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Mr. Bryan May

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

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● (1605)

[*English*]

The Chair (Mr. Bryan May (Cambridge, Lib.)): Welcome, everybody. Pursuant to the order of reference of Thursday, February 1, 2018, we are studying Bill C-62, an act to amend the Federal Public Sector Labour Relations Act and other acts.

We have a number of witnesses here today. From the Association of Justice Counsel, we welcome Ursula Hendel, President. From the Canadian Association of Professional Employees, we have Greg Phillips, President, with Peter Engelmann, Partner, Goldblatt Partners LLP. From the Canadian Labour Congress, we welcome Chris Roberts, National Director, Social and Economic Policy Department. From the Canadian LabourWatch Association, we have John Mortimer, President. From the Public Service Alliance of Canada, we have Chris Aylward, National Executive Vice-President, and Krista Devine, General Counsel and Director of Representation.

Welcome to you all.

We're going to get right into opening statements by each group. We keep the statements as close to seven minutes as possible. I will notify you when you have one minute left. Trust me: a minute is a long time, so don't panic. We do need to keep on time. I'm going to have to cut people off at seven minutes just so we make sure we get everybody in before we get called back upstairs.

Starting us off is Ursula Hendel, President, the Association of Justice Counsel.

Ms. Ursula Hendel (President, Association of Justice Counsel): Thank you. It's a pleasure to be here today.

The Association of Justice Counsel, or the AJC, is the bargaining agent for approximately 2,600 lawyers who are employed by the Government of Canada.

[*Translation*]

I was pleased to hear the President of the Treasury Board acknowledge to you last Monday that Canada's public service is world class. Our members work very hard on a daily basis to uphold the rule of law in Canada.

[*English*]

As your legislative drafters, which we are, we've helped to ensure that the close to 300 bills that are in the House this session steer true. We are also constitutional experts. We're subject matter experts on a number of complex and important matters, like first nations land claims, residential schools, immigration, criminal law, and refugee and extradition law. Your civil litigators are currently defending Canada against roughly $1.2 trillion in lawsuits. We work to protect public safety, and we do that all the while ensuring respect for human rights.

I have been a prosecutor for more than 20 years. Together with my colleagues in the Public Prosecution Service of Canada, I prosecute acts of terrorism, or I prosecute organized crime syndicates, human traffickers, drug traffickers, and environmental polluters. This is just some of the valuable work that my members do for Canadians every day.

The AJC's membership is very interested in constitutional issues, and also very concerned about the rule of law. We are particularly motivated to ensure that all workers throughout Canada are treated fairly and lawfully.

With that background, I have three points that I'd like make before this committee today, if time allows: first that the status quo is unlawful; second, that it has already caused considerable harm; and third, it will continue to do so until it is changed.

We wholeheartedly agree with Minister Brison's concession before this committee that the existing law is unconstitutional. We have been voicing our concerns since November 2013. I see that Mr. Engelmann is here, who was counsel on the charter challenges brought by the unions such as the AJC to the existing legislation.

We also fully agree with the honourable member from Brampton Centre, Mr. Ramesh Sangha, who raised on Monday the importance of the law's compliance with the Saskatchewan labour decision of the Supreme Court of Canada. I believe that the alliance has a suggestion or two on how the bill should be amended to comply with that jurisprudence, and the AJC agrees with that perspective.

Mr. Brison mentioned that 23 out of 27 unions have signed deals, and we are one of the unions that did not. Our collective agreement expired in May 2014, and we declared an impasse in December of 2016. On May 9, which is a little more than two weeks away, we will have gone four years without a collective agreement. I hope you agree with me that this is really unacceptable. At least part of the delay was directly attributable to the state of this law.

Minister Brison told you that he agreed to a new approach after taking office, and I believe it was Ms. Hassan who talked about certain flexibilities that were adapted. These flexibilities needed to be worked out. In sum, the parties needed to agree on finding a fair framework that could operate inside what we believe to be an unconstitutional law. That took time. During that time, our terms and conditions of employment were frozen.

What happened? On Monday, this committee discussed the importance of hiring youth. I think some of those concerns were raised by one of the honourable members from British Columbia, where Vancouver has the distinction of having the most unaffordable housing in all of North America. What has happened to us is that in the last few years, the Department of Justice, where most of my members work, has lost almost 50% of its junior lawyers in the province of British Columbia. That was in two years. The word is out among law students, who carry very sizable student debt when they start, that the federal government is an unaffordable place to develop one's career, and they're heading to greener pastures.

● (1610)

You can imagine how you operate an office without 50% of your junior staff. It's having a crippling effect on the effective delivery of legal services, and it is also having a devastating impact on the folks who are left. They are struggling to cope in what has colloquially become known as “the graveyard”.

[*Translation*]

Updating our working conditions is therefore very urgent. We urge you to pass this bill as quickly as possible to help reduce future delays. No one should have to wait four years for their new collective agreement to be signed.

[*English*]

I have one minute, so let me talk about the harmful effects of not allowing groups like the AJC to have disputes with the employer resolved at arbitration.

The current law forces us out on strike, and lawyers are loath to strike. We take our professional, moral, and ethical responsibilities very seriously, and we are keenly aware of the importance of public trust in the administration of justice.

I can't imagine how I would tell a victim of human trafficking that a looming strike might affect the timing and the manner of the prosecution of the case in which she is testifying as a witness. Testifying about something intensely personal like this is unimaginably stressful, and the uncertainty of not knowing who would be taking you through your testimony or whether the trial that you've spent months mentally preparing for is now in jeopardy of not proceeding would be, in my opinion, an incredible burden to place on someone who's already suffered enough.

The Supreme Court of Canada's decision in Jordan, which requires trials to be completed within prescribed time frames, places additional pressure on us.

We would, in these circumstances, choose arbitration, but it was taken away. If confronted with workplace issues that seriously compromise our ability to meet our professional obligations, that undermine our ability to meet the demands of the justice system, or that compromise our mental health, like workloads or inadequate resources, these issues need to be addressed in a way that doesn't cause any further harm.

We ask you to ensure that by restoring our recourse to binding arbitration.

The Chair: Thank you very much.

Ms. Ursula Hendel: Thank you.

The Chair: Now from the Canadian Association of Professional Employees, Greg Phillips, president, and Peter Engelmann, partner.

Mr. Greg Phillips (President, Canadian Association of Professional Employees): Honourable members of Parliament, we would like to thank the members of the committee for inviting us to appear, so that we are able to provide our opinion about Bill C-62.

My name is Greg Phillips, and I am President of the Canadian Association of Professional Employees, or CAPE. CAPE represents some 14,000 public service employees. The large majority of our members are economists and social science workers who advise the government on public policy. We also represent the translators and interpreters who work every day to preserve and promote our nation's linguistic duality. Last but not least, we also have the great honour of representing the 90 analysts and research assistants employed by the Library of Parliament.

Accompanying me here today is Peter Engelmann, a partner with the law firm of Goldblatt Partners, who has a great deal of experience in labour law and constitutional law, particularly in the context of the federal public sector.

I want to start by saying that CAPE is very pleased that the government is finally taking steps to repeal Bills C-4 and C-59, the blatantly anti-union legislation that was passed by the former government. While it has taken far too long for the government to make good on the promises that were made even before the 2015 election, CAPE looks forward to seeing this bill go through the legislative process as quickly as possible in order to help restore the balance in labour relations in the federal public sector.

As you are no doubt aware, under the guise of modernizing labour relations, the former Conservative government attacked the collective bargaining rights of federal public servants on a number of levels. Bill C-4 came first and was problematic in many respects. It provided the government with undue leverage in the collective bargaining system in everything from the negotiation of essential services agreements to public service recourse procedures.

However, from CAPE's perspective, the most egregious changes were to the dispute resolution process. In particular, Bill C-4 took away the rights of our bargaining agents to choose between the arbitration or conciliation/strike routes as a process for resolving collective bargaining disputes.

In CAPE's case, it took away the right to arbitration, a process that had always worked well for CAPE and its members, and pushed them into the conciliation/strike route. In addition, the government even compromised the arbitration and conciliation processes by imposing new factors that arbitrators and conciliators had to consider when making a recommendation or award.

Bill C-59 took matters a step further and permitted the government to fundamentally change the long-standing and hard-fought sick leave and disability programs of public servants. Most disturbingly, it gave the government power to do so unilaterally, bypassing the bargaining process altogether. CAPE, along with many other federal public sector unions, felt that this legislation denied its members their fundamental rights under section 2(d) of the charter in that it did not allow for meaningful collective bargaining with regard to these key workplace issues. Therefore, CAPE actively participated in a case before the Ontario courts, which challenged the constitutionality of that legislation. Following the important decision of the Supreme Court of Canada in the Saskatchewan Federation of Labour case in 2015, CAPE is confident that this charter challenge would have been successful in overturning Bill C-59 and likewise Bill C-4.

Needless to say, these changes to the labour relations scheme by the former government led to a combative and unproductive labour relations environment in the federal public service. This has been problematic not just for the members of bargaining agents such as CAPE, but for everyone who works in the federal public service. As noted at the outset, CAPE believes that it has taken far too long for the government to take these straightforward steps to turn back the clock to the labour relations system that was in place before C-4 and C-59.

The lengthy delay of over two and a half years since the election has unnecessarily prolonged this adversarial environment. CAPE is also disappointed that the bill fails to address some of the problems that have plagued the federal public service labour relations regime since even before Bills C-4 and C-59, such as the lengthy delays in getting cases to adjudication. This would have been an excellent opportunity for the government to tackle this important access to justice issue.

On a more positive note, it appears that this bill undoes virtually all the difficulties created by Bills C-4 and C-59. CAPE looks forward to returning to a labour relations system that is not perfect but is much more balanced and fair.

CAPE also notes that while Bill C-62 is amending the Public Sector Equitable Compensation Act, it is only a housekeeping provision to restore the procedures applicable to arbitration and conciliation that existed before December 31, 2013.

● (1615)

CAPE is disappointed that the government is not seizing on this opportunity to fulfill its commitment to completely repeal PSECA and to move forward with a proactive pay equity scheme immediately.

PSECA is a regressive piece of legislation that is a major step backward from the concept of equal pay for work of equal value, and it significantly interferes with the rights of federal public-sector employees by denying them human rights procedures for systemic gender discrimination in pay. CAPE is concerned that this will be another instance where there are unacceptable delays, which will prejudice its members, and we call on the government to take concrete steps as soon as possible.

Thank you for listening.

The Chair: Thank you very much.

Now it's over to Mr. Chris Roberts, National Director of the Social and Economic Policy Department with the Canadian Labour Congress.

The next seven minutes are yours, sir.

Mr. Chris Roberts (National Director, Social and Economic Policy Department, Canadian Labour Congress): Thank you very much, Chair.

Good afternoon, committee members. Thank you for the invitation to appear before you today.

On behalf of the three million members of the Canadian Labour Congress, I want to thank the committee for the opportunity to present our views on Bill C-62. The CLC brings together Canada's national and international unions, along with the provincial and territorial federations of labour, and over 100 labour councils from coast to coast to coast. Employees represented by affiliated unions of the CLC work in virtually all sectors of the Canadian economy, in all occupations, in all regions of the country, including the federal public service.

The Canadian Labour Congress supports the enactment of Bill C-62, although with the important amendment that I think my colleagues from the alliance are going to raise in just a moment.

We believe that restoring vital aspects of the federal public service labour relations framework to the status quo prior to the enactment of Bill C-4 in 2013, and Bill C-59 in 2015, will provide for more fair, balanced, and constructive labour relations in the federal public service. Bill C-62 will also establish a labour relations framework that is more consistent with the rights of Canadians enshrined in the Charter of Rights and Freedoms and the Government of Canada's obligations under international law.

Bill C-62 repeals many of the regressive changes to federal public service labour relations contained in divisions 17 and 18 of Bill C-4. Bill C-4 withdrew the ability of bargaining agents to select one of two methods of dispute resolution in the event of impasse: interest arbitration or conciliation/strike. The legislation imposed a default method of dispute resolution, conciliation/strike, without any compelling rationale or negotiation with federal unions.

At the same time, Bill C-4 gave the employer exclusive rights to determine what services are essential, and how many and which positions are required to deliver those services. The role of the bargaining agent was reduced to limited post hoc consultation, with no dispute resolution mechanism established to contest any of these designations.

The legislation also allowed the employer to require an employee, occupying a position designated as essential, to be available during off-duty hours to perform all duties assigned to that position. In other words, non-essential work would be performed during a strike.

Access to interest arbitration for bargaining units where the majority of workers were designated as essential was thus taken away. Arbitration would be available to the unions only where 80% or more of the positions of the bargaining unit had been designated by the government as essential.

The legislation also altered the factors to be considered by the arbitration board in making an arbitral award. From the original five factors to be considered by the board, Bill C-4 required the arbitration board to give preponderance to just two factors: one, the necessity of attracting competent persons to and retaining them in the public service in order to meet the needs of Canadians, and two, Canada's fiscal circumstances relative to its stated budgetary policies.

The second factor stifles a reasoned debate about the employer's fiscal circumstances and replaces it with the government's “desire to pay”, regardless of ability. In place of an evidence-based assessment of relevant economic factors and fiscal circumstances, the legislation effectively substituted the willingness of the government to compensate its employees at a certain level, and obliged arbitration boards to give preponderance to this factor and one other.

Finally, Bill C-59 granted the President of Treasury Board the ability to unilaterally impose a sickness and disability regime. Under Bill C-59, these fundamental terms and conditions of employment could be imposed rather than negotiated as they historically had been.

In conclusion, the CLC supports Bill C-62 with an important amendment that's about to be discussed, and the promotion of good-faith collective bargaining and respectful dialogue with public service employees. I want to emphasize that consulting and negotiating with public service bargaining agents, promoting mental health and providing support for workers, and investing in a workplace culture of fairness and respect pays off in high-quality services and lower costs to government and all Canadians.

● (1620)

A highly productive and motivated public service is one in which employees are supported, included, engaged, and recognized at work. Vilifying public service workers, undermining employee rights, and failing to invest in healthy workplaces represents a false economy, in my view. It leads to higher costs to government and Canadians in the form of low employee morale, a higher incidence and severity of depression and poor health, and lower levels of productivity, not to mention higher operational costs and elevated litigation risk to government.

Finally, the CLC believes that changes to labour laws must be conducted in a tripartite context, with ample study, consultation, and deliberation of the evidence, and an integral role for unions.

I want to close by echoing my colleagues' criticisms of PSECA and that egregious legislation, and also indicate the CLC support for repealing that legislation as soon as possible.

Thank you for your time, and I'd welcome any questions you have.

● (1625)

The Chair: Thank you very much.

Now from the Canadian LabourWatch Association, we have Mr. John Mortimer, president. You have seven minutes, sir.

Mr. John Mortimer (President, Canadian LabourWatch Association): Thank you.

Prior to my 17 years as the president of LabourWatch and 18 parallel years running a management consulting firm, I spent 15 years in senior human resources roles. I was the head of human resources and other departments for the Vancouver family that started and ran Future Shop, and it had stores at that time in both Canada and the United States. Before that, I was the head of risk management and human resources for Wendy's restaurants. I was there when Dave Thomas bought Tim Hortons from Ron Joyce, senior, in 1995. I also was head of information systems and human resources for a Canadian high-tech company.

I watched Monday's committee proceedings. They appeared to be a PG-rated sequel to the 2015 general election. I was struck in particular by the discussion of absenteeism, because of the near total absence of discussion of actual data.

I carry two provincial human resources designations and have worked in this field since 1981. I have studied, implemented, and revamped workers' compensation, sick leave, short-term disability, and long-term disability programs in two countries. While at Wendy's, we reviewed our programs, ironically, with the input of both William—or Bill—Francis Morneaus, senior and junior. I worked with other top consulting firms both on the assessment and redesign of such programs.

A former Statistics Canada chief economic analyst, who worked there for 36 years, authored a 2015 Macdonald-Laurier Institute report. It said:

> Overhauling sick leave would be a small step in re-aligning federal pay and benefits with those of the private sector workers who ultimately pay those benefits....
>
> ...estimates for the private sector are likely too high, since the self-employed (who are not covered in these results) work longer hours and retire much later....
>
> The LFS estimates for the public sector appear to be highly accurate, with its estimate of 10.5 days in the federal civil service closely matching the estimate of 10.3 days made by the Parliamentary Budget Office.... Sick leave data do not include the 6000 federal employees on long-term disability, which would add another 6 days to the overall sick leave total taken by the average federal employee.

Finance Minister Morneau's former consulting firm sponsored a 2013 Conference Board of Canada report on absenteeism. Morneau Shepell released their own briefing document that reported, for example, that their clients had reduced short-term disability duration by 23% and that the estimated direct cost of absenteeism in Canada in 2012 was $16.6 billion.

Here is what I know from my decades of experience.

Program design can have a very significant influence on use. The federal program appears to be unique. Some suggest it may not be working like other programs elsewhere, not only in Canada but in other parts of the world. Abuse is a possibility in any program, whether it is higher instances of absences on Mondays or, as they found in Saskatchewan, on the day Grand Theft Auto was released or various whole weeks that are taken by people prior to scheduled vacations. I've seen this abuse in my capacity and appropriately investigated in the interests of our employees. Abuse that is not addressed may have a further negative impact on employee engagement, influence “me too” behaviour, and negatively impact morale, service, and production levels.

At Monday's hearing, Treasury Board President Scott Brison praised his predecessor Tony Clement for commissioning what he described as a very good joint union–Treasury Board report on mental health in the workplace. That is to be commended. Messrs. Brison and Clement also appear to concur on the concern that the design of the federal government programs may not be working for employees with fewer years of service. Other reports and analyses underscore the point made by Messrs. Brison and Clement.

I've reviewed numerous reports, news stories, and union leader statements. Mark Twain may have popularized the saying “lies, damned lies, and statistics”. For example, our friends at CAPE have an undated hit still online regarding Mr. Clement. CAPE claims:

> Statistics Canada published a report indicating that public sector workers take more or less the same number of days of sick leave as do workers in the private sector. In fact, the difference between the public and private sectors, the report noted, was only a few hours per year. Obviously, this was not something to get worked up about!

● (1630)

I suggest that this 2013 report does not truly say that at all. What it does is suggest that if one adjusts for certain demographics, the government-to-private sector absence gap narrows. That does not address what Morneau Shepell, the Conference Board of Canada, and the three decades of experience that this practitioner sitting before you would propose: get the data, analyze, research, and make informed choices to see if absences can be reduced to the benefit of all employees, customers—however you wish to define customers internally or externally, in government or outside of government—as well as taxpayers.

For the health of the workplace and in pursuit of improved workplace attendance, I encourage us to set aside some political theatre, such as we saw on Monday, avoid games—

An hon. member: Oh, oh!

The Chair: Order, please.

Mr. John Mortimer: I know, I know, the audacity of me.

Avoid games with numbers in particular. Please, avoid games with numbers and work together diligently for the benefit of all. If you take the time to truly track what is going on and to think about the people who are absent and how you can help them, as well as the people around them and the public that is affected by it as well, we will have a better civil service.

Thank you. I look forward to your questions.

The Chair: Thank you. We are very appreciative of your keeping it under seven minutes there, sir.

Now, from the Public Service Alliance of Canada, we have Chris Aylward, National Executive Vice-President; and Krista Devine, General Counsel and Director, Representation.

Mr. Chris Aylward (National Executive Vice-President, Public Service Alliance of Canada): Thank you, Mr. Chair, and thanks to the committee members for providing the Public Service Alliance of Canada this opportunity to meet with you on Bill C-62.

The Public Service Alliance of Canada represents over 130,000 federal public sector workers.

We welcome this bill that finally restores some of the balance to collective bargaining in the federal public service that was lost by the passage of the previous government's two bills, Bill C-4 and Bill C-59. Division 20 of Bill C-59 took away the collective bargaining rights of our members and other federal public service workers. It gave the government the unilateral right to amend the sick leave provisions of our collective agreements at any time. We do not consider it free collective bargaining when the employer has the legal power to impose a predetermined outcome.

Bill C-62 will also restore rights taken away through the changes that were made by division 17 of Bill C-4 of the Federal Public Sector Labour Relations Act. These changes placed fundamental restrictions on our members' collective bargaining rights, such as those affecting designation of essential services.

The Supreme Court of Canada has confirmed that the right to collective bargaining is a protected right under the Canadian Charter of Rights and Freedoms. In 2007, it ruled that freedom of association includes the right to collectively bargain. That freedom is also guaranteed by the Canadian Bill of Rights. When governments restrict the ability of employees to engage in good-faith negotiations, an important term and condition of their employment, they violate that freedom of association. Bill C-59 denied the right of employees to good-faith bargaining by giving the employer the unilateral authority to establish all terms and conditions related to sick leave, including establishing a short-term disability program and modifying the existing long-term disability program. Bill C-4 gave the employer the authority to override many provisions of the Public Service Labour Relations Act, including the statutory freeze provisions that maintain the status quo while the parties are engaged in collective bargaining.

While we welcome the repeal of these sections, Bill C-62 will also contravene the charter. In January 2015, the Supreme Court of Canada issued a ruling on the Saskatchewan Federation of Labour's challenge to the province's Public Service Essential Services Act. The court ruled that the right to strike is protected by subsection 2(d) of the charter. It held that the right to strike is an essential part of a meaningful collective bargaining process in the Canadian system of labour relations. That ruling directly affects wording of the Federal Public Sector Labour Relations Act that would be restored by Bill C-62. The Saskatchewan Public Service Essential Services Act contained language that allowed the government to avoid using management or non-union staff to provide essential services during a strike. The Supreme Court ruled that this act was unconstitutional because it violated employees' section 2 charter rights.

The court decision included an observation about this language by the original trial judge. He said that it enabled “managers and non-union administrators to avoid the inconvenience and pressure that would ordinarily” occur due to “a work stoppage”. He also said that it shouldn't matter if the qualified personnel available to provide the necessary services are managers or administrators. If anything, the language works at cross-purposes to making sure essential services are delivered during a work stoppage.

Bill C-62 would permit identical language to remain in the Federal Public Service Labour Relations Act. To remedy this, we ask the committee to propose an amendment to remove, from clause 9, proposed paragraphs 121(2)(a), 123(6)(a), and 127(6)(a). All three read as follows, “without regard to the availability of other persons to provide the essential service during a strike”.

The amendment to remove these proposed paragraphs is consistent with the 2015 Supreme Court decision. When both Bill C-4 and Bill C-59 were passed, PSAC filed constitutional challenges. In 2015, we, and other federal bargaining agents, also filed a motion for an injunction that would prevent the government from using its powers under Bill C-59's division 20 until after the constitutional challenge was heard on its merits.

● (1635)

That motion was scheduled to be heard in the fall of 2015 and then was pushed to March of the next year, in order to give the new government an opportunity to revise the previous government's position and provide instructions to counsel. At this time, both court proceedings are adjourned, pending repeal of the offending provisions that were contained in division 17 of Bill C-4 and division 20 of Bill C-59.

In July 2016, an interim agreement was reached between PSAC and Treasury Board that included measures to address concerns regarding choice of dispute resolution mechanisms, rules governing public interest commissions and arbitration boards, and essential service designations, among others. However, that was a temporary measure and we will soon be entering another round of bargaining for our members in the federal public sector. Our constitutional challenges will not be withdrawn, until such time as these sections of Bill C-4 and Bill C-59 are repealed and our members' rights restored.

I ask the committee to propose the removal of the unconstitutional sections of Bill C-62 and to expedite its passage.

Ms. Devine and I will be pleased to answer any questions you may have.

The Chair: Thank you very much.

We have time for one question from each side. We're debating on the timing. We have 26 minutes before a vote, so I would suggest five minutes.

Mr. Mark Warawa (Langley—Aldergrove, CPC): On a point of order.

We'd have to seek unanimous consent and we haven't done that yet.

The Chair: Okay.

It was sort of implied at the beginning, but sure we can seek unanimous consent.

Are we seeking unanimous consent to continue?

Mr. Mark Warawa: Before I give that, can I seek clarity about whether we can limit the amount of time for that. Is that correct or is it that, once you give unanimous consent, it's up to the chair to call the meeting?

The Chair: You can revoke unanimous consent at any time.

Mr. Mark Warawa: Okay. I give unanimous consent, on the condition that it's four minutes each.

The Chair: That's fair enough.

Are we okay with this? We're wasting time, guys.

Go ahead, Dan.

Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.): Will the revocation of unanimous consent—

The Chair: We'll see what happens.

Mr. Dan Ruimy: They can say no, after their four minutes.

The Chair: Technically, they could but that will be on the record. I'm sure they wouldn't want to do that in this situation.

Mr. Dan Ruimy: That's exactly what they're going to do.

The Chair: We'll see.

Mr. Blaney, you have four minutes.

[*Translation*]

Hon. Steven Blaney (Bellechasse—Les Etchemins—Lévis, CPC): Thank you very much.

It was important to us to hear your testimony today, despite a rather fragmented schedule. We apologize for the inconvenience and thank you for being here. I especially want to thank Mr. Mortimer, who has travelled from British Columbia.

We are hearing nothing but praise from the unions as regards the Liberals. It is interesting. That said, this bill, which is sponsored by Mr. Brison, the Treasury Board President, comes with a price tag of a billion dollars. I have to say that something is off. I really liked what Mr. Roberts said in this regard about public servants deserving respect. He is quite right. I was a public servant myself for four years.

The fact remains, however, that we also have to think of taxpayers.

In this regard, I have a question for you, Mr. Mortimer. You talked about absenteeism. Right now, people are taking a record number of sick days in the federal public service. There is a problem. Unfortunately, there is nothing in this bill that addresses this problem in the federal public service. The number of sick days taken is higher than in the private sector. There was an article in *Maclean's* magazine about this problem, which could get worse. The numbers are essentially the same: there is a loss of 13.5 days per year. That is not comparable to what we see in the private sector.

We have before us a bill that I consider partisan. It removes rights from the employer, the government, particularly as regards essential services and the negotiation of collective agreements. I would like you to tell us about the impact this bill will have on taxpayers, and also on the private sector. A bill of this kind will tip the balance in favour of unions during negotiations.

● (1640)

[*English*]

Mr. John Mortimer: Commentators in both countries over the years, especially decades ago, raised questions about the challenges of unionization in the government sector. It is a reality. It's not the same as in the private sector because the people who pay are not at the table. I understand that elected officials and the people who work for them are representative of them, but it is not the same thing when the taxpayer's pocket can be reached into through deficits and debts to a great extent. The data suggests that there's been a significant increase in the number of days, while the divergence between the private sector and the public sector began in 1995 and it has continued to present. It's attributed to different demographics of the workplace, but what I'm not hearing and what I'm not seeing, as a citizen and as a taxpayer, is the research and the effort to solve it.

You're correct. There's nothing in this legislation that will do anything to address the issue.

Hon. Steven Blaney: Good, thank you.

It's clearly laid out, if I can say, that the package in the civil service is more generous than in the private sector. That's what you said.

Mr. John Mortimer: Yes, and design influences use.

Hon. Steven Blaney: Can you get back a little bit and maybe close in on this absenteeism guide that laid out those problems of sick leave? Can you talk about the absenteeism, and also how you would see that this problem of sick leave could be solved in the civil service sector?

Mr. John Mortimer: I'm just going to reaffirm what I said in my remarks. This needs to be studied and worked on. I did it as a human resources professional in multi-billion dollar businesses. It can be done in this government and in can be done in partnership with the unions, but we can not endlessly defend people who are real problems and need to be addressed to the denigration of the good work of the other people who pay the price.

The Chair: Thank you.

We'll go to Mr. Long, please.

Mr. Wayne Long (Saint John—Rothesay, Lib.): Thank you, Mr. Chair.

Thank you to our presenters this afternoon.

I have a question to both Mr. Aylward and Mr. Roberts.

I'm the member of Parliament for Saint John—Rothesay. I feel I have a very open and transparent relationship with the public service, and the UTE and everybody in Saint John. I've met with them over the last couple of years and certainly early in my mandate. I was shocked at how demoralized, how low, they were. To sum it up, their response to me was that they don't feel respected. They continue to be beat down and they're demoralized.

I asked them why? Basically what they said back to me—and I'm paraphrasing here—is that there was antagonism, contempt, demoralization, general bad faith that was targeted towards them and the labour movement.

Minister Clement I think made inflammatory comments regarding public servants and their representatives. He falsely asserted public servants take too much sick leave. That was debunked by StatsCan. Then he voiced a desire to balance the budget on the backs of public service workers like yourselves, cutting sick leave, and he made that announcement and several other announcements during National Public Service Week, which I think was just absolutely wrong and demoralizing.

I'll start with you, Mr. Roberts.

What has our government done to reset that relationship, in terms of what the Conservative legislation certainly intended to do, which was to stack the deck against federal service employees?

Could you please comment on that, Mr. Roberts?

● (1645)

Mr. Chris Roberts: Yes very quickly.

I think there's an enormous amount of research into the nature and the sources of the problem of demoralization and mental health challenges in the federal public service. I simply steer you to Professor Linda Duxbury, who has done a wealth of research in this area. It's not at all true that we don't have any grasp on the question or how to respond.

You're absolutely right that starting with a different tone is the first approach, which this government to its credit has certainly struck. I think ending the practice of using very misleading comparisons between the private sector and the public sector is an important part of that. When you talk about absenteeism in the public sector, you have to allow for different unionization levels, different age demographics, and the preponderance of female employment in the public sector. Once you do that, the vast majority of difference between private and public sector absenteeism disappears.

Simply throwing out this kind of thing to vilify and demonize public service employees is exactly the wrong way.

Mr. Wayne Long: Agreed.

Mr. Aylward, I'm going to let you chime in.

Mr. Chris Aylward: Certainly as I stated in my statement in July 2016, we reached an agreement with, at the time, Minister Brison, who is the President of Treasury Board, to restore our rights pre-Bill C-4. That certainly indicated to us a positive move for sure, and that's why we certainly welcome Bill C-62.

I just want to remind committee members that our members, my 130,000 fellow public sector workers as well as those of my friends in the other bargaining agents, are taxpayers as well.

Mr. Wayne Long: Mr. Phillips, do you want to chime in there or Mr. Engelmann?

Mr. Peter Engelmann (Partner, Goldblatt Partners LLP, Canadian Association of Professional Employees): There are ways to fix sick leave issues. The way to do that is not to pass unconstitutional legislation. Do we want sick leave plans that are plans for workers at Wendy's or Tim Hortons for our public servants? No. We want to ensure...and the government has through the last round of bargaining engaged in plans about sick leave concerns. There are letters of understanding and there's movement on that about how to address it.

The Chair: I'm going to have to cut you off there, Mr. Long.

Mr. Wayne Long: Thank you very much.

The Chair: Madam Trudel, you have four minutes.

[*Translation*]

Ms. Karine Trudel (Jonquière, NDP): Thank you very much, Mr. Chair.

I want to thank the witnesses for their presentation. My first question is for Mr. Roberts.

In your remarks, you said that amendments are needed to Bill C-62. Please elaborate on the amendments that should be made to Bill C-62.

[*English*]

Mr. Chris Roberts: I think they have in mind the amendment referred to by my colleagues from the Public Service Alliance of Canada with respect to a passage that's found in both Bill C-62 and the impugned unconstitutional legislation in Saskatchewan, which was addressed specifically by the Saskatchewan judge and indeed in the Supreme Court decision, as I understand it.

In order to avoid risking subsequent challenges along the same lines, I think it would be incumbent on the committee to give close scrutiny to that small provision in Bill C-62 and consider amending it.

[*Translation*]

Ms. Karine Trudel: Mr. Aylward, you mentioned three parts of amendments relating to essential services.

Since 2013, has this had a negative impact? We have heard that over 80% of public service positions had to be deemed essential. Has the current act had a negative impact on you? What effect will the proposed amendments to Bill C-62 have? What positive effects will they have?

[*English*]

Mr. Chris Aylward: Do you want to respond, Krista?

Ms. Krista Devine (General Counsel and Director of Representation, Public Service Alliance of Canada): In terms of the impact of the essential services regime that was there, having Bill C-4 in place was deeply problematic for us. You've heard from other unions about the selection of the dispute resolution process. The designation process essentially dictates what dispute resolution process you end up in.

One of the cornerstones of our constitutional challenge related to the Border Services bargaining unit, which Minister Clement had targeted in particular as problematic. Through the legislation and through his introduction to the legislation, he targeted them in particular in terms of the level of essential services designation.

Through Bill C-4, the level of essential services designation was not challengeable before a third party. It was unilateral. It was imposed on us I think the day the legislation was passed or two days after that. I can say with great certainty that it had an impact for that group in particular, as it dictated the dispute resolution process and put into question the framework within which we would be bargaining for the next few years.

● (1650)

The Chair: Thank you very much.

To those witnesses who came here today, I'd like to extend my apologies for the craziness of the votes. I really appreciate your patience, and I really appreciate your testimony today. We unfortunately do have two more votes this evening, I believe, which forces us to adjourn right now.

For those sitting around the table, we have 12 minutes and 50 seconds to get to our seats.

Thank you very much, everybody.

The meeting is adjourned.