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

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**EVIDENCE**

**Tuesday, November 28, 2006**

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**Chair**

**Mr. Dean Allison**

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

Tuesday, November 28, 2006

•(1105)

[English]

**The Chair (Mr. Dean Allison (Niagara West—Glanbrook, CPC)):** Pursuant to an order of reference of October 25, 2006, the committee will now commence consideration of Bill C-257, an act to amend the Canada Labour Code on replacement workers.

Just before I give the floor to Mr. Nadeau, I want to indicate some of the following items to our members who are present here.

The Minister of Labour could not be with us today, but he will be with us for an hour on December 5, at 9 o'clock.

I also want to welcome, in the name of the committee, Mr. Marc Toupin, who is the assigned legislative clerk who will be assisting the committee in its work regarding the bill that we have before us.

I also want to mention that we've received three new motions that have had their 48-hour notice, so we will reserve some time at the end of the meeting, scheduled for 90 minutes, to discuss motions with the members.

And I just want to remind all members again that the subcommittee will meet after the full committee, in this room, in camera, to select the list of witnesses who will be appearing before the committee next week.

Mr. Nadeau, I want to welcome you here. You have the floor for ten minutes, sir.

[Translation]

**Mr. Richard Nadeau (Gatineau, BQ):** Thank you very much, Mr. Chairman.

I'll start right away with a presentation. Bill C-257, an Act to amend the Canada Labour Code (replacement workers), also called the anti-scab bill, should be adopted by the House of Commons. The reason is quite simple: replacement workers or strike breakers have no place in labour relations.

To this end, I'd like to quote an extract from the 1996 minority report by Rodrigue Blouin, a member of the task force responsible for reviewing Part I of the Canada Labour Code which stresses the illegitimacy of replacement workers:

The use of replacement workers undermines the structural elements that ensure the internal cohesion of the collective bargaining system, by introducing a foreign body into a dispute between two clearly identified parties. It upsets the economic balance of power, compromises the freedom of expression of workers engaging in a strike or lockout, shifts the original neutral ground of the dispute, and leads eventually to a perception of exploitation of the individual.

There certainly are naysayers when it comes to anti-scab legislation. For example, the Fraser Institute and the Institut économique de Montréal, two right-wing think tanks which twist the figures and make them say what employers want to hear. Unfortunately, our labour minister, relying on such partisan points of reference, stated the following in the House on September 22, and I quote:

There is no evidence suggesting a ban on the use of replacement workers will benefit workers in any of the ways claimed [...]

And yet, 29 years of anti-scab legislation in Quebec indicates the very opposite. The same is true of the anti-scab legislation in British Columbia which was enacted in 1993. Such legislation allows for civilized negotiation in a labour dispute, whether it be a strike or a lockout, reduces violence on the picket lines as well as the social upheaval and psychological problems caused by stress during such conflicts. It helps reduce employees' resentment when they go back to work, and promotes balance and greater transparency in negotiations between employers and employees.

This bill will ensure that labour and management negotiate on an equal footing with a view to reaching a fair solution as soon as possible. It reduces the number of lawsuits filed during a conflict, and helps to shorten the duration of disputes, which has the effect of minimizing employees' loss in income and employers' loss in profits.

Here are a few telling figures. Quebec workers whose employer falls under federal jurisdiction are virtually always under-represented in terms of the number of days of work lost. Therefore, although they constitute less than 8% of Quebec's labour force, they account for 18% of the person-days lost in 2004 and 22.6% of the person-days lost in 2003. This percentage peaked in 2002 at a time when 7.3% of Quebec workers employed by federally regulated organizations were responsible for 48% of the workdays lost due to labour conflicts.

The number of workdays lost due to labour conflicts disputes is less under anti-scab legislation. Let's take the legislation passed in 1997 in Quebec as a point of reference. The average duration of work stoppages in 1976 was 39 days, 33 days in 1977 and 27 days in 2002, which is even less.

In British Columbia, following the adoption of anti-scab legislation in 1993, the amount of time lost dropped by 50% between 1992 and 1993. The average number of working days lost from 1992 to 2002 was 16 days under the Quebec Labour Code, and 31 days under the Canada Labour Code.

The number of days lost per 1,000 employees from 1992 to 2002 was 121 days under the Quebec Labour Code and 266 days under the Canada Labour Code.

•(1110)

The Vidéotron conflict which lasted over 10 months alone led to 355 workdays being lost in Quebec in 2002. This is more than a third of the total work days lost in Quebec in 2002 due to a strike or a lockout.

The year 2002 was a record year when it comes to the number of person-days lost. It's important to note that this unfortunate fact is largely attributable to strikes in federally-regulated organizations, which are much longer.

As for the changes that need to be made to the current Canada Labour Code—

[English]

**Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC):** Excuse me, Mr. Chair.

I'd like to break in for a second and move a motion, if I could.

**The Chair:** Okay. We'll stop the clock on Mr. Nadeau.

Mr. Lake.

**Mr. Mike Lake:** Notwithstanding the motion adopted on November 23, I move that we add six additional meetings after December 7, starting on December 12, including the first five scheduled meeting dates following the Christmas break to hear witnesses.

**The Chair:** Mr. Regan.

**Hon. Geoff Regan (Halifax West, Lib.):** If we're going to go to motions at 12:30, I don't see this as a point of order that needs to interrupt this witness.

**A voice:** It's discourteous.

**Hon. Geoff Regan:** It's not clear to me that it's an appropriate point of order to interrupt the meeting.

**Mr. Mike Lake:** I never called a point of order.

**Hon. Geoff Regan:** You obviously tried to interrupt. The question is, on what basis?

**The Chair:** The clerk informs me that it is in order, because it has to do with the study we're doing at this present time.

Madame Lavallée.

[Translation]

**Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ):** Mr. Richard Nadeau's presentation is scheduled on the agenda. Out of respect for our guest, I think we should stick to the agenda. If there are any motions to be moved, that can be done later. I think interrupting our guest to move a motion of a logistical nature shows a lack of courtesy.

•(1115)

[English]

**The Chair:** Okay.

I have Ms. Davies, and then Mr. Regan.

**Ms. Libby Davies (Vancouver East, NDP):** Thank you.

I would agree. It seems to me that there's a time for committee business to discuss what kinds of meetings. There was discussion previously about the number of meetings to be held. To interject and to do this in the middle of a witness statement is very disrespectful.

So I would suggest we continue, and then deal with it as we would at the end of the committee, when we're dealing with other business.

**The Chair:** Ms. Yelich, I'll put you on the list.

Mr. Regan, and then Ms. Yelich.

**Hon. Geoff Regan:** It's pronounced "REE-gan".

**The Chair:** Sorry, Mr. Regan.

**Hon. Geoff Regan:** It's only when President Reagan was elected that it started to become a problem.

Mr. Chairman, I've expressed my desire to make sure that we examine this thing clearly. I want to have a good understanding of the implications. I want to ensure that we deal appropriately with the question of essential workers, as we go forward.

In terms of how many meetings this means, it's not clear to me at this point. There hasn't been a discussion about what witnesses we're talking about, and so forth.

I expressed my concern last week that five witnesses at a time was a lot for a short period. I like the idea of four at a time, for example. We changed it, so we would have balance at each meeting, so that you'd have those for and against at the same meetings.

I don't know if six additional meetings is the right number. Mr. Lake has some argument as to why it's six. But it seems to me that we should start the study, and then when we come to a point where we figure out that we need to have some witnesses come back, then we need additional days, or whatever, right? I'm not convinced that today is the day we need to decide on this, and I'm not clear as to why it's six meetings.

**The Chair:** Thank you.

Ms. Yelich and then Mr. Lake.

**Mrs. Lynne Yelich (Blackstrap, CPC):** I'll allow Mr. Lake to speak first.

**The Chair:** Mr. Lake.

**Mr. Mike Lake:** My concern is that it was apparent from the last meeting that this is going to be jammed through. It's consistent with everything that's happened in this committee so far, as you know.

I believe we need to make sure, since this legislation is so important for both sides, that we hear the appropriate number of witnesses. This is why there's urgency to bring it up right now. It was clear to me that based on what happened at the last meeting, we were not going to get the proper hearing. It was absolutely clear.

I've had a lot of concerns with the way this went through last time. I think it's of the utmost importance. As for the reason why I would say six, we can debate that further as we need to, but I want to make sure that we have.... I'd rather err on hearing too many witnesses than too few, and that's why my rationale was six. We absolutely need to debate this legislation. It's very important that we have a thorough debate and hear all of the witnesses who want to speak to this.

It is absolutely not appropriate to limit it to two days in the same week, three weeks before Christmas, in terms of the number of witnesses we're hearing on this, and then cram it through.

**The Chair:** Ms. Yelich.

**Mrs. Lynne Yelich:** With all due respect, if we are going to respect the witness, I think it is quite fitting that he be here to hear how important this is to us as well.

I was home in the riding, and there were many people interested in this legislation who I know will have a hard time getting their submissions in and getting their names on the agenda, because we have to make more contact. So it's going to take a little bit of time.

I'm going to be here most of next week. I don't have time to get back to the riding to start getting some of my witnesses together. I would really like to see Mr. Lake's motion go through quite quickly so that we can return to Mr. Nadeau's presentation. I'm looking forward to hearing the rest of it—because I have a lot of questions for him—so that we will be well informed of some of his arguments.

**The Chair:** Thank you.

Mr. Coderre.

[*Translation*]

**Hon. Denis Coderre (Bourassa, Lib.):** I can see that some of my colleagues opposite are filibustering here this morning. I also know that they did not have the decency to have the minister appear here, for obvious political reasons.

Having said that, Mr. Chairman, the decisions we made are clear. We have a responsibility to fulfil. We have a bill before us on an important issue. This isn't the first time we've discussed this matter; it's perhaps the tenth. So we know what we're talking about. Despite all those members who may be

[*English*]

what we call “nervous Nellies” with all those little letters you're receiving from lobbyists—that's an issue—our role and our job as members of Parliament is to address a situation; we're here as legislators. When we have something there, we have to face it, and we addressed it last week.

As my colleague said, there's committee business; we have to discuss those things. But for now, first things first: we have a witness, and on the orders of the day that's number one. Pursuant to the order of reference, we have a witness. We want to hear him; let's do it.

• (1120)

**The Chair:** Ms. Yelich.

**Mrs. Lynne Yelich:** I would like to make a correction. There is no politics being played here. We're talking about a huge impact on our country. There are many unions from coast to coast to coast. Playing

politics is when you want to put it in two days of four-hour meetings that can exhaust everyone. We all know it can be very exhausting to be listening to witnesses on and on. We need more time.

So we would really like to have Mr. Lake's motion passed quickly, and then we can go back to our witness as quickly as possible. It's up to you now.

**The Chair:** Mr. Hiebert.

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

I think some important comments have been made. What we're talking about here is wanting to avoid the perception that this legislation is being rammed through in short order, which is certainly how it could be perceived if Mr. Lake's motion is not adopted.

I too have been hearing from constituents who were very quick to follow this kind of legislation in the House. They're wanting to make presentations and be a part of this process. I think it's only fair for all Canadians, as Mr. Coderre suggested, that as legislators we take our responsibility seriously. To suggest that we can ram through this legislation in a very short two meetings will strike great concern amongst business owners and employees alike across the country, and I think it's only fair to Mr. Nadeau that this legislation have a proper hearing and that enough witnesses have a chance to appear before the committee, with enough time to prepare their presentations.

I note, with the short period of time that is currently being proposed for groups to gather their thoughts and their research and to make some recommendations, that for many of them it's going to be impossible to appear in time and to participate in this important process. Out of respect for Mr. Nadeau and for the legislation and for our responsibilities, I can only hope that the members opposite will support this motion.

**The Chair:** I have Ms. Davies, Mr. Brown, Mr. Lake, and then Ms. Brown.

**Ms. Libby Davies:** Thank you very much, Chairperson.

I think what hasn't been answered is why this motion is coming at this particular moment, in the middle of a presentation.

I think there's an appropriate place to have a motion and to have discussion about this. We haven't even finalized the list of witnesses yet, so we don't even know how many witnesses are going to be heard, which could be then an argument as to whether or not the number of meetings that have been established is sufficient to hear those witnesses, or whether we need additional hearings. That's my issue. I'm not going to get into whether something is being rammed through, or how political it is, but it seems just so strange that in the middle of a witness presenting you would try to foist this motion on the committee, when there's clearly a place on the agenda that is appropriate for doing it.

Here we are, now debating this, when we should be hearing the witness, as the agenda says. I would suggest we return to our agenda, because it says we're to hear from Monsieur Nadeau.

**The Chair:** Thank you, Ms. Davies.

We'll go to Mr. Brown, followed by Mr. Lake, and then Ms. Brown.

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

I support Mr. Lake's motion. I think it is appropriate. We're hearing from Mr. Nadeau on the importance of this legislation, and it's appropriate timing to have the committee express in front of Mr. Nadeau our support for looking at this legislation in as much detail as possible. I don't think we're giving the mover of this legislation appropriate courtesy if we try to ramrod it and not actually research it, or if we ignore the obligations that we have for broader consultation.

I would hope the committee would show this sign of good faith to Mr. Nadeau and show good faith to all those who have an interest in this potential legislation. I think everyone has recognized and is cognizant of the fact that there is a lot of interest in this potential legislation, and it would behoove us to be cognizant of this democratic responsibility that we have to allow those viewpoints to be heard. I'll certainly support Mr. Lake's motion, and I hope everyone on the committee would.

• (1125)

**The Chair:** Mr. Lake, then Ms. Brown.

**Mr. Mike Lake:** I wanted to answer the question asked by Ms. Davies. She asked, why now? Had she been in this committee previously, she would have seen what happened at the last couple of meetings. As I mentioned before and want to reiterate, it was clear that this legislation was going to be rammed through. It was absolutely clear, so it was important for us to make this motion at the earliest possible moment in order to make sure that we get a fair hearing. That's why I did it now, as opposed to waiting.

Typically we wait until, as you've phrased it, the scheduled times to have these kinds of discussions. Clearly, though, nothing was happening at that point. It was very clear that in those scheduled discussions and timelines, this was going to be rushed and was not going to get the proper hearing.

I have all respect for Mr. Nadeau. I want to make that very clear. We serve on another committee together and I have a lot of respect for him. I just think that, in his interest as well, we need to give his bill a proper hearing and make sure we hear all of the witnesses who want to speak.

**The Chair:** Ms. Brown.

**Ms. Bonnie Brown (Oakville, Lib.):** I have several points, Mr. Chair.

First, in all my years here in Parliament, I have never seen a witness interrupted like that. I find that outrageously disrespectful.

Secondly, I'm wondering why, on the very first day on a bill, the legislative clerk is here. In the committee that I used to chair, the legislative clerk came in to assist with clause-by-clause. It seems to me that we're quite a way from that.

The third question that I have—

**The Chair:** I thought we were only a couple of meetings away from that.

**Ms. Bonnie Brown:** Well, even if we are.

The third thing is that I don't know how Mr. Lake is present enough to know that this particular bill is going to require six meetings. I don't know that. This is the first witness we've had.

When I read the report prepared here, it says that organized labour is virtually unanimous in support of this bill, while management is unanimously opposed. It seems to me that when there's such a terrific and clear split between two essential groups on the management of our economy, we have to be careful that we're not jumping ahead too fast. I don't know, maybe six meetings is a good idea. Maybe we need ten. Maybe we need four.

I would like to hear the first few witnesses, Mr. Chair, so we have a little bit of a feel for the thing before we decide how long it's going to take. I don't think anybody is anxious to ram it through without having proper knowledge and understanding.

The other thing is that we have a responsibility to the people in the House who voted at second reading to pass this and send it to committee. I know a number of people in my caucus who said this idea has come up two or three times in Parliament and has usually died on the order paper because we've gone to an election or whatever. It has never been aired, so a lot of people in the House who aren't on this committee are puzzled by this. They have been lobbied by both sides and they really are expecting us to sort it out.

So my suggestion, Mr. Chair, would be to refer Mr. Lake's motion to the end of the couple of days we have scheduled. By then all of us will have a better feel for it, an idea as to whether or not we want to go to clause-by-clause, as according to the skeleton plan we have now, or whether we want to hear more witnesses, whether we really are comfortable to go to clause-by-clause.

I think his motion is premature at this moment. But I think once we get a feel for the conflict that I think we're going to hear about when we hear these witnesses, we could decide if we want to move ahead to clause-by-clause or if we feel we need to air more of these issues.

I don't want to vote against Mr. Lake's motion. I don't want to vote for it. I don't know yet. We're only beginning to expose the ideas. I mean, this is the proponent, for heaven's sake, and we haven't even heard him out. I think it's all premature to make these kinds of decisions so quickly.

• (1130)

**The Chair:** Thank you, Ms. Brown.

We have Madame Lavallée, and then Mr. Coderre.

[*Translation*]

**Mrs. Carole Lavallée:** I am not an expert in committee procedure but under the Standing Orders, isn't there a motion seeking a return to the agenda as soon as possible?

We can discuss these issues at the time scheduled to discuss them. It seems inappropriate that we would do this right in the middle of somebody's testimony.

[*English*]

**The Chair:** The clerk informs me that we are in Bill C-257. That is the order of business, so anything that pertains to that is fair game.

[Translation]

**Mrs. Carole Lavallée:** I haven't finished. That was my first question. We have to hear everything in relation to this bill, but isn't there an order that needs to be followed? We agreed on this last week. I don't know the exact wording of the motion we adopted, but I thought we adopted an agenda.

Having said that, coming back to an old motion should be more complicated than simply rudely interrupting a witness we took the appropriate steps to invite in order to move a motion on the work plan.

Furthermore, the member is calling for six more meetings in order to debate this bill when we still don't know the number of witnesses who registered before 5 p.m. yesterday. As we say back home, that's like putting the cart before the horse. We are proceeding in a totally disorderly fashion. Let's wait for the steering committee and the list of witnesses who've registered. Otherwise, this would be seen exactly for what it is, a political tactic called filibustering.

I'd ask that we get back to the agenda and to the excellent presentation being made by my colleague, Mr. Richard Nadeau.

[English]

**The Chair:** Thank you, Madame Lavallée.

Mr. Coderre.

[Translation]

**Hon. Denis Coderre:** I simply want to remind the committee that last week, when we adopted a majority position, we said, at the end of this resolution, that we had a work plan and, moreover, we used the term "if possible". We had already looked at the issue of flexibility.

Aside from filibustering—probably because they are frustrated about yesterday's election result for the riding of London-North-Centre—, the conservatives can try whatever they want, but the fact remains that we have the numbers and we intend to make sure nothing is written in stone, and ensure in the name of social peace and in keeping with our role as parliamentarians that we will debate this crucial issue on labour management relations. I can see a few lobbyists here and so I will reiterate it: nothing is written in stone. We want to have a decent debate so that we can protect the essential services, people, workers, employers. We want to achieve, in accordance with Canada Labour Code's preamble, a balance between labour management and labour, between management and workers.

It is time we dealt with this motion so that we can debate it immediately, hear from our witness, and deal with serious issues. It is time to fully play our role as parliamentarians. They can do whatever they want, but the majority will prevail. We care about the public's best interest. They won't move up in the polls if they continue to behave this way.

[English]

**The Chair:** Thank you, Mr. Coderre.

Ms. Yelich.

**Mrs. Lynne Yelich:** I will defer to Mr. Lake, but I'd just like to say we have the public in mind. I just want to be assured that all my witnesses will be able to appear, without any shenanigans.

**Hon. Denis Coderre:** The way you treat our witness, we might have fun too.

**Mrs. Lynne Yelich:** Our witness is a very important part of this legislation, and I think he should hear how important it is for us to have all of our witnesses, including—

**Hon. Denis Coderre:** Let's hear what he has to say, and then we'll see.

**Mr. Mike Lake:** I've heard different conversations about how divided this is in terms of the issue. I'll refer to, interestingly enough, a former NDP cabinet minister in Manitoba, Sidney Green, who said:

The election of a minority government has resulted in a curious anomaly. The combined opposition is in a position where it believes that it can pass legislation in direct conflict with the position of the government. Indeed, the combined opposition, simply to flex its muscles, has given second reading to legislation that no party seeking to become the federal government ever included as a plank in its election platform.

Mr. Coderre just spoke to this and flexed his muscles, so to speak, to remind us that they have seven members and we have four combined.

This is obviously a highly political issue. It's very important for us to give assurance to both sides on this issue that we will hear all of the witnesses on both sides. I don't believe we've done that so far, in terms of the working schedule we were looking at.

I think Mr. Regan, Ms. Brown, and Ms. Lavallée referred to six meetings as being a bit of an issue. I'm curious to hear their thoughts. I'm open to an amendment, if they have a different thought. I just want to make sure we're not confining this thing in order to jam this through. I want some assurance from the other side that we're going to give this a fair hearing. I don't believe at this point we have that assurance.

• (1135)

**The Chair:** Ms. Davies.

**Ms. Libby Davies:** I think it's very unfortunate that this is escalating this way and shaping into some sort of battleground, because I don't think it has to be that way. I would remind Mr. Lake that it was a vote in the House—a private member's bill, which means that each member of the House takes responsibility for how they're going to vote—that got us to today. That's why we're here. As to a minority Parliament, or whatever, it was a majority of the members of the House who decided they wanted this bill to be examined in more detail. I think that's what we should do.

Mr. Lake has a motion on the floor, so I move an amendment that his motion be deferred until we've heard from an initial number of witnesses. Then the committee can decide if they require additional meetings.

**Mr. Mike Lake:** Can I make a point of order on that motion?

**The Chair:** There's no point of order, but we can get you in the next—

Are you done, Ms. Davies?

**Ms. Libby Davies:** Yes.

**The Chair:** Mr. Lake.

**Mr. Mike Lake:** Number one, I don't think that's really an amendment. She's actually making a motion that a motion be deferred. That's not an amendment to my motion. I don't accept the amendment.

**The Chair:** You don't have to accept it. You'll have a chance to vote on it shortly.

**Mr. Mike Lake:** That's fine.

**The Chair:** We're going to get the wording of that amendment, and I will want to know if there's any discussion on it. It reads:

That the motion be deferred until such a time as we have heard the initial witnesses, so the committee can determine if additional hearings are required.

Mr. Hiebert.

**Mr. Russ Hiebert:** That sounds like a new motion, not an amendment. What was struck from the original motion to make this? It's a motion about a motion.

I challenge the clerk to explain to this committee how that's not a new a motion.

•(1140)

**The Chair:** Thank you, Mr. Hiebert. Upon further review it was indicated that it is an additional motion. So we're going to need to vote on the original motion, and then we can have discussion on the second motion.

There is a request for a recorded vote. The original motion says:

That, notwithstanding the motion adopted on November 23, that six (6) additional meetings be added to hear witnesses on December 12 and on the first five scheduled Committee meetings following the Christmas adjournment.

If there's no more discussion I'll call the recorded vote.

(Motion negated: yeas 4; nays 7)

**The Chair:** I declare the motion defeated.

Ms. Davies, would you like to let your motion stand for now, or bring it back afterwards?

**Ms. Libby Davies:** I'll bring it back later. Just leave it.

**The Chair:** Okay. We'll go back to the witness.

I'm sorry about that, Mr. Nadeau. You have five minutes left on the clock. Thank you for your patience.

[Translation]

**Mr. Richard Nadeau:** Thank you, Mr. Chairman. I will continue with my presentation.

Regarding the changes that need to be made to the current Canada Labour Code, subsection 94(2.1) bans replacement workers, but only if an employer uses replacement workers with a view to undermining a union's representational capacity. This ban lacks teeth because all the employer has to do is continue to acknowledge the union in question and continue to bargain so as not to appear to be undermining the union's representational capacity in order to have the right to use replacement workers.

In other words, if an employer refuses to negotiate while continuing to use strike breakers the Canada Industrial Relations Board may prohibit their use. However, all an employer has to do is

negotiate, or appear to negotiate, with the union in order to skirt this ban and continue to use strike breakers.

Clearly, this measure is inordinately weak and makes it easy to use strike breakers. To remedy this problem, Bill C-257 will replace subsection 94(2.1) in order to specify which individuals may not be called upon during a strike or lock-out in order to prevent strike breakers being hired. This list is on page 2 of the document I gave you today.

Subsection 100(5), proposed in the bill, stipulates that any person violating the provisions regarding the use of strike breakers would face a maximum fine of a \$1,000 for each day or portion of a day the offence lasts.

Proposed subsection 94(2.3) allows for employees be used in order to prevent the destruction of the employer's property.

Subsection 94(2.5) would enable the minister, upon request, to designate an investigator to determine whether requirements are being met.

Finally, section 87.6 of the Canada Labour Code is amended to compel employers to accept an employee returning to work following a labour dispute unless there are valid and sufficient grounds, with the burden of proof on the employer, to not permit an employee to do so.

Mr. Chairman, these are the broad brush strokes of Bill C-257. I will be glad to answer my colleagues' questions.

•(1145)

[English]

**The Chair:** Thank you, Mr. Nadeau.

Mr. Regan.

[Translation]

**Hon. Geoff Regan:** Thank you, Mr. Chairman.

Thank you, Mr. Nadeau, for being here today.

The report entitled *Seeking a Balance*, prepared by the task force that reviewed part 1 of the Canada Labour Code in 1995 notes that there are few definitive studies dealing with the issue of the impact of laws against replacement worker on strike frequency and duration. It cites two studies that arrive at different conclusions.

In terms of more recent empirical research by the same authors referred to in *Seeking a Balance*, estimates based on limited Canadian data indicate that a legislative ban on replacement workers increases both the incidence and duration of strikes.

Another study concludes that a legislative ban on replacement workers can have an adverse impact on investment.

Do you have any recent empirical evidence that supports the view that a legislative ban on replacement workers during an industrial dispute does not adversely affect strike frequency or duration or hinder economic growth in firms covered by such laws?

In your opinion, what are the economic effects of laws that ban the use of replacement workers during a strike or a lockout?

**Mr. Richard Nadeau:** Thank you, Mr. Regan.



Since the adoption, in 1977, of anti-scab legislation in Quebec, the Ministry of Labour in Quebec has been preparing annual reports on labour disputes. They clearly show that strikes falling under federal jurisdiction last twice as long as those under Quebec jurisdiction. This is solid and detailed data which is produced annually.

It should be noted that 92% of the labour force in Quebec is subject to the Quebec Labour Code, which prohibits the use of replacement workers. The fact that strikes last half as long has a significant effect on the income for both labour and management. Disputes don't last as long, and in most cases, people get back to work much more quickly. In this context, there are no losses, but only gains.

Through their figures, the Fraser Institute and the Institut économique de Montréal have come up with a structure under which it would be more advantageous for factories and management to use contract or sub-contract workers rather than hiring full-time workers, avoiding in that way having to compensate the staff in the case of a strike. They manipulate their figures in order to show that using contract workers rather than full-time workers would lead to a decrease in the number of workers in a province. They refer to 30,000 workers in Quebec and 17,000 in British Columbia.

First off, that is pure speculation, because nothing proves that to be the case. Moreover, employers, in a bid to ensure productivity and out of respect for their employees, attempt to provide acceptable working conditions in most cases.

This approach is based on American studies aimed at demonstrating that anti-scab legislation is useless. Yet, we know full well, because of a decrease in the duration of conflicts and violence on the picket lines, that there are fewer lawsuits going ahead. Employers and employees negotiate on an equal footing, under similar rules. In other words, the employer cannot turn a profit and employees cannot earn their wages. The negotiation takes place between equals, which leads to labour peace.

Since 1977, labour peace has been far greater in Quebec than elsewhere. Indeed, in the 1970s and prior to that, there had been extremely violent strikes; scabs were hired. Shots were even fired.

• (1150)

**Hon. Geoff Regan:** You said that strikes governed by the Quebec Labour Code lasted half as long. Could you give me figures to support your claim?

**Mr. Richard Nadeau:** From 1992 to 2002, under the Quebec Labour Code, strikes caused the loss of 15.9 days of work compared to 31.1 under the Canadian Labour Code. This data comes from the Ministry of Labour in Quebec.

**Hon. Geoff Regan:** Do you think that your bill disadvantages small employers who do not have multiple points of service/production and consequently are unable to shift operations to establishments that are not involved in a strike or a lock-out? If so, would you be willing to restrict the provisions of your bill to large companies?

**Mr. Richard Nadeau:** We need to protect both the workers and the management. I'm being told that in the case of a strike, we should allow plants to literally relocate for a period of time or to increase

their production elsewhere, rather than settle the conflict. Unfortunately, that's what big companies do.

What we want is legislation that respects community members, both employers and workers, and that proposes a solution to foster labour peace when there is a labour dispute. The temporary relocation of production in case of dispute is quite disrespectful to all those involved, namely the workers.

[English]

**The Chair:** Thank you very much.

Madame Lavallée.

[Translation]

**Mrs. Carole Lavallée:** Thank you very much, Mr. Nadeau, for your appearance here this morning. We are very sorry for the interruption and we hope it will not happen again.

First off, I wanted to discuss these studies. Reference was made to the Fraser Institute and the Institut économique de Montréal. As we all know, these are essentially the same authors who have been saying the same things for years. What is surprising, when you look into it—and I took the time to read the studies—is that this is old data dating from the 1960s and to the mid 1990s. I can't recall the exact dates, but it would be nice if you refreshed our memory on this.

Not only are these studies based on old data, but they were done with large companies in Quebec, despite the fact that we know that small and medium enterprises are the driving force behind the Quebec economy. Also, they refer to the number of labour disputes, when, if you really wanted statistics, in order to compare similar things, you would not be comparing data for a province which has this type of legislation to that of another which does not. You would also not be comparing the duration or the number of labour disputes. The real statistics would be the number of days of work lost in a province such as Quebec or British Columbia, and the number of workers governed by the Canadian Labour Code and the provincial labour code. In Quebec, this is something we know very well.

I'd like you to refresh our memory on that.

Now, my main question has to do with respect for labour and management. We know that anti-scab legislation creates a proper balance between employers and employees, particularly during negotiations, but afterwards as well, as surprising as it may seem. We also know that the idea of having replacement workers makes no sense. In fact, there are countries which do not have anti-scab legislation because companies have never even considered replacing strikers or employees during a dispute. It simply does not exist. They don't replace the workers and that is how they strike a balance.

I'd like to get back to Mr. Regan's question. The city of Bonaventure in the Gaspé is a good example of why it is senseless to accept replacement workers. There was a dispute which lasted three years at the Bonaventure radio station. It was a small company. After two years, the 12 replacement workers asked for union accreditation. Obviously, they were denied, but it shows how senseless it would be to allow for replacement workers in a company when it can lead to such odd outcomes.

Mr. Nadeau, I want to remind you of my question, because my comments were somewhat long. I'm very sorry about that. Can you tell me exactly how you think anti-scab legislation can help to create a balance in the labour-management relationship?

• (1155)

**Mr. Richard Nadeau:** Yes, it is true that the only difference between the documents from the Fraser Institute and those from the Montreal Economic Institute is the language in which they are written, since the data come from the same source.

Both institutes quote a study that, for example, ran from 1967 to 1993, and they treat it as a panacea. They quote another study done by J. Budd in 1996, whose data cover 1966 to 1985. And finally, they quote M. Gunderson and A. Melino who wrote a paper in 1990 using data from 1967 to 1985. That is also a major reference point for the institute, but it is rather sad to see. Moreover, the data relate only to large corporations and say nothing about the small and medium-sized businesses.

The trouble with these studies is that, at the same time, the departments of labour have a duty to their citizens. I am referring to Quebec and British Columbia, which provide specific data almost to the year. These provinces provide data on an annual basis. The situation is looked at properly, with data for the entire labour force. A worker is no less important because he is employed by a small business rather than by a multinational corporation. This has to be understood; it's essential. We must not lose sight of the individual.

As to the respect that can flow from anti-scab legislation, everyone has to play by the same rules. As I told Mr. Regan earlier, when an employer is no longer turning a profit and the employees are not being paid, they negotiate to find solutions that everyone can live with and try to make the strike or work stoppage as short as possible.

Think of the consequences when scabs cross the picket line. It leads to violence, and you can imagine what happens once the strike is over! When I say violence, I don't only mean a punch on the nose; it can also lead to psychological violence or trauma. The employees know that the plant is still operating and people are making money doing their job while they are negotiating to get back to work. It makes no sense. It is reminiscent of old-time unbridled capitalism.

And we must not forget what will happen once the strike or lockout is over. If the replacement worker is a well-known member of the community, a brother, a neighbour, an old friend or even an acquaintance, then imagine the bad blood and the poisoned atmosphere in the plant, particularly if it is located in a small community.

Once a strike has ended, replacement workers can find themselves embroiled in litigation. That is another serious consequence. The union charges management, which can find itself in a sticky situation. If you throw into the mix goons who are not permanent employees but whose behaviour gets out of hand, then all of these people may find themselves facing the long arm of the law.

All things considered, I would say that, at the end of the day, anti-scab legislation would provide the community with a certain level of social harmony during negotiations, when the dispute gets tough, regardless of whether the employees are covered by the Canada

Labour Code or by a provincial labour code. We must not forget that this involves their bread and butter.

So I would encourage you not to quote the Montreal Institute or the Fraser Institute in a classroom, because it would be a breach of ethics. Use the governments' official numbers instead, since they are applying the legislation in this area.

• (1200)

[English]

**The Chair:** Madame Davies.

**Ms. Libby Davies:** Thank you very much.

First of all, to Monsieur Nadeau, thank you very much for coming today. It's a pleasure to have you here.

This is a very important bill. Thank you for putting it forward in the House of Commons. It received a very significant vote, so I feel there's a responsibility and a weight to the work we are taking on here, because a significant number of members of Parliament have supported this bill in principle, and we're now here to look at the details.

You have characterized your bill as creating a level playing field and a fair situation. I would certainly agree with you on that. When workers go on strike legally, it's not an easy decision, and the worst thing that can happen is when strikebreakers or replacement workers are brought in. The conflict, the violence, the upset that can create for individual workers and the union members as a whole is something we have seen over the years when we haven't had this legislation. So I very much see this legislation, if it were approved, as a preventative measure, as something that produces stability.

Being from British Columbia, where we've had similar legislation in place for a number of years, I would say we have seen greater stability. Where we've seen ongoing problems has been in the federal jurisdiction, whether it's the Telus workers or the CBC lockout, where, because they were federally regulated, they didn't have any protection.

The purpose of this bill is to provide very important measures to protect the rights of workers and ensure a level playing field.

I wonder if you have any information about what has happened in other industrialized countries. I assume Canada is not alone in this idea of dealing with replacement workers. Most other industrialized countries would have similar provisions to this. I wonder if you could speak to that.

Secondly, in the background notes there was a reference to one particular section that apparently is causing some confusion, that's section 94(2.4), where it's not clear what that section is referring to. So I was just wondering if you are able to clarify what the purpose of that particular section is and whether or not—it's the section that refers to the use of managerial employees, and it's not clear what other section you're referring to. So could you clarify that?

[Translation]

**Mr. Richard Nadeau:** Thank you very much, Ms. Davies.

The bill was adopted in 1993 in British Columbia. During the following year, there were 50% fewer labour disputes than in the previous year. That shows that the legislation did have an effect.

I have not taken a close look at the situation in other countries. One thing is clear, and that is that anti-scab legislation does lead to respect between employers and employees in a labour dispute. There has been anti-scab legislation in Quebec for almost 29 years now. You might remember some labour unrest, for example, the strike at Robin Hood Mills in Montreal, where shots were fired. The strikers were not happy. So they brought in a gun and tried to settle the problem like they used to do in the Wild West. People are injured and sometimes killed because the employer has no respect for the bargaining process.

And there is another matter to consider. In Quebec, about 40% of workers are unionized, while in the United States, the figure is only 13%. Unionization is a preference here. Unionized workers even told me that some employers, for example the IGA supermarket chain, encourage their employees to form a union to ensure good labour relations and fair bargaining practices. Under those conditions, when a strike occurs, both parties already respect one another. That was not the case before 1978, when unionization was frowned upon.

Some European countries could not even fathom the possibility of adopting anti-scab legislation because they could never imagine having to resort to the use of replacement workers. I am referring to the entire continent, as I have never really taken a close look at the situation there.

Mr. Regan also alluded to another important fact when he mentioned the report that was published following the review of Part I of the Canada Labour Code. In the minority report that was drafted by none other than Rodrigue Blouin—a world renowned specialist in labour relations who himself arbitrates labour disputes in Quebec and elsewhere—clearly demonstrates the importance of not using replacement workers. The use of outside workers undermines the situation and leads to problems in the bargaining process.

In Quebec, employees who are protected by the Canada Labour Code—and they represent about 8% of workers—are employed in communications, postal services, correctional services, transportation, pulp and paper, ports and airports. When we look at labour disputes that have occurred in these sectors, we see that they were longer and sometimes—and this can be shown—very violent. In cases such as those, it is clear that anti-scab legislation is essential.

Some solutions have been brought forward. For example, when a dispute occurs, some services are considered to be essential. That means that these services must be maintained for the protection of the public, depending on what professional group is involved.

•(1205)

To protect the employer's property, we recognize that there may be workers on site during the strike. But they are there to maintain equipment and not to ensure production. This is allowed when necessary and proof of that is required.

So steps are taken to protect equipment. The aim is not to destroy the owner or the company or the employer; it is to ensure that both parties can negotiate under the best conditions.

The aim of this approach, which is found in new subsections 94 (2.1) and the following provisions of the bill is to cover all the angles. In some cases, the employer may even refuse to have an employee come back, if there is evidence that this employee engaged in wrong doing, and ensure that this individual does not return to work.

Both sides need to be respected. When we consider these aspects—I have provided you with a copy of the bill—it is always with regard to ensuring that both partners involved in the negotiations are respected.

•(1210)

[English]

**The Chair:** Thank you, Mr. Nadeau.

Mr. Lake, seven minutes, please.

**Mr. Mike Lake:** Thank you, Mr. Chair.

Thank you, Mr. Nadeau.

The first question I have is regarding the duration of strikes. One of the concerns I have—and I've looked at this process all the way through—is that the numbers seem incredibly inconsistent.

You said that strikes last twice as long under Canadian jurisdiction, and you said that you had “very clear solid data”. I'd like to know exactly where that information comes from.

[Translation]

**Mr. Richard Nadeau:** This comes from the Quebec Department of Labour, which is a provincial entity, and which must report to the National Assembly, among others things, on employer-employee relations.

[English]

**The Chair:** Could I ask that that information be tabled with the committee, when you have a second? It doesn't have to be tabled right now, but maybe afterwards. Thanks.

[Translation]

**Mr. Richard Nadeau:** Yes.

[English]

**Mr. Mike Lake:** The data from the labour program, the workplace information directorate—I guess this would be Human Resources and Social Development Canada—talks about “The average duration of work stoppages under the Canada Labour Code is lower than in the province of Quebec:” 43.5 days from 2002 to 2005, on average, under the Canada Labour Code, 46.6 days in Quebec. Can you explain the difference between your information and what the federal government says?

[Translation]

**Mr. Richard Nadeau:** I have a very simple answer for you, Mr. Lake. I could have continued to read Mr. Rodrigue Blouin's minority report but two things need to be considered.

Out of all the statistics, I would trust above all those provided by the departments of labour, rather than those from agencies or studies based on data published here and there in magazines, or by institutes that, at first, are more sympathetic to the unions or to the employers. This is extremely important.

More importantly, this goes beyond statistics, is that it is essential to ensure respect during collective bargaining. In order to do this, it is essential that employers and workers negotiate from equivalent, similar positions. So, the company cannot continue to turn a profit while its employees are on strike: this would be unfair. If one side is not making money, neither should the other side.

Therefore, it is against the law to allow people into a plant who would ensure that the plant turned a profit while the workers no longer have any income to feed their families, all because replacement workers are being allowed to enter the plant. This, above all else, is fundamental.

The statistical data that I have been provided by the government of Quebec come from Quebec sectors—

[*English*]

**Mr. Mike Lake:** Excuse me. I want to make sure that I have time to ask the questions I want, and I think we're off on a different answer now.

Ms. Davies referred to conflict and violence. You also mentioned conflict and violence. I've heard it mentioned by a few labour leaders who have phoned my office as well now. I have a lot of friends who are members of unions, and I would not characterize any of them as being violent individuals. I can't see any of them being violent in a situation with a strike or a lockout.

I'm just curious as to how you feel about this constant talk of conflict and violence and whether you think violence is ever justified in a legal strike or lockout situation, even with replacement workers? Yes or no.

• (1215)

[*Translation*]

**Mr. Richard Nadeau:** Having replacement workers constitutes a form of violence. Violence of any kind is unacceptable. We must not allow violence under any pretext, be it from the employer side or the union side. This is unacceptable.

Now, if we cheat by allowing replacement workers in a small plant while the employers are on a picket line, this is a form of violence. It may be psychological, but if the situation continues, it may turn into physical violence. This is extremely unfortunate and we must not allow this to happen.

[*English*]

**Mr. Mike Lake:** It was a little longer than yes or no, but that's good.

Now, I do want to make a point. You said that if one party isn't making any money then the other party can't be making any money either. Realistically, an employee can go make money to subsidize their income, to support their family, and rightfully so. Obviously, they have to be able to do that in a strike or a lockout situation, have the freedom to do that.

The employer, under this legislation, wouldn't have that same alternative, so I take issue. You make the comment there, but I think you're implying that you would take away the rights of workers to actually go out and get employment by making that statement.

[*Translation*]

**Mr. Richard Nadeau:** Unfortunately, employers may choose to open a plant at another location. They may move their production elsewhere for a period of time. This is unfortunate. Such action should be considered in context. All employees who are on strike do not find alternative employment overnight. Let's not kid ourselves.

[*English*]

**Mr. Mike Lake:** No, no. I never said that. I said they have the freedom to do that. They have the freedom to find an alternative—

[*Translation*]

**Mr. Richard Nadeau:** In fact, such situations may occur but they are more the exception than the rule.

[*English*]

**Mr. Mike Lake:** This is a really important question for me to understand. If a major telecommunications company could not operate because of the prohibition on the use of replacement workers, what do you think will happen to emergency 911 service?

[*Translation*]

**Mr. Richard Nadeau:** That's an excellent question, Mr. Lake.

That bill refers to emergency measures and essential services that need to be maintained. This is similar to a hospital, where essential services must be maintained. Quebec is one such example.

[*English*]

**Mr. Mike Lake:** I want to clarify. That's section 87.4 of the Labour Code?

[*Translation*]

**Mr. Richard Nadeau:** Yes.

You will see references to essential services that need to be maintained in the documents that I have provided. Furthermore, reference is also made to this in the summary written by the committee.

[*English*]

**Mr. Mike Lake:** Okay. The CIRB has ruled that telecommunication services are not essential within the meaning of section 87.4 of the Labour Code, so therefore the provisions of your bill with reference to this section will not ensure emergency 911 service is maintained.

Will you be prepared to expand the meaning of essential services that's currently contained in the code to ensure that other services, such as 911, are maintained in the event of a strike or lockout?

[*Translation*]

**Mr. Richard Nadeau:** Let's use firefighters and ambulance attendants. During a crisis, or a strike, essential services must be maintained. If you are talking about Bell Canada or SaskTel in your region, there are provisions to ensure that essential services are maintained.

You have given me an example, but these are essential services.

I want to give you another very simple example. For the past 29 years in Quebec and since 1993 in British Columbia, during labour disputes affecting key sectors, such as security or services essential to people's lives, the necessary measures have been taken.

•(1220)

[English]

**Mr. Mike Lake:** Telecommunications is an essential—

**The Chair:** Mr. Lake, that's all the time we have. We're going to have to come back to you in the second round.

Mr. Coderre, for five minutes, please.

[Translation]

**Hon. Denis Coderre:** I hope that my five-minute period will seem as long as that of my friend Mr. Lake. That way, I will also be able to take 15 minutes to talk and it will be interesting.

Mr. Nadeau, I have been interested in the issue of replacement workers since 1988. We must be careful not to say “scabs” because that word is negative and pejorative. I quite agree with you: when you talk about preventing the hiring of replacement workers, we must maintain the balance of labour-employer relations, this must not become an irritants. However, social problems can create significant economic irritant, because we have to live together with the results.

I think it would be beneficial to continue to talk about essential services. Since I am a Quebecker and I have experienced several strikes as a consumer and a member of the public, I think it is important for our committee to have you reiterate that it is important for this bill to maintain essential services.

In fact, two aspects of the bill are problematic. That is why I am advocating an in-depth discussion. These two elements must be taken into consideration.

[English]

Can I have some quiet, please? There's a lot of talking. There are two debates here.

[Translation]

**The Vice-Chair (Mr. Jean-Claude D'Amours):** One moment, Mr. Coderre. I would ask everyone to stop talking, please, so that the questioner can make himself heard. Thank you.

**Hon. Denis Coderre:** There are two issues that interest me.

First, essential services need to be protected, thereby reassuring us. If this is not clear enough, we will propose an amendment to ensure that this fully respects the situation in Quebec that, in my mind, is perfect in this regard.

Second, telecommunications is also an essential issue. We suffered through the CBC strike. There is a complication, because legal opinions differ on the impact of subsection 94(2.4) on subsections 94(2.1) and 94(2.2). Let's be clear. If we oppose replacement workers but we allow management the opportunity to still provide its services, we must ensure that a journalist on strike would not have the right to file stories. I think this is essential. We want to ensure that there are no replacement workers, but if there is a strike in the telecommunications sector, we must also ensure that this company can continue to provide services.

I would like your quick comments on these two points, and we can continue our discussion afterward.

**Mr. Richard Nadeau:** Although this does not apply to union members as such, we must understand that in a company, the management, the superintendents, the executives can run the company. We know that this is not always possible for all companies; it depends on the sector. This is an example.

With regard to essential services, we must first of all draw up a list. I think it must be adapted to specific sectors. Now, we have the health sector, public safety and education, which are under provincial jurisdiction. There are also municipal services such as fire fighters, ambulance attendants and so forth. We should determine which services are essential and which ones are not in consultation with the union, the employer and the federal government, which also has its prerogatives. I will not list them all now and I do not want to get into a debate, but we do have to consider these factors. We all agree with this.

**Hon. Denis Coderre:** Mr. Nadeau, we must be clear. With or without a list, we must make sure that the bill also protects citizens from problems caused by lockouts or strikes. In this sense, as we clarify the bill, we must be able to propose the needed amendments that take all these things into account including, among others, the situation in Quebec and the situation in British Columbia.

•(1225)

[English]

On the record, Mr. Chairman, we're not here to create other irritants. We are here to have a balanced way and to make sure that we not only protect the balanced way between the employers and the employees, but that we don't also create some negative fallout for the citizens.

[Translation]

I think that transportation plays an important role.

However, I am not satisfied with your answer regarding telecommunications. This matter will be debated, and there will be points of agreement and disagreement on both sides. Contrary to my Conservative friends are saying, both sides have done their research and taken up firm positions. I think that two meetings will be enough.

Are you prepared to clarify what would happen if a telecommunications company such as a television or a radio station went on strike? Could management still provide services to the public? When news is involved, the company is not alone in doing the work. We must show that news of outside events can still be broadcast. In such cases, will the management of radio or television stations be able to do that work?

**Mr. Richard Nadeau:** To my knowledge—

[English]

**The Chair:** Mr. Nadeau, can we have a quick response? We're just over time.

[Translation]

**Mr. Richard Nadeau:** All right.

Management will indeed be able to carry out the necessary tasks to meet essential needs.

[English]

**The Chair:** Thank you, Mr. Nadeau.

We're going to move to Madame Lavallée, for five minutes, please.

[Translation]

**Mrs. Carole Lavallée:** Thank you very much, Mr. Chairman.

Mr. Nadeau, I am very glad that we are discussing essential services. There are some points that need clarifying. The bill tabled by the Bloc Québécois is effectively the same as the legislation that has been in force in Quebec since 1977. This legislation enables unionized workers involved in a labour dispute to earn extra income to feed their families and pay their rent. We know, however, that such cases are exceptional. Moreover, management of a company involved in a labour dispute are allowed to work. We have seen this happen in cases like the SAQ dispute that took place a year or two ago.

Mr. Richard Nadeau: I think that it was last year, during the Christmas season.

Mrs. Carole Lavallée: In any case, we saw that management got to work and continued selling their products to the Quebec public. Actually, I should have said the nation of Quebec, but this would involve an entirely different issue.

The right to strike even applies at the federal level. The correctional officers union, for instance, agreed with the employer that all services were essential. You are looking somewhat puzzled. I note that it is a sad situation for these people, but it is important for the people of Quebec and Canada that correctional officers stay on the job. We cannot do without their services.

Since 1977, in Quebec, due to the provisions that forbid the use of strikebreakers by employers, the unions negotiated each essential service separately. With regard to telecommunications, I think that the CBC union representatives will raise the issue with their employer and propose new provisions for essential services to cover tragic events like the shooting at Dawson College.

In Quebec, we also created a mechanism called The essential services council. It was set up to deal with certain misunderstandings and conflicts. Mr. Nadeau, the bill you are presenting is exactly like the Quebec legislation. We can refer to what has been done in Quebec over the past 30 years to better understand how these provisions work and how the system is balanced and serves the public's needs.

I want to discuss figures. The figures given by the government of the nation of Quebec have always proved the value of anti-scab legislation. In 2004, for instance, 7% of the Quebec labour force was under federal jurisdiction, but this labour force accounted for 18% of the lost work time.

In fact, Mr. Nadeau, I do not want to hear about figures. In Quebec, we do not need figures: we simply need to look at what is actually happening. It is clear that long and bitter disputes that turn to violence or widespread vandalism always occur in organizations that are under federal jurisdiction. I would like you to tell us more about this fact.

• (1230)

**Mr. Richard Nadeau:** I talked earlier about essential services. When there will be anti-scab legislation at the federal level, the union and management—the management could be the State, depending on the working environment—could determine, depending on according to the sector involved, which services the population has a right to receive, even while negotiations or labour disputes are going on.

The toughest strikes in Quebec, since anti-scab legislation was adopted in 1978, were lengthy strikes. Let us take, for instance, the strike at Vidéotron, which lasted more than 300 days and during which all kinds of incidents occurred because the strike was so drawn out. The point is not whether the union or management was responsible, but because of property damage, there were subsequent lawsuits and the situation was really very sad. We are not talking about something that happened a very long time ago: this happened in 2003.

There was also the case of the Sécuro company, where styrofoam was injected into cash-dispensing machines; the dispute had dragged on so long that violence bred more violence. There was also the Cargill company, in the Baie-Comeau region, that had a most bitter strike that dragged on for ages, more than one hundred days. Another case was that of Radio-Nord, in the telecommunications sector. Once again, because there is no anti-scab legislation, there are no rules for determining essential services. We mentioned, for example, CHNC, the station at New Carlisle, where after some time, the replacement workers themselves asked to be unionized, but this, of course, did not happen.

All these strikes occurred in companies whose employees are subject to the Canadian Labour Code on Quebec territory. In light of these facts, I invite the entire committee to look into the situation of provinces that have anti-scab legislation and to follow the example of what has been done in Quebec for the past 29 years and in British Columbia since 1993. I think that you will discover a successful experiment in labour relations, which have become much more serene. This is why we now have situations where negotiations between labour and management are much healthier, more transparent, and where strikes are not as lengthy and there is less monetary loss.

[English]

**The Chair:** Thank you, Mr. Nadeau.

I just want to point out to Madame Lavallée that she forgot to add “within a united Canada” as part of what she was saying.

**Some hon. members:** Oh, oh!

**The Chair:** Ms. Davies, for five minutes, please.

[Translation]

**Mrs. Carole Lavallée:** Excuse me, but I did not hear what you said.

[English]

**Ms. Libby Davies:** Just for a couple of clarifications more specifically about the bill, and just to come back to the question of essential services, I just want to understand that you are proposing that it would be done on a case-by-case basis, based on the industry or the business in question. If a legal strike took place, the employer would sit down—

In B.C., there's a process. The union and the employer go to the Labour Relations Board and actually make proposals about what are considered to be central services. The board, either through consensus or a directive, actually then designates what are essential services, depending on what the business is or what the service is. You are suggesting a similar process here. There wouldn't be a list of essential services. It would depend on what the sector was or what the business was.

I don't see anything in here that references that, unless I've missed it. Do we actually need to add a section that would allow that mechanism to begin?

Secondly, just to come back to proposed subsection 94(2.4), where you say “The measures referred to in subsection (2.2) shall exclusively be conservation measures”, it's just not clear. If you look at proposed subsection (2.2), it's dealing with the ability of the employer to use management for services. I'm not sure what “conservation measures” are. Is it referring to the wrong proposed subsection? Is it referring to proposed subsection (2.3), which is “Protection of property”? Could you give me some clarification of that?

• (1235)

[Translation]

**Mr. Richard Nadeau:** Subsection 94(2.4) is chiefly meant to preserve jobs, and not to ensure the production of goods and services. It is important to understand that these negotiations must be carried out. We must not wait for labour disputes to arise. When we start negotiating an agreement, when we know that the next collective agreement is expiring, if there is effective anti-sabotage legislation, then, first of all, the partners must sit down and define the essential needs of the company sector by sector, because we could not have the same list for every sector.

In some cases, this will be more specific and in other cases it will be more general. In the case of disaster or security problems, if we have to call in the armed forces, as was the case during the ice storm in Quebec, then the issue is not the same.

Subsection 94(2.4) offers the possibility of ensuring that citizens are secure in their daily lives. Depending on the sector in which you work, you will be affected if negotiations or labour disputes are going on. This list will have to be drawn up before adopting the bill or with the bill in mind.

[English]

**Ms. Libby Davies:** For clarification, in subclause (2.4), when it speaks about conservation measures in subsection (2.2), you are actually referring to what has now been called the “essential services”. Is that correct?

[Translation]

**Mr. Richard Nadeau:** It can be interpreted that way, but the reason for these clauses is the concern about essential services. These are changes to the Labour Code. With regard to the wording, when it comes time to negotiate, we'll have to look at what is being done elsewhere and consider the different experiences of unions, employers, the State or private enterprise. Ultimately, it is still the State that will determine whether the situation is serious or not.

[English]

**The Chair:** Thank you, Ms. Davies.

It seems to me, as we move forward with this legislation, this is one area that's going to have to be a little bit more laid out, because there is still some ambiguity in terms of what it actually relates to. It's something to consider as we move forward.

Mr. Brown, you have five minutes.

**Mr. Patrick Brown:** Thank you, Mr. Chair. I'll be sharing my time with Ms. Yelich.

My concern relates primarily to Ontario. We had some dark days in 1993, 1994, and 1995, when similar legislation was put into effect. I know that in my hometown we lost businesses and we lost jobs. Families who depended on their employment became unemployed. This hurt families. It was, obviously, a disappointing time for Ontario.

The electorate in 1995 loudly expressed dissatisfaction with this policy and the government. Then the socialist premier of Ontario, Bob Rae, was fortunately given his walking papers, and this was one of the significant aspects of his government.

I want to get your comments. How can you reconcile the failure of this in Ontario, when it was used in those two years, with what might happen? And I note, the government at the time was led by Bob Rae, when this disastrous economic period happened.

For repetition, it was Bob Rae, the socialist premier of Ontario—

**Some hon. members:** Oh, oh!

**Mr. Patrick Brown:** —when Ontario undertook such a grave recession. I wonder how you reconcile that.

At the same time, I'd like to note that Ontario without this legislation, where we're prospering now without this legislation, has lost fewer work days than Quebec, where they have this legislation. Why has Ontario been more successful in having labour peace without this legislation while Quebec hasn't? How can you reconcile that? That's the first point.

The second point is, have you had any consultations with the chamber of commerce? I know that my local chamber of commerce is very fearful that this legislation will have repercussions for working families in my riding. I'm sure there are similar sentiments across the country.

**A voice:** Bravo!

• (1240)

[Translation]

**Mr. Richard Nadeau:** Thank you, Mr. Brown.

I was born in Ontario and I am nevertheless delighted that Tommy Douglas opened the way to public health care and that all the other provinces followed suit. As for Mike Harris, providing school boards with fairly equal funding to ensure they could operate was evidence of a very socialist vision. I have a lot of respect for that initiative, even if it came from Mr. Harris. When we talk about developing society, various needs must be taken into consideration.

That said, you will never really be able to assess the impact of the bill on replacement workers in Ontario, since you didn't keep it for very long. In fact, immediately after the defeat of Mr. Rae's NDP government, the Conservatives axed the bill. Not much time passed. If you want positive examples of labour relations, look to Quebec and British Columbia. Compare the situation in those two provinces to what existed before and after.

You mentioned the chambers of commerce. The Conseil du patronat du Québec never took steps to prevent implementation of legislation prohibiting replacement workers in Quebec. The Council, along with the general public, clearly saw that a kind of social peace with regard to labour negotiations had been created. We are talking here about the 92% of workers who fall under Quebec jurisdiction, and not federal jurisdiction, meaning under the Canada Labour Code.

[English]

**Mr. Patrick Brown:** Mr. Nadeau, I wanted to get another quick question in.

Obviously we can have different opinions on the length of that period. Many of the thousands and thousands of working families who lost their jobs because of that felt that two years was too long, but that's a point of disagreement.

In 2003 the provincial Liberals—and I know Ms. Brown, being a member from Ontario, obviously would support them—reviewed the legislation and decided not to bring it back. Why do you believe that Premier Dalton McGuinty rejected this after the review as not being an appropriate course for Ontario to take? So we've seen a decision

by the Conservative government in 1995 that this recession-causing initiative was bad, and now we've seen the opposite political party come to the same conclusion. This is rather conclusive evidence in Ontario that it doesn't work.

Do you have any sentiments to offer on that, on Mr. McGuinty's decision?

• (1245)

**The Chair:** Just a quick response, Mr. Nadeau.

[Translation]

**Mr. Richard Nadeau:** We would have to ask Mr. McGuinty. I'm not here to answer for him.

[English]

**The Chair:** Thank you very much. That's all the time we have right now.

Mr. Nadeau, I want to thank you for coming out today to talk about your bill. We're going to move very shortly in camera.

You indicated to us that you had some stats for us. I'm wondering if you could table those with the clerk or the researcher so that we could get them distributed to our members.

We'll take a second just to go in camera to talk about motions.

Yes, Mr. Nadeau.

**Mr. Richard Nadeau:** Okay, I will bring you this.

[Translation]

I will bring those documents for the next meeting.

[English]

**The Chair:** Thank you.

Mr. Regan, you had a motion. Did you want to move that motion today or...? Next time? Okay.

The meeting is adjourned.









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