.

Mr. Smith, could you share with us the extent of the consultation? How about starting with this, because you're an adjunct professor? I was really disappointed with the lack of research that was done on this particular bill. You're a professor and you're always asked to grade your students.

Voices: Oh, oh!

Mr. Rodger Cuzner: Would you like to share that with the committee how you thought the proponent did?

Mr. George Smith: There were certain references lacking, that's for sure, and the marks would have been deducted accordingly.

Mr. Rodger Cuzner: Being a solid C-minus student, I can relate to that.

Voices: Oh, oh!

Mr. George Smith: To be serious, though, the process that Sims undertook was not about preventing change, it was about saying, let's put all the cards on the table, let's research it, let's examine it. There were academics, practitioners, panels across the country. There were management and union co-chairs who effectively worked part time. They were released from their jobs, one of Hassan's colleagues and one of John Farrell's colleagues. There were two side persons representing the various interests. It was a comprehensive study.

I think the best way to sum it up is just to talk about what Sims balanced, and I'm quoting right from his introduction:

> ...seek balance: between labour and management; between social and economic values; between the various instruments of labour policy; between rights and responsibilities; between individual and democratic group rights; and between the public interest and free collective bargaining.

That's the balance. With all due respect to the ability of private members to introduce bills, what I'm here to talk about today is that, based on 40 years of experience, this works. We've had it work with all forms of government. There's an expression used in labour relations, sometimes, the long way round is the short way home. I would suggest taking the time to examine the research and consult people. We'd end up with a workable piece of legislation if the government truly wants to make changes.

● (1030)

Mr. Rodger Cuzner: Mr. Chair, if I could ask FETCO's Mr. Farrell, because FETCO was the one group Mr. Calkins said that he contacted and was in consultation with....

Mr. Calkins said there was no objection put forward by FETCO with regard to the bill. Was that a fair reflection of the conversation you would have had with Mr. Calkins?

Mr. John Farrell: I spoke with Mr. Calkins prior to the bill being tabled because I felt this was a road being considered. I pointed out to him that it was important to companies in the federal jurisdiction that we have proper pre-legislative consultation. I had no discussions with Mr. Calkins about the substance of his bill and I've made my comments with respect to how I view appropriate amendments to the substance of his bill.

The Chair: Thank you very much. Time is up.

On to Monsieur Boulerice for five minutes.

[*Translation*]

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

This committee has only been discussing Bill C-525 for an hour, and I think we can already conclude that it could be described as amateurish, and was written on the back of a napkin. As we have heard, no one was consulted. Even the experts were not asked for their opinion.

I would like to point out that the author of the bill himself took off when we had only one hour to hear from people who know about labour relations. He did not want to hear what they had to say. That in itself is quite extraordinary.

It is our opinion that there should have been a serious process, that both the employer side and the union side should have been consulted. We should also have the time, in committee, to hear from people who know about labour relations.

This is why Ms. Sims asked last week for five hours to hear from witnesses. As things stand, we will not be able to hear from the people we should be hearing from, including Unifor, the largest private sector union, the USW, Quebec unions, such as the FTQ and the CSN, as well as labour relations experts from Quebec. None of those people will be able to express their point of view.

I would nonetheless like to ask Mrs. Picard her opinion on one point.

Bill C-525 introduces rules for decertifying a union, which is used to get rid of it or destroy it. According to the rules as they are currently drafted, the union would be thrown out even if 54% of workers voted to keep the union and no one voted in favor of its elimination.

I do not know if these are democratic rules coming from North Korea or some other country called "Absurdistan", but I would like to know what repercussions this may have on the members that you represent.

Mrs. Magali Picard: Thank you, sir. Thank you, Mr. Chair.

There would be major repercussions. An MP stated earlier that it was difficult to justify or comment on such a bill, which in my opinion, makes no sense. That is a perfect example.

Imagine a member asking for decertification. The board would proceed to a vote, obviously. The employer would know quite well that all it has to do to get rid of its union would be to give its workers a day off, and offer them a day of retreat or massages at a spa. Since they would not be at work on the day of the vote, they would automatically be deemed to have voted against their union's certification. It makes no sense whatsoever. In our opinion, this is utterly absurd. This cannot be compared to any other principle, no matter what the context, whether we are talking about government elections or any other area.

It is difficult for me to provide you with many other examples; this one was perfect. Let us take the case of a unit with 100 workers. Let us say that 54 of them show up to vote and vote against decertification, which is to say they wish to remain unionized. The 46 others do not show up to vote, because they are on holiday, sick, on leave or absent from work. Some of them may decide not to vote, because they are new in the workplace, they do not yet understand the importance of a good balance in labour relations and they are being influenced here and there. In such a case, these people will be deemed to have rejected the union, which is to say that they no longer wish to be unionized.

● (1035)

Mr. Alexandre Boulerice: Thank you, Ms. Picard.

My next question is for Mr. Yussuff, of the Canadian Labour Congress.

We have talked a lot about the secret vote. We know the rules: it's 50% plus one of the votes cast, contrary to the rules which have been presented.

I would like you to tell us about the advantages of the current system, which is working well. People who want to join a union simply sign a card, which is a bit like voting, expressing an opinion, and becoming involved. In what ways is this system working well?

[*English*]

Mr. Hassan Yussuff: The current system allows a worker who chooses to sign a union card to basically say they're interested in becoming a member of the union, and for the union to be certified. It's a legitimate process. The only reason we have a voting system is that governments and employers don't trust the worker and the decision they have made in regard to signing a card.

One of the things that have not been talked about very much on the committee is that the workplace is not a neutral setting for a worker to participate in the vote because that establishment is governed by the employer rules, and essentially they have complete rein over the atmosphere in which the workers are participating in any decision.

I know the board is trying to provide and ensure there's neutrality, but the neutrality does not exist when the setting itself is not conducive for the workers to express whether they have fears or concerns about how their supervisors and managers may view their participation and involvement in the union. I think it's fundamental to the belief that if you want to give people a neutral opportunity to make a decision, whatever that decision might be, it truly has to be neutral, and right now that workplace is not a neutral environment.

The Chair: Thank you, Mr. Yussuff.

We'll move on to Mr. Armstrong, for five minutes.

Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC): Thank you, Mr. Chair.

I want to thank all of our witnesses for being here.

Mr. Farrell, we've heard Mr. Yussuff just talk about some of the advantages of the current system. What are some of the disadvantages of the current card check system? You said that you prefer a secret ballot. What are the disadvantages of the current system in place?

Mr. John Farrell: I believe the major disadvantage is that there's no clear evidence that all of the potential union members have had an opportunity to seriously consider the question of unionization and to express their opinion behind the screen of a ballot box in a secret ballot vote. When you think about unionization, you could face a situation where in 1950, the employees at a certain work site signed cards to demonstrate that 50% plus one of the members joined a union. But you would never have any evidence about what the real wishes were of the employees who were not approached, did not participate in the process, and did not sign cards. This is the reason why employers would favour a secret ballot vote. It's just a better arrangement to determine the true wishes of the individuals who will be affected by the decision to unionize or not, that they have an opportunity to express their views.

Mr. Scott Armstrong: Thank you.

Mr. Farrell, you also mentioned in your statement about the possibilities of intimidation, that a secret ballot vote reduces the opportunity for intimidation to take place. Could you elaborate on that a bit?

Mr. John Farrell: I beg to differ. I did not at all speak about.... I would never use the word intimidation. That was not part of my presentation.

Mr. Scott Armstrong: So you don't agree that a secret ballot vote would reduce the opportunity for some intimidation with the card check system? I apologize for that. I thought I heard you say that.

Mr. John Farrell: No, I did not.

You never know. I think that whatever system is in place, there's potential for skulduggery. It may happen or may not happen, but I think that a secret ballot vote is a much more appropriate approach to determine the wishes of employees.

● (1040)

Mr. Scott Armstrong: Thank you, Mr. Farrell.

Mr. Giles, I was going to ask you a question about how a secret ballot system would be conducted. Can you go through the steps of how that ballot system would work?

Mr. Anthony Giles: Well, as I responded earlier to another question, there are three methods of doing it. Essentially the system is that once the board receives an application for certification, it conducts a preliminary investigation to ensure that the people whose cards are submitted, for example, really did sign those cards. They conduct an investigation as to the actual size of the bargaining unit and how many people are in it in order to determine the voting requirements. Then, based on their assessment of the type of workplace and which ballot or voting method is best suited, they'll choose an on-site method, a mail-in, or an electronic version. On site, as one of the witnesses mentioned, takes place typically in the employer's premises, and depending on the size, there may be one or several voting booths. There's an official there supervising it to ensure that privacy is ensured. Employees are given a good length of time to show up during the day. Sometimes in large workplaces it can be held over several days as well.

Mr. Scott Armstrong: I need to understand something here. In your research with the other provinces and what provinces currently do, is that system similar to what's done in some provinces currently across Canada?

Mr. Anthony Giles: Where votes are held, yes.

Mr. Scott Armstrong: This has been an effective process and you think it has been fair.

Mr. Anthony Giles: Yes.

Mr. Scott Armstrong: Thank you.

The Chair: Now, on to Madam Sims, for five minutes.

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

First of all, I want to say that I've gone through the certification process myself. As a new teacher to Canada and living in B.C., we went through the process of certification, and at that time, I can tell you, it was informed. Lots of information was given to me. As a classroom teacher I could go to sessions to learn more, there was lots provided to us so that we could read about it all, and we went to many meetings at which there were debates about the pros and cons. Sometimes when I hear of a sort of hammer over the teachers I find it disturbing, because that has not been my experience, either in the teaching profession or in my interaction with many other unions in British Columbia and across Canada.

The other thing I want to stress is that it has been quite telling that witness after witness, as well as our departmental staff, have said that nobody has said there was a problem. If it ain't broke, why are we trying to shatter something that is working? That just doesn't meet the common sense smell test; it makes no sense at all. Internationally we're losing a lot of ground, whether in our foreign policy or on human rights issues or the way we treat our aboriginal people or the way we conduct much of our other business.

My question is, to the CLC and to anybody else who wants to answer, how will ILO convention 87 be relevant to this bill, and what kind of message will we be sending to the international community with a piece of legislation that is being rammed down our throats in four short hours while the Olympics are going on and the budget is about to be dropped? This is a deliberate attempt to do it under the radar.

I turn it over to you.

Mr. Hassan Yussuff: I don't know what the final version of this bill might look like, but as it currently stands, from our perspective we believe it will be a violation of ILO convention 87. Obviously, members of the committee are going to consider whatever changes may come forward, and we'll see. But clearly, as we have done in the past, if we believe that the proposed changes are in violation of the ILO, we will submit a complaint to the ILO for them to arbitrate whether or not it's in violation of ILO conventions as such.

I want to emphasize again, and through my colleagues on the other side.... Colin, I think, raised a very important point. Private members have rights; they're members of Parliament, and we respect their responsibility. But I think that's not in play here.

The Canada Labour Code to a large extent governs the economy, and I think we all take great care, as I do with my colleagues on the employer side, to work at our relationship. It's like a good marriage: the fact that all the right things are there doesn't mean it's always perfect; you have to work at it. We work at it tremendously to ensure that we can solve problems and deal with the issues of how workplaces are productive, and more importantly how we conduct our relationship.

We have a good system, and I think it's really unfortunate that we bring so much discussion around the code, as though the code is inadequate and is not providing an opportunity for the parties to do what is necessary to solve problems. We do solve a lot of problems —a fact, by the way, that never comes before this committee and that nobody talks about. Both my friend and I would attest to the fact that we have a code that works.

What you're doing is imposing imbalances. One side is going to feel aggrieved, and at some point we'll swing the pendulum back the other way. I don't think that's an opportunity for a system that has been built on continuity. The employers know what to expect from the code; they understand how the relationship governs them. We don't have surprises with each other, and now we're providing surprises. I think fundamentally it's going to affect the relationship, which is so delicate in the workplace, and it's unnecessary.

If somebody could demonstrate to us that it's a really legitimate issue that needs fixing, by all means I'd be here to tell you what the solutions might be. I don't think this is a problem that's looking to be fixed; I think this is a bill that's creating a problem, that is going to create imbalances among our relationships. That is unfortunate and unnecessary.

I think the committee should take a lot of great care as to its ultimate conclusion. I understand that the government has a majority and can do what it wants, but fundamentally this is more about the economy and the relationship that exists with us, and 99% of the time we solve our problems. For the 1% of the time that we can't solve a problem, there's a mechanism for dealing with it, and the government plays an important role through the department to try to help us solve those problems.

I want to re-emphasize that. Fundamentally, whatever you do, recognize what we try to do on a day-to-day basis, which is to find a way to solve our problems without having to score points with each other. I think this bill does score points against one side, and it's not necessary, because we built a code that provides us the opportunity to resolve issues in a way that does not aggrieve or prejudice the other side.

● (1045)

The Chair: Thank you, Mr. Yussuff.

That brings our committee time to an end. I want to thank the witnesses for coming and sharing their views with us today. It is very important that we hear your views, and we appreciate you taking the time to do that.

Members, I will just mention before you leave the room that amendments on this bill must be submitted by the end of today. Any amendments you are proposing for this bill must be submitted to the clerk by the end of today

Ms. Jinny Jogindera Sims: I have a question about the amendments.

The Chair: Go ahead on a question about the amendments.

Ms. Jinny Jogindera Sims: What time do they have to be in?

The Chair: The have to be in by 5 p.m.

Ms. Jinny Jogindera Sims: So that's before we've heard the witnesses. Thank you.

The Chair: The meeting is adjourned.