



House of Commons
CANADA

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

HUMA • NUMBER 042 • 1st SESSION • 39th PARLIAMENT

EVIDENCE

Tuesday, December 5, 2006

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Chair

Mr. Dean Allison

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•(0910)

[English]

The Chair (Mr. Dean Allison (Niagara West—Glanbrook, CPC)): Pursuant to the order of reference adopted by the House on October 25 and to the motion adopted by this committee on November 23, the committee will now resume its study on Bill C-257.

The meeting will go for a maximum of 75 minutes. The witnesses will have seven minutes to make their presentations. There will be two tours of questioning, one for seven minutes and a second round of five minutes. I'll do my best to keep my eyes closely on the clock to make sure we respect the agenda of the day. I also need to remind everyone, although I don't think I need to for this particular round, that all questions should come through the chair.

Let us get started, then.

Mr. Lake, did you have a point of order?

Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC): It's a point of clarification, I guess.

I just want to clarify whether we are dealing with three different meetings today or dealing, as the motion said originally, with one four-hour meeting. The reason I ask that question is that it impacts upon the questioning rounds as we go through.

Can we clarify what questioning rounds are planned for the day?

The Chair: My understanding is that the motion did read that we would look at two separate meetings of four hours. However, we also decided at that same time that we were going to look at different panels, so that we could break up the witnesses so as not to have 12 witnesses at the back of the table.

I think at this point we're going to go with the two separate rounds, just as we have always gone, in the normal order during the course of each. We'll restart the rounds with each separate group.

Mr. Regan.

Hon. Geoff Regan (Halifax West, Lib.): Mr. Chairman, just to be clear, originally we had it that the minister's presentation would be separate from those two four-hour meetings. Did we change that, or what's the situation now?

The Chair: Where we are, as I think was discussed before, is that we wanted additional witnesses. The minister was not able to make it to the meeting. Maybe at the end of today we can clarify whether we require some extra meetings. I know the minister has indicated that if

he needed to come back for clarification, that would be a possibility as well. We'll handle that in due course.

Thank you, Mr. Regan.

Mr. Lake.

Mr. Mike Lake: Do you want to clarify, then? As we go through our four hours—it's after 9 o'clock now, and we'll be going until 1:10, probably—will the first two rounds of questioning in that four hours be as 1, 2, 3, 4 and 1, 2, 3, 4, and then, following that, alternating back and forth?

The Chair: No, what we're going to be doing, because we've decided not to bring all 12 witnesses at the same time, is start each meeting separately. It will be a separate meeting, and we will be starting the rotation over again at the beginning.

Mr. Mike Lake: That's not what the motion....

Can we read what that motion said to start with?

The Chair: The motion reads:

Preferably on Tuesday December 12, the Committee meet for four (4) hours to proceed with clause-by-clause of the Bill and, if the House of Commons is scheduled to adjourn earlier, then, preferably, the Committee meet before the adjournment of the House to proceed with the clause-by-clause of the Bill.

I'm sorry, Mr. Lake, just hold on a second.

Where's the first part of the motion?

It was agreed, That the Committee adopt the following work plan for its study of Bill C-257: Tuesday November 28, appearance of Mr. Richard Nadeau, the sponsor of the Bill, and of the Honourable Jean-Pierre Blackburn, Minister of Labour; Tuesday December 5, the Committee sit for four (4) hours to hear witnesses; Thursday December 7, the Committee sit for four (4) hours to hear witnesses....

So it was agreed that we would sit for four hours, but because we need to break up the meeting to hear different groups of witnesses, they are separate meetings, and that's why we'll be starting the witnesses over again.

Mr. Mike Lake: Okay. What I'd like to do, then, is—

The Chair: Hold on one second. Speak through the Chair, Mr. Lake.

I'll recognize Madame Lavallée after I hear Mr. Lake.

Mr. Mike Lake: What I'd like to suggest, then, is that in order to achieve balance.... After the meeting with the minister we have witnesses coming, two in favour, two against. I think that in the interest of balance we should come up with a questioning plan that reflects that. I believe this would make sense. I understand that in terms of practicality we have to break this into separate groups; I understand that.

Given that, I think it would make sense that we go to a single round, where we do it as we've always done it—1, 2, 3, 4—but in the second round I would suggest that in terms of balance it would make sense to alternate questions for each of the separate groups. I won't call them meetings, because we've said in the motion that this is one four-hour meeting. According to the original rules that we set out for this committee, what we should be doing is going to alternating questions after the first two rounds for the rest of the meeting.

The Chair: Thank you, Mr. Lake.

Madame Lavallée.

[Translation]

Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ): Mr. Chairman, the minister has taken the trouble to come here, and his time is valuable. So out of respect for our guest and his position, I think we should welcome him and proceed with our discussion. Then, between his testimony and the appearance of our next witnesses, we could discuss this further. It is a simple question of logistics.

[English]

Mr. Mike Lake: Thank you, Mr. Chairman. That sounds fair.

The Chair: Thank you.

Thank you, Minister Blackburn. We'll get you to start, with seven minutes, please.

[Translation]

Hon. Jean-Pierre Blackburn (Minister of Labour): Thank you, Mr. Chairman. Honourable members, good morning. Thank you for inviting me to appear before you to discuss Bill C-257, An Act to Amend the Canada Labour Code (Replacement Workers).

As you know, if adopted this bill could have serious consequences for the conduct of labour-management relations in the federally regulated private sector, and I think that it is important that we all take a considered look at these consequences before any irrevocable decisions are made.

Labour legislation obviously impacts both labour and management and any law affecting their relationship must take into account the aspirations of both parties. But the impact of labour management relations goes beyond the domain of the two parties; they affect national economic and social outcomes. They affect production, employment, wage gains, profits, individual income, productivity and competitiveness, to name a few of the key elements of an economic and social system.

Mr. Chairman, our government is based on principle. In the context of labour management relations, there are two key principles that apply: balance and evidence.

The current provisions of Part I of the Canada Labour Code came into being after a long and considered study that included a Task Force chaired by Andrew Sims, a former chair of the Alberta Labour Relations Board. The Task Force report, entitled *Seeking a Balance*, attempted to do exactly what its title said—to balance the interests of both employers and employees fairly. Even the Task Force did not reach unanimity on the issue of replacement workers, but the majority report recommended a provision that would give employers the flexibility to meet their operating responsibilities, while preventing them from using replacement workers to undermine a union's legitimate bargaining objectives.

I am going to repeat these three short lines because they are important: allow employers to meet their operating responsibilities while using replacement workers, but not in a fashion that would undermine a union's legitimate bargaining objectives. That's what you call balance.

The current provisions of the Canada Labour Code are based on this very reasonable compromise recommended by Mr. Sims. Part I of the Code is the product of a considerable effort to address the interests of all stakeholders, not just the interests of one stakeholder at the expense of all others. Bill C-257 would substitute a very one-sided approach, and would undo the years of work that went into developing fair and balanced labour legislation at the federal level.

The industries that fall under federal jurisdiction operate in many essential sectors such as telecommunications right across Canada, not just in one province; transportation Canada-wide; grain handling; and longshoring. A work stoppage in any of these industries causes significant disruption, not just for the employer but for the many Canadians who depend on the effective and efficient operation of these key infrastructure industries.

Before the 1999 amendment to the Code, there were numerous work stoppages in the federal jurisdiction that required Parliamentary intervention in the form of back-to-work legislation, in order to ensure that these important services continued without interruption. Since the 1999 amendments, there has been no such need for Parliamentary intervention—a fact that I submit, Mr. Chairman, indicates that the right balance between the competing interests of labour and management has been found, and should be maintained.

Bill C-257 would disrupt this fragile balance. It would remove the economic discipline that obliges unions and employers to negotiate reasonably. The balance found in the current legislation enables unions to put pressure on employers while simultaneously allowing employers to operate at some level during a labour dispute, without overly compromising the quality of services provided.

●(0915)

In other words, imagine there was a strike in Canada's port or railway services sector. That would have an impact throughout the entire country and would affect the economy from coast-to-coast. It is for this reason that we must consider maintaining the current balance when it comes to using replacement workers. The employer must not undermine the union's representativeness. Should the union deem this to be the case during a strike, it may lodge a complaint against the employer, before the Canadian Industrial Relations Board.

Take air transport, for example. It is an important public service which has a major impact on Canada's economy. No one would dispute this. Let's imagine the baggage handlers and flight attendants of a particular carrier decide to go on strike. If all of a sudden these groups go on strike, the airport authorities will make an effort to continue to provide services to certain destinations, both domestically and abroad, and maintain some services, while being fully aware that things could not continue to operate that way for very long. And it wouldn't be in the interest of flight attendants or baggage handlers to unduly prolong the dispute. They would be aware of the stakes and what they might lose both at the bargaining table and with respect to the public's opinion should the conflict drag on. Both parties hold some sway in such a confrontation and this is exactly what strikes the balance we enjoy under the current legislation, which was enacted in 1999.

The use of replacement workers helps to maintain this balance without giving either party too much power. The proof is in the pudding: 19 complaints have been lodged with the Canada Industrial Relations Board over the past seven years, and only two are still being considered.

Yes, the system works. Some people who agree with me, however, maintain that air transport does not provide essential services such as those dispensed in hospitals and that air transport is not a matter of occupational health and safety. Nevertheless, no one can deny that air transport is an important service which, if not provided, will have nation-wide economic ramifications.

The economic impact of a strike in the port of Montreal or Vancouver, or a strike in the rail sector, whether we are talking freight or passenger transportation, would be just as devastating as the examples I referred to earlier.

What would we do in Canada if the 911 service went on strike? Do we have any essential services? The current bill does not include any. Everything would be paralyzed.

A failure to recognize the Canada-wide economic repercussions of a prohibition on the use replacement workers amounts to a failure to acknowledge the realities of federally regulated workers. If we ban employers from using replacement workers during a strike, we take away their right to continue to operate in an attempt to keep their business and the employees. This means potentially going under or having to lay off employees.

Where the use of replacement workers during a strike prohibited, as is suggested in Bill C-257, both employers and employees will suffer. The balance will be disrupted, and both parties' right to choose is taken away from them. How can you take away both parties' right to make a choice and still say that Bill C-257 has unanimous support? It simply isn't the case, and if you need to ask the question, you've got your answer.

A second principle that must be taken into account in determining whether a law should be modified or not is the principle of evidence. Before a law is modified, there should be clear evidence showing that the change will be beneficial. Mr. Chairman, there is simply no evidence whatsoever to show that the changes contained in Bill C-257 will bring any benefits to the labour-management relationship or to the national economy.

Contrary to the claims of supporters of this Bill, there is no evidence that replacement worker legislation reduces the number of work stoppages. In fact, Quebec continues to have significantly more work stoppages per employee than Ontario, a province with a comparable economy that does not prohibit the use of replacement workers.

Secondly, in jurisdictions where legislation prohibiting the use of replacement workers is in place, there has been no decrease in the average duration of work stoppages. In fact, independent academic studies have concluded that prohibiting the use of replacement workers during labour disputes is associated with more frequent and longer strikes.

● (0920)

Mr. Chairman, our collective bargaining system is built on the right of both parties to periodically test their respective economic strength, and the collective bargaining outcomes that result reflect the true worth of the employees' services in a free market place. If this discipline of economic reality is removed from the collective bargaining arena, then the possibility is heightened that one side will pursue a position that is so unreasonable that it cannot be sustained, and the enterprise will fail. Is this environment that we want to create for our key infrastructure industries? I say no, Mr. Chairman, on the basis of the lack of evidence.

In closing, I reiterate that the current provisions of the Canada Labour Code represent an appropriate balance, they have worked well for the last seven years, and there is no evidence that legislation banning the use of replacement workers will reduce the frequency or duration of work stoppages. We are risking economic havoc if we tinker with the current legislation in the manner proposed by Bill C-257.

I therefore urge committee members to put partisan politics aside, to consider what is in the best interests of all Canadians and the free collective bargaining system that we all believe in passionately, and to refuse to proceed any further with this bill.

Thank you, Mr. Chairman.

● (0925)

[English]

The Chair: Thank you, Minister Blackburn.

We're now going to start with Mr. Regan. Seven minutes, sir.

[Translation]

Hon. Geoff Regan: Thank you very much, Mr. Chairman, and thank you, Minister, for being here today to discuss the issue of balanced industrial relations.

[English]

I'll switch to English, if you'll forgive me, because I'm more familiar with some of the terminology in English.

I'd like to first ask whether your department keeps track of picket-line violence in industrial disputes. Then, how many employers covered under the Canada Labour Code during a strike or a lockout between 2003 and 2005 used replacement workers during that period? Also, what proportion of those industrial disputes involved violence? Can you tell us that?

[Translation]

Hon. Jean-Pierre Blackburn: If you don't mind, I'll ask Ms. MacPherson...

Hon. Geoff Regan: I understand it is rather a technical question.

Hon. Jean-Pierre Blackburn: Yes, indeed.

[English]

Mr. Munir Sheikh (Deputy Minister of Labour, Department of Human Resources and Social Development): May I request your permission to let Ms. MacPherson speak?

The Chair: Sure.

Ms. Elizabeth MacPherson (Director General, Federal Mediation and Conciliation Service, Department of Human Resources and Social Development): I am Elizabeth MacPherson, director general of the Federal Mediation and Conciliation Service.

We don't maintain statistics regarding picket-line violence. To the best of my knowledge, in the last two years replacement workers have not been used in very many cases in federal jurisdiction. We have some statistics on the number of complaints that were made to the Canada Industrial Relations Board and the results of those complaints, but that's as close as we can come to responding to your question.

Hon. Geoff Regan: Perhaps I could ask the minister to have those tabled or provided to us in a few days.

Let me turn to the question of the present bill and what difficulty unions may have in proving and establishing that the use of replacement workers is undermining their capacity to engage in bargaining. It seems to me that is one of the key concerns of unions, that it creates an onus against them, which is sometimes very difficult for them to overcome. What can you tell us about that?

[Translation]

Hon. Jean-Pierre Blackburn: Let me come back to the use of replacement workers and the importance of the balance of power. If the current legislation, which was enacted in 1999, permitted the use of replacement workers and yet, conversely, a striking employee had no guarantee he would get his or her job back, then of course, there would be a lack of balance. It would not make sense.

Employers, however, may call on replacement workers when there is a strike. The purpose is not to undermine the union's representational capacity. And the employee, who is on the picket line, returns to his or her position at the end of the dispute.

I'd also like to talk about another aspect of the balance of power. It isn't always easy finding an employee to replace the employee who normally fills that position in a business. This places pressure on the employer. The employer faces the pressure of having to find a competent person to carry out the tasks the striking employee would normally be responsible for.

There is therefore pressure on the employer to settle the dispute and also pressure on union representatives and on the employees who are on strike. During a dispute, business suffers. That is a form of pressure. Workers have to bargain their return to work and, of course, maintain their livelihood and go on with their family lives and their activities in society. That's why the legislation was so carefully considered; a lot of thought went into it.

Your committee will be hearing from about 20 groups, some of which asked to appear before you. I found out that labour and management representatives, and other such witnesses, will have 20 minutes to make their representations. Just 20 minutes! Imagine travelling from Vancouver to appear for a mere 20 minutes before a committee; the witness would have seven minutes to present his or her brief and 13 minutes to answer questions. They are being squeezed in. This shows, in my opinion, a lack of respect towards these representatives who have taken the time to appear before you and explain the pros and cons of this bill.

• (0930)

Hon. Geoff Regan: I appreciate your comments, minister. However, I would like you to stick to the questions, please.

I'd like to continue our discussion on balance and the use of replacement workers. Should employers decide to stop the workers from entering the workplace, don't you think a balance would better served by having a ban in such a situation?

[English]

Why would you not support that type of measure, for instance?

[Translation]

Hon. Jean-Pierre Blackburn: Could you please repeat your question? I missed part of it.

[English]

Hon. Geoff Regan: That's my fault for trying to use both languages and using my second language badly. *Je m'excuse.*

Let me try again. Would you think there'd be a better balance between employers and unions under the act, if the section included a ban on replacement workers in cases where employers lock out workers? And if not, why not?

[Translation]

Hon. Jean-Pierre Blackburn: If there is a lock-out—

[English]

The Chair: You have one minute to respond.

[Translation]

Hon. Jean-Pierre Blackburn: If there is a lock-out, as a rule, the business stops operating. That's simply what happens. If there's a strike, things are different. But during a lock-out, work is put on hold.

[English]

Hon. Geoff Regan: I'm not certain. Obviously, the point is that there's no ban on the employer using replacement workers in the case of a lockout. Should there be one? That's the question.

You're telling me that it's not really an issue.

[Translation]

Hon. Jean-Pierre Blackburn: I'd remind you again of the importance of maintaining balance. If you put a ban on the use of replacement workers you are giving power to the union movement. In this sense, the balance is disrupted because you're giving one group an incredible amount of power to pressure the other. And such pressure is all the more far-reaching when the conflict is nation-wide.

If Canada's banks stopped operating, if the stock market or the airline industry ground to a halt, what sort of impact do you think this would have on Canada's economy? The whole country would be paralyzed. That's why using replacement workers is important, with the proviso, of course, that unions' representational capacity isn't undermined. The proof is in the pudding: 19 complaints have been filed with the Canada Industrial Relations Board. Of these 19 complaints, 13 were deemed unsubstantiated, two were withdrawn and two remain under consideration.

So, the system works. That's why you need to be careful. Be extremely careful.

[English]

The Chair: Thank you, Mr. Regan.

We're going to move to Madam Lavallée for seven minutes.

[Translation]

Mrs. Carole Lavallée: Welcome minister. Thank you very much for coming this morning to talk to us about your vision of the anti-strike breaker bill.

On November 5, 1990 you were a Conservative member of Parliament for the same riding you represent now, and you voted in the House in favour of a bill tabled by one of your colleagues at that time, the member for Bas-Richelieu—Nicolet—Bécancour, Mr. Louis Plamondon.

Your decision to support the bill was certainly not based on statistics, because Quebec's statistics show that in 1989, 6.9% of the person-days lost were by employees under federal jurisdiction. For statistics on the duration of disputes in terms of the number of days lost, you cannot put employees under federal jurisdiction being put in the same basket as those under provincial jurisdiction. Distinctions must be made.

Nor can we calculate the frequency, because labour disputes may last a day, a half a day, or perhaps three shifts. The real statistic is the number of person-days lost. Comparisons must be made within the same province between employees under federal jurisdiction and employees under provincial jurisdiction.

The Quebec government's statistics show that for certain years they are not very impressive. I will give 2002 as an example. In Quebec, workers under federal jurisdiction represented approximately 6% to 8% of the workforce. In 2002, 47.8% of the person-days lost were by employees under federal jurisdiction. That figure is a far cry from their 6% or 7%.

There have been better years, it is true: 14.2%, 8% and even 1.6% in a given year. However, the averages of the two charts that can be found on the Quebec government website are 12.2% and 18%

respectively, from 1995 to 2004; but there are also years showing averages of 47%.

Minister, these are real statistics that must be taken into consideration.

I will make two comments and let you react to them.

The balance you are talking about is the employers' balance. The Sims report that you quoted did indeed result in an amendment to the Canada Labour Code aiming at authorizing the use of replacement workers. However, Mr. Rodrigue Blouin wrote a dissenting report on replacement workers. We are not talking about just anyone here: he is a great intellectual from Quebec and a professor at Laval University. His whole study is based on the fact that replacement workers upset the balance of power between the employer and the employee.

Replacement workers are intruders in a dispute that concerns two parties: the employer and the employees. These intruders always shift the balance of power in favour of the employer, and never, absolutely never, in favour of the employee.

And yet, the anti-strike breaker legislation that has been in effect in Quebec for 30 years, since 1977, forcefully demonstrates to what degree union peace can be achieved and this balance respected. In fact, in Quebec over the last few years, the long, painful and difficult strikes always involve businesses under federal jurisdiction. There was the Videotron employees strike; the Radio Nord Communications strike that lasted 22 months; the Cargill strike that lasted 36 months. There was even a strike, at CHNC, a radio station in Bonaventure, that lasted three years. And what did the 12 replacement workers do, after two years? They asked for their union certification.

This clearly shows that not only are replacement workers intruders as far as the balance of employer-employee negotiations is concerned, but also that they are workers unlike the others, since they were refused their union certification.

● (0935)

Hon. Jean-Pierre Blackburn: Ms. Lavallée, I will make a few comments on these studies.

We can all quote from studies, but I don't think it is in any of our interests to mislead parliamentarians by quoting studies for partisan purposes only. What is at stake is too important. We are talking about the success of the economy, about employees who can experience a strike, who are without a salary—

Mrs. Carole Lavallée: We are talking about workers' quality of life.

Hon. Jean-Pierre Blackburn: That is right, but businesses must also be able to function. I want to come back to the importance of balance. Here are a few studies.

The Landeo, Nikitin study from 2005 said that the availability of replacement workers reduced the probability of a strike.

The 2005 Singh, Zinni Jain study stated that the effect of replacement workers depended, amongst other things, on the kind of industry the employer was operating in, but that they could cause antagonistic labour relations.

Another study, the 1999 Cramton, Gunderson and Tracy study, said that the average duration of a strike was 32 days longer in jurisdictions where there was anti-strike breaker legislation, and that the probability of a strike was 12% higher.

It seems that strikes last longer where there is anti-strike breaker legislation than where there is not, according to this study published in 1999, at the very time that Parliament passed the legislation. There are other similar studies. You can see that that contradicts certain perceptions.

Moreover, as far as the average length of work stoppages is concerned, from 1975 to 1977, before the legislation was enacted in Quebec and British Columbia, it was 28 days in Ontario and 37 days in Quebec.

Between 2003—

● (0940)

Mrs. Carole Lavallée: I'm interrupting you, minister. Earlier, I said that it made no sense to compare Ontario to Quebec. We should compare Ontario to Ontario and Quebec to Quebec.

In Quebec, we must compare the person-days lost by employees under federal jurisdiction to person-days lost by employees under provincial jurisdiction. That is the proper way to do statistics. Those are the statistics that makes sense; the others do not.

For example, in Quebec, in 2002, 48% of the person-days lost were lost by employees under federal jurisdiction. And yet, you want to include Ontario's statistics. That is what does not make any sense.

Hon. Jean-Pierre Blackburn: How is it that you do not want to compare ourselves to Ontario, whereas that is our neighbouring province? Our economies are often intertwined. On the contrary...

What is more, at one point in time the province of Ontario had also passed anti-strike breaker legislation. A few years later, the province changed its mind and rescinded it. If it had been good, after having been passed, it would not have been abolished. How is it that it was passed, and then abolished?

Mrs. Carole Lavallée: Minister, you have put forward that argument several times, and it is rather bizarre.

[*English*]

The Chair: That's all. We're over time now, over seven minutes.

I want to thank Madame Lavallée.

I do have "Seeking a Balance", and we're talking about Mr. Blouin. He quotes in here: "To this extent, the objective of prohibiting the use of replacement workers cannot be to prevent the business from carrying on its activities...". He then goes on to say: "...the employer cannot be prevented from subcontracting work.... This option that contracting-out gives the employer thus becomes crucial, just as the ability to find work elsewhere during the dispute becomes crucial to the employee."

That was a quote from Mr. Blouin in terms of what he did say in his minority report.

We're going to move to Ms. Davies, please, for seven minutes.

Ms. Libby Davies (Vancouver East, NDP): Thank you very much, Chairperson.

Thank you to the minister for appearing today on this very important bill.

You made a comment about the length of time that the witnesses have. I would say that I'm not aware that it's different from panels or lengths of time that witnesses have on other subjects or bills. I think we're using the normal procedures to deal with this bill and to hear from witnesses.

However, based on your comments and hearing what you had to say today, your central point seems to me to be that you want to maintain the current balance. You talked a lot about "maintaining the balance". I think this is a very central question to this bill, because the way I see it is that as it stands now, the lack of anti-strike-breaker legislation means that there isn't an adequate balance. When workers legally take strike action and then they see that replacement workers can be brought in, it seems to me that's what creates a lack of balance. It's something that then provides a major tool in favour of an employer to break the strike that has been legally constructed and legally taken. I think many of us see the anti-strike-breaker legislation as something that actually does maintain the balance. It does create a level playing field.

I'm quite surprised that the federal government, your department as the minister, would play into this climate of fear that I think is being created by some employers that this legislation is going to create chaos. That's what's underlying the messages that we see in the advertisements and that I'm sure we're going to hear about from some people today. It seems that you are adding to the message that it will be a climate of confusion and chaos. People will obviously be fearful of that.

What you haven't said is that where we have anti-strike-breaker legislation there is a process. For example, in B.C., where I'm from, there is a process for looking at what is regarded as essential services. On your example of looking at airport services, for example, in a federal jurisdiction, if this bill came into effect—we obviously have to look at amendments and so on—from what we know from other legislation, there obviously would be a mechanism to deal with essential components. I mean, we have that now in other jurisdictions. Again, that is something that's part of a level playing field and a balanced approach. I'm really surprised at the line you are taking here in terms of saying that you are maintaining a balance but actually being against a bill that would actually create a level playing field.

Secondly, I take it from your comments that you do support the principle of replacement workers. You do believe that they should be able to come in and in effect disrupt a legal strike. In hearing your words today, that's really what you're saying by speaking against this legislation. Are we to assume that you do support replacement workers, and that the employer should have the right to do that?

● (0945)

[*Translation*]

Hon. Jean-Pierre Blackburn: Ms. Davis, you believe that when replacement workers are used, the balance is upset. That is not true, particularly when the labour dispute is on a national scale.

First of all, Bill C-257 does not cover essential services. How are we to maintain essential services on a national scale? Must we establish them in every subgroup of workers? How would that work? Any small group of employees has the power to paralyze the economy. A small subgroup goes on strike in an airport, which then must shut down, and air transportation is suspended across the country. That would be a good example for another small group that provides service to passengers on board trains. It applies to the tiniest component of any service that we would find in this country. Internet service is suspended, and the economy of the entire country is paralyzed.

This is not an issue of minor importance, it is major. We must be able to maintain this balance by allowing the use of replacement workers. I repeat, striking employees, once the strike is over, return to their jobs. They are not fired; they are obliged to resume their duties. An employee who refuses to work during a strike cannot be penalized by the employer. The employee is protected by the current legislation.

I remind you of the importance of viewing things from a national perspective. What will we do if the baggage handlers are on strike and there is no more air transportation in the country at some point? How long can we allow that to last? How long can the country run that way? How long can we function if we cannot go to the bank? A day, two days, three days, three months, three years? How long?

That is what you, the members of Parliament, will be facing if you pass this legislation. That is what will happen. That is why it is important to maintain this balance. The current legislation is balanced. There was consensus between the parties, and at the time, the Liberal government and the Conservatives agreed. Everyone felt that, indeed, it made sense. All of a sudden, the Liberals were able... I do not know what the current leader's position is, but I appeal to him to bring people back to order. Recess is over; this is a serious debate.

[English]

Ms. Libby Davies: I hope the new leader of the Liberal Party will support this bill, because it is a very fair and equitable bill.

It seems to me the answer you provided begs the question that when a dispute happens there are provisions and mechanisms that exist in all jurisdictions to deal with essential services. That's something you do on a case-by-case basis. I don't see that this situation here would be any different.

So again, I really feel you are creating a climate of fear when that doesn't need to exist. In terms of a determination, usually with a third party, there are provisions to deal with essential services that both the employer and the union can be involved in. That exists now. Do you not agree? That is a mechanism that exists across the country and could be used in a federal jurisdiction.

The Chair: Minister, you have about 10 or 15 seconds left. Just a quick response, please.

[Translation]

Hon. Jean-Pierre Blackburn: Thank you.

Before telling us that we want to create a climate of fear, you have to face reality. I repeat: all of this is of national importance. You must

see that. The economy must continue to function, and the legislation that is in place...

Do you believe that when the previous government analyzed this legislation in 1999, that it was done quickly and haphazardly? It was studied and reviewed at length. That is why we decided to allow for the use of replacement workers. On the other hand, after a strike, employees return to their positions, and the union representational capacity cannot undermine that. There is a kind of balance.

Had we said to employers that they could use replacement workers and that, once these people came to work, the ones left outside could stay there, then one could say that there was no balance and that we had favoured the employer to the detriment of the union and the employees.

However, that is not what parliamentarians decided: they had the good idea to go for a balance so that things would work, and they have worked since 1999. I will repeat again, there has been 19 complaints: 14 were withdrawn, 2 were rejected and 2 are still being studied by the Canada Industrial Relations Board.

• (0950)

[English]

The Chair: Thank you, Mr. Blackburn.

We're going to move now to the last round of seven minutes.

Mr. Lake, please.

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

Thank you, Minister, for coming in today.

I want to comment, first, on something Ms. Davies referred to. She repeatedly used the phrase "climate of fear on the part of employers". I find that interesting, given that virtually every lobbyist who has contacted my office has talked about the impact of increased violence on picket lines and things like that should this bill not go forward. I find it interesting to hear that terminology "on the part of employers" being used by Ms. Davies here.

I want to talk quickly about the people in my riding with regard to that. I have many union members in my riding and many friends who are members of unions. I want to say that I just don't see that. They're not violent people. They're hardworking people. They want fairness, and they want to be treated fairly. For the most part, most of them feel they are treated fairly by their employers, who are also working very hard. On this issue, balance is the key word here, and we do have that balance right now.

First off, I want to ask the minister a basic question. I want him to reiterate why he feels it is so inappropriate at this time to proceed with this bill to ban replacement workers.

[Translation]

Hon. Jean-Pierre Blackburn: Thank you, Mr. Lake. I think we can take another fact into consideration. Let us compare salary increases for employees under federal jurisdiction over the last few years to those for employees who are subject to anti-strike breaker legislation. I think that this is an interesting fact.

Wages increased by 2.5% in 2005 at the federal level. In Ontario, they went up by 2.3%, and in Quebec, 2.4%. Can anyone really maintain that employees under federal jurisdiction have the lowest wages, when compared to what is happening in the provinces, and that their wages are not comparable? I believe not. I believe that everyone can agree that there is a kind of balance in this respect, whether the person is a federal or a provincial employee. Whatever jurisdiction the workers are in, it works well. That is another important fact.

One could say that there is a problem if replacement workers did not have good wages compared to the others and did not benefit from the same wage. However, that problem does not exist. I will give those figures again. The percentages were 2.5% at the federal level, 2.3% for Ontario, 2.4% for Quebec and 2.3% in British Columbia, in 2005. In fact, you can see that the federal figure is slightly higher.

Let me tell you, sir, about another aspect. Once the bill had gone through second reading, business people started to realize what was going on. The President and Chief Executive Officer of the Canadian Chamber of Commerce, Ms. Nancy Hughes Anthony, stated the following:

This is a so-called remedy without a problem. And it's a remedy that will come back to cause great problems because it could result in the shutting down of vital transportation, telecommunications and financial services that are the backbone of our economy and which Canadians rely on.

Last week, the Canadian Federation of Independent Business, which represents 90% of small- and medium-sized businesses, issued a similar opinion, stating that this had to stop because it did not make any sense. Moreover, Bill C-257 does not address essential services.

This is why you should not even do a clause-by-clause study of this bill, you should reject it. It does not make any sense.

[English]

Mr. Mike Lake: There's a provision dealing with replacement workers currently in the Canada Labour Code. In accordance with the provisions, complaints can be filed with the Canada Industrial Relations Board, the CIRB. Can you tell us how many times the board has found an employer guilty of using replacement workers since this new legislation came into force in 1999?

• (0955)

[Translation]

Hon. Jean-Pierre Blackburn: Since 1999, representatives of various unions have complained to the Canadian Industrial Relations Board 19 times on the pretext that the employer had used replacement workers with the goal of undermining their union's representational capacity. The Canadian Industrial Relations Board has a mandate to deal immediately with such issues. Of the 19 complaints, 14 were withdrawn: the concerned party decided to withdraw it. Following that, two were rejected, and two others are still being studied by the Canadian Industrial Relations Board. If you do the math, 19 complaints in 7 years amounts to two or three complaints on average per year. You can see that the legislation works well.

[English]

Mr. Mike Lake: I just want to touch on essential services, quickly. It's come up a couple of times. Do you think the proposed provisions regarding essential services are adequate?

[Translation]

Hon. Jean-Pierre Blackburn: There are none. There is no essential service provided for in the bill. Essential services exist in the provinces, in the areas of health and education, which are under provincial jurisdiction. However, the current bill has no provision for essential services. If the bill is passed, 911 could stop working, because there are no essential services; nothing is provided for.

As I have already said, in order to establish essential services, we would have to plan for every small category, for example, air transportation, railways and telecommunications. Essential services would have to be identified for every subsector in order for the system to work. It is complicated.

[English]

The Chair: Thank you, Mr. Lake.

One final comment... Mr. Sheikh.

Mr. Munir Sheikh: The CIRB has not even in a single case found an employer guilty of the question you asked. The debate here has been between essential and non-essential services. I think there is a category in the middle, which is, as the minister referred to it, really important services. The question there is whether or not for those really important services you do declare them essential or you do let the two parties deal with them in a way that they will not operate on a normal basis, but at some reduced basis. That is the purpose of the existing legislation, which simply says this is not essential, but this is not unimportant either, so let the two parties work this thing together. The business can operate at much reduced levels and the workers can go on strike.

The Chair: We're going to move to our second round, which will be five minutes.

We'll start with Mr. D'Amours.

[Translation]

Mr. Jean-Claude D'Amours (Madawaska—Restigouche, Lib.): Thank you, Mr. Chairman.

Thank you, Mr. Minister, and thank you you to the officials accompanying you for appearing before the committee studying Bill C-257.

Mr. Minister, I will make an observation which you may respond to if you wish.

We have the impression that you feel there is absolutely no merit to studying a bill on replacement workers. Since you became minister, we have the impression that a campaign of fear is being waged. It is as if you wanted to tell Canadians that this is terrible and makes no sense whatsoever.

But surely there are some aspects of this bill which deserve to be considered. I am not convinced that a campaign of fear is the best way to explain the facts and to properly enlighten Canadians. As has already been said, you should remember that you were a member of Parliament in the past and back then you voted in support of a similar bill. I don't think that at the time you waged a campaign of fear and said that the bill made no sense.

I would like to know what you think about this.

Hon. Jean-Pierre Blackburn: Mr. D'Amours, I would like to point out the following. A member who must deal with this type of issue and who, subsequently, becomes Labour minister must then consider things from a national point of view; I want to insist on this national point of view. The sectors which fall under our jurisdiction, such as transportation, banking and telecommunication, are so-called national services.

It is as if, suddenly, the functioning of the economy would not be considered an essential service any more. It is as if we had forgotten this extremely important dimension, which is essential if Canada is to function at all. When, in your capacity as members of Parliament, you study this bill, you will have to consider how it will apply on the ground once it is passed. You will have to decide whether the health of the Canadian economy is a very important factor or an issue of national interest. That is the angle from which the issue must be analyzed.

If memory serves, the members of the Bloc Québécois introduced this issue 10 times in 15 years. But even if this bill is adopted, they will never have to implement it. That will be up to you parliamentarians, and your successors as well. That is why you will have to be cautious and keep the principle of balance in mind.

I could tell you that the current legislation is bad and needs to be changed. Our government did not pass it. However, I will not do so. We agreed with you on that.

● (1000)

Mr. Jean-Claude D'Amours: Minister, you said that the Bloc Québécois introduced this issue 10 times. Even if they had done so 25 times, the fact remains that, at the time, when you were a member of Parliament, you no doubt thought that it made some sense. Unless I'm mistaken, you were in government, and one of your colleagues introduced this private member's bill. This is a personal comment for which I do not expect a response.

That being said, I am concerned about situations involving a major interruption of service. Take telephone lines, for example. In your opinion, in the event of a major interruption, for whatever reason, would this bill, even if amended, allow for a solution without involving management? Management can always take over.

Do you think that if such a provision is not included, it might be in the future? We would have to try to eliminate any possibility that situations such as the ones you have described can happen, such as a 911 interruption. In any case, we will have to make sure that we find something that works.

Hon. Jean-Pierre Blackburn: Mr. D'Amours, I would like to come back to certain points. The law was amended between the time we were in office from 1984 to 1993 and the year 1999. In 1999, your government amended it, specifically to allow for replacement

workers. However, it was clear that this would never be done to undermine the unions. Corrective measures were taken between the time we were in office and 1999. I might also remind you that in Ontario, in 1995, the government withdrew its anti-strike breaker law, and that in 2004, the other government, which was Liberal, reviewed the law and decided to maintain the status quo. This is why there is no anti-strike breaking law in Ontario.

Further, I would like to point out that every provision of the Canadian Labour Code is connected to all the others. But you are taking one part in isolation which you want to amend without due regard for the consequences. Indeed, Bill C-257 does not take into account the repercussions. It breaks the balance.

[English]

The Chair: Thank you, Mr. D'Amours.

We're going to move to Mr. Lessard for five minutes, please.

[Translation]

Mr. Yves Lessard (Chambly—Borduas, BQ): Thank you, Mr. Chairman.

Thank you, Minister, for appearing before the committee this morning.

Minister, I listened closely to what you said and I'm trying to understand. This is the second time you have appeared before our committee. I have a hard time understanding your reasons for defending this point of view. I think that, like myself, you grew up in Quebec. You are probably younger than I am, but you probably know about the labour dispute which lasted several months at Robin Hood. The employer sent in strike breakers and goons. Shots were even fired.

You surely also know about the labour conflict at Commonwealth Plywood Ltd—which involved people being gassed—as well as the disputes at Robin Hood, La Presse, and Pratt & Whitney, where police intervened with an anti-riot brigade to coerce workers into leaving the building, when in fact these people's jobs had been stolen. This is what happened between 1970 and 1976. You probably heard about this through the media, as we all did. I was a labour relations negotiator at the time. Let me tell you that since Quebec introduced its anti-strike breaker legislation, this type of thing has not happened again.

As for essential services, there have been strikes, including in hospitals, schools, and at the Société des alcools du Québec. These labour disputes lasted a long time. Don't think that workers are savages. When workers realize that their company might be in danger, or that the safety of the public might be threatened, they negotiate essential services with their employers. Even before the notion of essential services, negotiations were held, which led the Government of Quebec to adopt legislation on essential services and create the Conseil des services essentiels on the basis of the experience of both parties.

Mr. Minister, you say that this bill does not contain any measures providing for essential services. But this is the responsibility of the government. If you believe that the bill which is before us needs additional safeguards and provisions relating to essential services, it seems to me that it is up to the government to propose them, as the Government of Quebec did in the past. It was not the unions or workers that introduced legislation on essential services; it was the government. It was a democratic debate and the new law struck a balance.

Do you intend to introduce legislation on essential services? Or are you waiting for the unions to give you a sign?

• (1005)

Hon. Jean-Pierre Blackburn: Mr. Lessard, you spoke of labour unrest, gun shots, etc. I think that it is completely erroneous to think that by merely adopting an anti-strike breaker law we can put an end to such unacceptable behaviour.

The arguments are valid on both sides. This kind of behaviour is reprehensible.

Mr. Yves Lessard: With all due respect, Minister, let me say that people are provoked when they see others taking away their jobs and their livelihoods.

Do you admit that since 1977, violent disputes—as you said—have no longer occurred in companies under provincial jurisdiction? Moreover, if there were such incidents, they were on a very small scale and not on a large scale as we can see.

With regard to disputes under federal jurisdiction, as we saw at Cargill, we witnessed some very brutal confrontations. We could give other examples of this. I do not want to get caught up in rhetoric, so let us stick to concrete facts.

Are you aware of the fact that this happened after the legislation was adopted?

In this respect, have you discussed the matter with your provincial counterparts in provinces where there is anti-strike breaker legislation? Have you discussed with your counterparts in Quebec, for instance, their experience with anti-strike breaker legislation? In Quebec, there are no more doubts about this. Nonetheless, they have had a much more concrete experience with this than Ontario did. Have you discussed this with those people?

• (1010)

[English]

The Chair: Could we have just a quick response, Minister? We're almost out of time here.

[Translation]

Hon. Jean-Pierre Blackburn: Did it occur to you that if Bill C-257 were adopted by the House of Commons, people could resort to extreme behaviour because the country's economy would be completely paralyzed?

Mr. Yves Lessard: Mr. Minister, did that happen in Quebec?

Hon. Jean-Pierre Blackburn: We cannot argue about this, Mr. Lessard. This is a false issue.

Mr. Yves Lessard: You were the one who brought it up, Mr. Minister.

Hon. Jean-Pierre Blackburn: You were the one who brought it up.

[English]

The Chair: Hold on a sec, we're into debate here.

[Translation]

Mr. Yves Lessard: Minister, you were the one who said that it would upset the economy. That did not happen in Quebec.

[English]

The Chair: That's all the time we have, Mr. Lessard.

We're going to move on to the next round. That's overtime there.

We're going to move to Ms. Davies. Go ahead for five minutes, please.

Ms. Libby Davies: Thank you very much.

That last comment, that if this bill is adopted we'll end up paralyzing the economy, I think is a very irresponsible statement to make. I don't think there's any evidence that will happen if this bill is adopted. We do have anti-strike-breaker legislation in British Columbia. I've not seen any evidence that legislation has been harmful in any way. In fact, it's been the contrary. It's helped create an environment of stability, understanding, and labour peace. The only difficulty we've had is in the case of disputes under federal jurisdiction. Because we haven't had this kind of legislation, we have had difficulties. I just want to make that comment.

We should also remember that the bill we voted on was in principle, so we are talking about the principles of this bill. We're now at committee to look at the bill in detail and to consider what changes or amendments need to be made. So I would like to ask you that. It seems to me that as minister you have a responsibility to look at this bill and to consider what improvements, from your point of view, can be made.

The fact is that now, under the Canada Labour Code, under section 87.4, there is a provision whereby either an employer or a union can go to the CIRB if they haven't come to an agreement on what is considered to be an essential service. So there is a provision now that does exist. I'd be interested to know whether you consider that to be adequate or whether you think there need to be additional provisions.

I think it would be much more constructive if, as the minister, you would provide some helpful information to this committee as to what you'd like to see, in terms of this bill, to improve it, from your perspective. We may or may not agree with you, but at least we'll have the benefit of what your constructive analysis is, rather than making outlandish statements that this bill will paralyze the economy. I find it astounding to say that.

[Translation]

Hon. Jean-Pierre Blackburn: Ms. Davies, we can predict some emergency situations, but only in a limited way. Pursuant to section 87.4 of the Canada Labour Code, the employer, the union and the employees in the bargaining unit are obliged to maintain certain activities to prevent imminent and serious threats to public safety or health.

If a national strike breaks out, if banks are paralyzed, this threatens not only the health and safety of some individual, but it paralyzes the entire economy.

As the Minister of Labour, I am responsible for trying to ensure that the parties in a labour dispute can work things out through negotiation. This is why we have created mechanisms for conciliation, arbitration and so forth.

Bill C-257 introduces new measures. Some activities that are under federal jurisdiction are essential for the Canadian economy. Transportation, communications, airports and ports affect every region of the country. If any part of these major services goes on strike and the employer cannot use replacement workers, the entire country could be paralyzed.

We must not give too much power to either party. If you give one party the power to paralyze everything, this could have enormous consequences. This is why it is important to try to keep a balance.

● (1015)

[English]

The Chair: Thank you. That's all the time we have.

We're going to move to the last questioner of this round and of this session of the first meeting.

Mr. Anders, you have five minutes, sir.

Mr. Rob Anders (Calgary West, CPC): Thank you.

Mr. Minister, my understanding is that a small union such as baggage handlers at an airport could probably shut down the airport. I'm going to have to assume not all those units would be considered essential, according to the statements of the other members.

In that case, it raises some interesting scenarios. With regard to our airports, if you shut down Halifax and Montreal, for example, that would mean that for things we may ship out of those places, like seafood, lobster, it would be better for people to be dealing with places like Boston or New York. Companies like FedEx or Emery or DHL wouldn't see those places as worthwhile to use as hubs. Instead, they'd be far more accommodated using Boston or New York.

As well, when it comes to certain goods, like textiles, for example, it makes sense that more jobs would go to China, as opposed to manufacturing textiles here, if the supply were interrupted or caused problems. Agricultural products could be obtained in other places as well. And even for some specialized industries, like Bombardier, frankly their machinery and tools and that type of thing would be easier to obtain through other places.

Even some industries, hydroelectricity for example, if it were affected by this and if Canada—and more particularly Quebec—became an unreliable supplier of hydroelectricity to the northeastern United States, they would be forced to find alternate sources and it would probably affect the pricing and what not.

I'm wondering if you could comment on some of those things.

[Translation]

Hon. Jean-Pierre Blackburn: Mr. Anders, I think that we are all able to imagine the impact of a strike in any sector of economic

activity and more specifically when it is on a national scale, as is the case for the sensitive sectors that we are covering, which are under federal jurisdiction. One million four hundred thousand workers are under our jurisdiction, 600,000 of them are in the public sector and 800,000 in the private sector.

This is why, when parliamentarians studied the legislation in 1999, they decided, following the recommendations in the Sims report, to introduce a new concept that would allow the use of replacement workers—this should not be done with the intention of undermining the union's representational capacity—and granted the Canadian Industrial Relations Board the right to intervene immediately if such a thing occurred. I think that this was the ideal model for balancing labour-management relations.

People want to break this balance, but essential services are not provided for. Now establishing essential services is very complicated. Public health and security have always been considered as essential services. Our own health and our own lives must not be endangered.

But we will have to make a decision whereby essential services also include the Canadian economy. I do not think that in this room, in three or four days, we can imagine and envisage all the changes that we need to bring to the legislation in order to cover everything. This is a monumental task that we will have to undertake. This is why I think that the current bill must be withdrawn. The balance has been maintained since the legislation was adopted in 1999.

Let me remind you, sir, that in 1995, when Ontario decided to change the legislation back to what it had been, there was a good reason for it. Ontario had anti-strike breaker legislation. It changed its mind and withdrew it. In 2004, McGuinty's Liberal government reviewed the legislation and decided not to restore the anti-strike breaker law.

Moreover, we noticed that wherever there is anti-strike breaker legislation, disputes are more lengthy than in places where there is none. We must also remember that there have been long-drawn-out disputes in other places. Members should not think that anti-strike breaker legislation will put an end to long disputes. There are concrete examples, and I will take the opportunity to come back to them shortly. You will see that certain disputes can last a long time even if there is anti-strike breaker legislation. There is nothing that proves that these things change in the absence of anti-strike breaker legislation. There is no obvious proof. We cannot change legislation based on hypothetical evidence.

● (1020)

[English]

The Chair: Five minutes goes by pretty quickly.

I'd just like to take this time now, as we wrap up, to thank the minister for being here today. I believe your staff indicated that if we'd like to bring you back on this issue, you'd be prepared to come back on Thursday, or next year, should we decide to hear more witnesses when we come back in February, if that's the will of the committee.

I know that we have had some witnesses who couldn't make it because of the short timelines. Even today we've had some that couldn't make it because of conflicts.

Is it correct that you are prepared, Mr. Blackburn, if the committee so desires, to come back and talk to Bill C-257 if need be?

[*Translation*]

Hon. Jean-Pierre Blackburn: Mr. Chairman, given the importance of the issue and of maintaining the balance in labour-management relations, we should all make decisions that are in the best interest of Canada, companies, entrepreneurs, unions and non-union workers, because if the economy were paralyzed, they would also suffer the consequences. Everyone would suffer.

Mr. Chairman, I would like to conclude by noting that despite the existence of anti-scab legislation, the Noranda mine workers union's strike lasted for 11 months; the strike of the Société des alcools du Québec lasted 3 months; the employees' strike at Lallemand lasted

5 months. More recently, the employees' strike at Maple Leaf Mills Ltd lasted for a year.

With or without anti-strike breaker legislation, we cannot prevent lengthy disputes. This is unfortunate; everyone wants to come to an agreement, but this is part of the free negotiation of collective agreements.

I thank everyone.

[*English*]

The Chair: Thank you once again for taking the time to come out today.

The meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

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