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

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EVIDENCE

**Wednesday, February 14, 2007**

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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

Wednesday, February 14, 2007

•(1540)

[English]

**The Chair (Hon. Dean Allison (Niagara West—Glanbrook, CPC)):** Pursuant to the order of reference of Wednesday, October 25, 2006, Bill C-257, An Act to amend the Canada Labour Code (replacement workers), we'll commence as we look at clause-by-clause consideration.

I know that when we broke yesterday we had a motion before the committee. The question is, do we want to continue with that motion or do we want to go clause-by-clause? It's at the will of the committee to decide what we want to do.

Mr. Lake.

**Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC):** I definitely want to continue with a conversation around the motion.

I just want to reiterate what I was saying yesterday. I think, as we've heard through all of the discussion here, there are many, many flaws in this bill. There are flaws right from the standpoint of even dealing with this situation on an ad hoc basis through a private member's bill, right from the starting point, and then moving to the issues around the lack of an essential services provision within the bill. There are the problems with translation from French and English, particularly in that proposed subsection (2.4), where it's really obvious that they're not referring to the same thing in French and English. It's clear even from what the legislative clerk was saying yesterday that there are things wrong with this bill that we couldn't possibly amend and follow the rules of committee.

I just think it's important. And there is a second motion, which will follow this one, to take a more reasonable approach in a more consultative process, the way labour legislation should be modified. I think it's important that we continue to consider this motion. I'd like to hear some more thoughts, after maybe an evening of thought from the other side, as to their feelings on this.

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

I have Mr. Silva, Mr. Lessard, Ms. Yelich, Mr. Brown, and Mr. Hiebert.

Mr. Silva.

**Mr. Mario Silva (Davenport, Lib.):** Thank you, Mr. Chair.

I just wanted to point out to members of the committee that today's meeting was for us to go clause-by-clause of the bill. That's what I'm here for, and I think my colleagues as well are here to go

clause-by-clause. I would like us to proceed with the order of business for today, which is to go clause-by-clause.

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

Mr. Lessard.

[Translation]

**Mr. Yves Lessard (Chambly—Borduas, BQ):** Mr. Chair, I entirely agree with our colleague Mr. Silva, since he's answering the question you rightly asked at the outset: do we want to continue with clause-by-clause consideration or receive a new motion, the one that was introduced yesterday?

It's the committee that must first dispose of the matter. In my view, we should study the bill clause by clause and, contrary to what our colleague Mr. Lake claims, I think there is room to make amendments. We're going to move amendments to the bill.

It's entirely natural for these amendments to be put before the committee. To study them, of course, we have to proceed with clause-by-clause consideration.

I propose that we proceed with the vote on maintaining our position with regard to clause-by-clause consideration.

[English]

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

Ms. Yelich.

**Mrs. Lynne Yelich (Blackstrap, CPC):** Thank you, Mr. Chair.

I just want to go back to some comments that were made directly to me about me claiming that union bosses didn't have a say.

What I was trying to say—and I feel it was misconstrued, so I really want to get it on record—is that I think the impact of this bill is very deep. It has a deep impact on a lot of people. When I spoke about having employees, I wanted to go back to one of the witnesses, Maurice Zoe, the aboriginal site coordinator for the Ekati Diamond Mine in the Northwest Territories.

When he was speaking on behalf of his native community, he said,

The union did not appear to understand how the aboriginal community functioned. Labour unions are not part of our communities or our leadership. In this case, they imposed a significant burden on our people by forcing a strike, but at least we had the opportunity to make up our own minds and return to work.

This right to work for these native people with no other employment opportunities in the north will not exist if Bill C-257 is passed. Mr. Chair, those were the employees I was speaking about who aren't necessarily part of the unions that are involved in this legislation.

What I wanted to talk about were the farmers and individuals who feel disenfranchised by this legislation. They represent disenfranchised employees and employers, in this case. As committee members, we've received letters from the Grain Growers of Canada, in the prairie centre, who've not been able to testify.

And this bill will affect individual farmers who are my constituents. They have no way of being able to have their case heard. They don't have a union, but they are at the mercy of a federally regulated sector. Coming from the prairies, we rely on unions and sometimes replacement workers to get our farm products to the port, and with this bill there is no recourse for individuals like farmers.

As I said earlier yesterday, this is critical, and I think this is a message that we have to get out to all Canadians from coast to coast. These are critical services. It's not necessarily about workers; it's about the public good.

They expect federally regulated people to have good relationships with.... I believe there should be good relationships with labour and their bosses, but I do think that we are very innocent in this, and all the sectors.... I have a letter I would like to read that tells, already, about the effects that some of this legislation.... It's indeed going to create some problems.

I wanted the member to realize that I wasn't talking about bosses. I was talking about all the other people who are affected, who do have jobs that aren't particularly protected by this legislation. But certainly this legislation will affect them.

We know there are 12,000 companies that fall under federal jurisdiction, representing about 1% of Canadian businesses, and the majority of them are small, and they're very small. Four out of five of them employ fewer than 20 workers. In all, there are almost 900,000 people who work for federally regulated companies. That may not seem like a lot for companies, but they are important ones.

I think this is what's missing here. We're not talking about the impact and the public good. Besides public safety, we have to talk about what's in the best interests of the public good. We talk lots about the importance of productivity and—

• (1545)

[Translation]

**Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ):** I have a point of order, Mr. Chair.

Are we dealing here with comments on the motion, a summary of the bill or obstruction? Could we have an answer?

[English]

**Mrs. Lynne Yelich:** Of course, I think this motion has to be passed by this committee. I think it's incumbent upon us, as federal legislators, to make sure this motion passes.

**The Chair:** Ms. Yelich, just a second.

On the point of order, no, we are not on the motion yet. We are discussing, as a committee, whether we're going to bring the motion forward. We're not on the motion yet. We were on the motion when we left on Tuesday night. We're now just discussing whether that's going to be brought up or if we're going to do clause-by-clause.

Mr. Lessard, I have you on the list.

[Translation]

**Mr. Yves Lessard:** I have a point of order, Mr. Chair.

With all due respect, I believe that, in order to debate the merits of introducing a motion, as our colleague is doing, we should change the order of business that we agreed on by means of a motion. However, no motion of that kind has been introduced. Consequently, in accordance with the order of business, we are to proceed with the clause-by-clause consideration of the bill. I think that's the natural procedure.

Mr. Chair, I think we should immediately begin clause-by-clause consideration of Bill C-257.

[English]

**The Chair:** Mr. Lessard, are you moving a motion that we move into clause-by-clause? Is that what you're proposing right now?

[Translation]

**Mr. Yves Lessard:** We have to stick to the order of business. The purpose of my motion is to ensure that we stick to the order of business as established and that we immediately proceed with clause-by-clause consideration.

[English]

**The Chair:** Mr. Hiebert, on a point of order, and then I'm going to come back to that.

**Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC):** Mr. Chair, is it not the case that when we adjourned yesterday we were debating a particular motion, and is it not the case that we simply resume at that same point when the next meeting begins?

**The Chair:** No, that isn't the case. The case is that if it's the will of the committee, you could move back into that, but we are under new orders of day. So that is not the way the Standing Orders are.

Is that correct, Madame Clerk?

**Mr. Russ Hiebert:** I'm waiting to hear from the clerk.

**The Chair:** Mr. Hiebert, we don't have orders of the day. That's why we're having this discussion now. We do have a motion, though, that is debatable before us, by Mr. Lessard, that would like to see us move back to the clause-by-clause consideration.

• (1550)

[Translation]

**Mrs. Carole Lavallée:** Do you have an agenda? All right, perfect.

[English]

**The Chair:** It was the orders of the House I was referring to. Sorry about the loss of translation there.

We do have a motion now before us. I have Mr. Brown, Mr. Hiebert, Madame Lavallée, Mr. Savage, and Mr. Lessard.

The motion is that we move into clause-by-clause consideration.

Mr. Lessard.

[*Translation*]

**Mr. Yves Lessard:** Mr. Chair, this is a motion that we can't discuss, since its purpose is to ensure that we stick to business as established. It's yes or no.

[*English*]

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

The issue we have here is that we were working on a motion on Tuesday that was not completed. We do have the orders of the day, as opposed to the orders in the House that would lay out exactly what we're doing. The question was proposed to the committee whether we would continue with that motion and go into clause-by-clause because we were working on that. You now have a motion before the committee to move back into business. That motion is debatable, according to the clerk.

So we have Mr. Brown, followed by Mr. Hiebert, Madame Lavallée, Mr. Savage, and then Mr. Lessard.

**Mr. Patrick Brown (Barrie, CPC):** Mr. Chair, I would like to discuss Mr. Lake's motion today. I would not support proceeding with the motion of Mr. Lessard, because I don't think it's—

[*Translation*]

**Mrs. Carole Lavallée:** Yves has a point of order.

**Mr. Yves Lessard:** Mr. Chair, we can't operate this way because each of us could introduce a motion and still question what we've decided. The purpose of the motion I've just introduced is to sustain the decision we've made. I'm doing it to help the Chair maintain the order of business.

Mr. Chair, we can't debate it because we don't question the order we've established. If someone wants to question it, he need only vote against my motion and it will be called into question. It seems to me we have to proceed with the vote now in order to maintain the our order of business and to begin clause-by-clause consideration.

[*English*]

**The Chair:** Mr. Brown.

**Mr. Patrick Brown:** Thank you, Mr. Allison.

As we debate Mr. Lessard's motion, I—

[*Translation*]

**Mr. Yves Lessard:** I want you to make a ruling.

[*English*]

**The Chair:** I'm sorry, Mr. Brown.

**Mr. Patrick Brown:** Who has the floor? Everyone's courtesy—

[*Translation*]

**Mr. Yves Lessard:** Mr. Chair, I have a point of order.

I have respectfully submitted to you that this could be debated at this stage, and you haven't given a ruling. I would therefore like to hear your ruling on the subject.

[*English*]

**Mr. Russ Hiebert:** On a point of order, I believe the chair has already ruled on your motion. He's indicated that it's debatable, so I think it's incumbent upon this committee to abide by his ruling.

Instead of continuing to interrupt Mr. Brown, perhaps you could have the respect to let him speak.

**The Chair:** Mr. Lessard, on the same point of order.

[*Translation*]

**Mr. Yves Lessard:** Mr. Chair, I would prefer to hear your ruling from your mouth rather than that of our colleague Russ Hiebert, because we've appointed you the Chair of the committee.

Thus far, I haven't heard your ruling.

• (1555)

[*English*]

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

I had said the motion was debatable. If you'd like to challenge me on that, then by all means, you're free to do that.

[*Translation*]

**Mr. Yves Lessard:** I challenge your ruling, Mr. Chair.

[*English*]

**The Chair:** The vote is that the decision of the chair be sustained.

**Mr. Mike Lake:** Can we get a recorded vote, please?

**The Chair:** Certainly.

[*Ruling of the chair overturned: (See Minutes of Proceedings)*]

**The Chair:** The chair has been overruled, so we are going to move to the clause that was put forward by Mr. Lessard. We're going to go back to clause-by-clause.

On a point of order, Mr. Lake.

**Mr. Mike Lake:** On a point of order, I'd like some clarification. In terms of the motion that we left at the end of the last meeting, can someone explain to me why that wouldn't still be on the table?

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

There's no order paper that says explicitly what will be done. The committee operates on its own agenda in terms of how we want to proceed. There were, obviously, motions brought forward. We talked about setting the calendar. I know this motion was brought forward yesterday, so we left the business to talk about that motion.

As we started, it was put to you whether we continue with that motion or not. Since we don't have an order paper that lays it out, the committee will decide, as a whole, which direction it will head into. I have been challenged on Mr. Lessard's motion as to whether we would go back. I said it was debatable. I've been challenged on that. It's just been voted down, so now we're moving back into clause-by-clause.

**Mr. Mike Lake:** So to clarify then, if we're in the middle of debate on a motion and someone else moves a motion to adjourn the meeting, that debate concludes, it doesn't continue into the next meeting?

**The Chair:** That is correct.

Okay. We are now going to vote that the committee proceed to clause-by-clause.

Mr. Lake.

**Mr. Russ Hiebert:** Is this motion debatable?

**The Chair:** Mr. Lake.

**Mr. Mike Lake:** I think I have the floor.

I'd like to move a motion:

That in accordance with its order of reference of Wednesday, October 25, 2006, your committee has considered Bill C-257, An Act to amend the Canada Labour Code (replacement workers) and agreed to report the following: Bill C-257 fails to provide balance to both sides in the collective bargaining process and fails to address other issues reflected in the evidence presented by witnesses. Accordingly, your committee recommends, pursuant to Standing Order 97.1, that the House of Commons not proceed further with Bill C-257—

**The Chair:** Hold on one second, Mr. Lake. We do have a motion before the committee right now, so we need to dispense with that motion first. The motion was that the committee proceed to go to clause-by-clause.

What I will ask us to do now is see who is in favour of the motion that the committee proceed to clause-by-clause.

It will be a recorded vote. Thank you, Mr. Lessard.

(Motion agreed to: [See *Minutes of Proceedings*])

• (1600)

**The Chair:** Go ahead, Mr. Lake.

**Mr. Mike Lake:** You're going to do this to me again.

I'd like to move a motion:

That in accordance with its order of reference of Wednesday, October 25, 2006, your committee has considered Bill C-257, An Act to amend the Canada Labour Code (replacement workers) and agreed to report the following: Bill C-257 fails to provide balance to both sides in the collective bargaining process and fails to address other issues reflected in the evidence presented by witnesses. Accordingly, your committee recommends, pursuant to Standing Order 97.1—

**The Chair:** Mr. Lake, we have a point of order.

Go ahead, Madame Lavallée.

[*Translation*]

**Mrs. Carole Lavallée:** I have a point of order.

You know very well that Mr. Lake can't introduce a motion and reverse the decision we've just made, that is to say to proceed immediately with clause-by-clause consideration.

If he has any motions to introduce, let him give notice 24 hours in advance.

[*English*]

**The Chair:** Actually, because we're in the orders of the day, he doesn't; however, you are partially correct. We just voted to go to clause-by-clause, so we need to look at clause 1. Mr. Lake will have to wait until after we've dealt with clause 1.

**Mr. Mike Lake:** It will be after we've dealt with clause 1?

**The Chair:** Yes, sir.

Go ahead, Madame Lavallée.

[*Translation*]

**Mrs. Carole Lavallée:** Mr. Chair, why after clause 1? Mr. Lessard moved that we discuss and debate the bill — by which is understood the entire bill — clause by clause. His motion does not mention that we should consider only clause 1.

In that sense, it seems to me that any other motion on the agenda must be considered when we've completed the analysis of all the clauses of the bill.

[*English*]

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

I've just been informed that we're in the orders of the day, and our business is Bill C-257, as we know. A motion within that business can be brought forward at any time. Because Mr. Lessard had asked us, and the motion passed, to go to clause-by-clause consideration, we must start that. As I said, we will get the first clause done; then we can look at any other motions that may be forthcoming.

I will ask you to pick out your packages, please. We have clause 1

[*Translation*]

**Mrs. Carole Lavallée:** I don't understand your ruling, Mr. Chair.

The agenda that we received, and that I have before me, states that we're conducting clause-by-clause consideration. Then it mentions each of the clauses: clauses 1, 2, 3. Then there are questions such as: shall the bill carry as amended, and so on.

Earlier, when my colleague Yves Lessard introduced the motion saying that we wanted to return to clause-by-clause consideration, that concerned all the clauses. He never said it only concerned clause 1.

You never said that, did you, Mr. Lessard?

**Mr. Yves Lessard:** That's correct.

**Mrs. Carole Lavallée:** No, he never said that.

Consequently, it seems to me we should proceed with consideration of all the clauses and subsequently agree to the motions of our dear friend Mike Lake.

[*English*]

**The Chair:** Once again, Madame Lavallée, we thank you very much for your observations.

Once again, this is not an order paper that is laid out exactly. We are a committee that will operate as it so sees. This is a recommendation of where we're at, but other motions can be introduced into the mix.

Let us look at Bill C-257. I would like you to look at Liberal amendment 1, which is essentially a new clause that would replace the existing clause 1 the way it stands right now.

(On clause 1)

• (1605)

**Mr. Mario Silva:** Mr. Chair, just for clarification—and I want to make sure the clerk is listening—as we go through this clause by clause, are you going to deal first with the amendments and then with the final bill? Are we going to go, as it states, clause by clause and basically state the name of the bill and ask if all the other parts of the bill shall carry?

I just want to know how you're going to proceed with the clause-by-clause.

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

What we will be doing is going clause by clause. We will look at each clause as presented. For example, I think under the orders of the day there's a new clause 1, Liberal amendments 1 and 2. We will go through each of those sequentially in their order. We will approve each clause and give you the recommendations of the legal clerk as to whether or not they're admissible. So we will be going clause by clause.

We're going to start with clause 1 on pages 1 and 2 of your package.

Mr. Silva, would you like to move Liberal amendment 1?

**Mr. Mario Silva:** Yes, thank you very much.

Maybe I should read it first so you can understand what I'm trying to do. I move that subsection 87.4(1) of the Canada Labour Code be replaced by the following:

During a strike or lockout not prohibited by this Part, the employer, the trade union and the employees in the bargaining unit must continue the supply of essential services and the operation of facilities or production of goods to the extent necessary to prevent an immediate and serious danger to the safety or health of the public and/or to address any significant public interest.

I put in the "or" there as well because my colleague wanted to move that as an amendment.

**The Chair:** There has been a ruling in terms of whether this motion or new clause is admissible. According to the parent act it is inadmissible. The amendment seeks to amend section 87.4 of the Canada Labour Code. The *House of Commons Procedure and Practice* states on page 654 that "an amendment is inadmissible if it amends a statute that is not before the committee or a section of the parent Act unless it is being specifically amended by a clause of the bill". Since section 87.4 of the Canada Labour Code is not being amended by Bill C-257, it is inadmissible to propose such an amendment; therefore, the amendment is inadmissible.

Mr. Silva.

**Mr. Mario Silva:** I would like to challenge that ruling, but I want to know first if I have an opportunity to speak to the challenge, or do I just basically challenge the ruling?

**The Chair:** Okay. We are going to learn all about procedure today. This is great.

I have been challenged. I have a feeling I am going to be challenged quite a few times today. I have been challenged, so what we need to do now is have a vote on whether the recommendation by the legal counsel, my recommendation, should be overturned. If that is the will of the committee, then we will debate the motion. If my ruling is upheld, then there will be no debate on this motion and we will move on to the next motion.

Once again, just on the ruling that I have proposed. I have been challenged....

Sorry, on a point of order, Mr. Hiebert.

**Mr. Russ Hiebert:** I would like the clerk to clarify for the committee how it is that this particular ruling by you, the chair, could be overturned. Could she show us in Marleau and Montpetit?

•(1610)

**The Chair:** Just give us one second.

You don't have a copy with you?

Mr. Toupin will read it to us in French, and it will be translated. It's at page 857.

[Translation]

**Mr. Marc Toupin (Procedural Clerk):** Mr. Chair, *House of Commons Procedure and Practice*, by Marleau and Montpetit, states, at page 857: "While the Chair's rulings are not subject to debate, they may be appealed to the committee."

[English]

**The Chair:** Okay.

Sorry, what was that again?

**Mr. Mario Silva:** I will challenge you.

**The Chair:** Okay. Thank you.

**Mr. Mario Silva:** Not personally.

**The Chair:** No, I know there is nothing personal involved. It's understood.

The chair has been challenged. Once again, the legal opinion has recommended that this new clause is inadmissible. I have ruled that I believe it is inadmissible. I have been challenged by Mr. Silva. The vote is that the decision of the chair should be sustained.

Mr. Hiebert.

**Mr. Russ Hiebert:** Before I vote on this motion, I would like to have an understanding from the legislative clerk of what would happen. If the chair's ruling was such that...and there seems to be an order of—

**The Chair:** Hold on, Mr. Hiebert, we will come back to you.

[Translation]

**Mrs. Carole Lavallée:** Since we can't debate the motion before us, let's move on to the vote.

[English]

**Mr. Russ Hiebert:** It is not debate. It is a point of order; it's a point of clarification.

**The Chair:** Go ahead, Mr. Hiebert, repeat your question again to the clerk.

**Mr. Russ Hiebert:** As I was stating, before I vote on this motion I want to understand how it is...and what would be the outcome of a successful vote on the part of those opposed to your ruling. What would happen?

It seems to me that if your ruling, which appears to be consistent with the tradition and the rulings of the previous chairs in the House of Commons, is that you cannot amend a bill that does not refer to a particular piece of legislation—and that has been a consistent ruling from the House of Commons for who knows how long—how is it that the committee could overturn your decision when in law we know that this can't be done? Would it be appealed to the Speaker of the House? Would it be appealed to the legislative clerk?

There seems to be a departure from what the law allows. And yes, we might want to, here in this particular committee, pretend that as a committee we can overturn your rulings, but at some point the buck has to stop someplace. You can't simply draft legislation ad hoc that isn't allowed for in the rules of the House of Commons. If that was the case, we could move amendments to the Income Tax Act, which isn't being referred to in this piece of legislation either. It is absurd to suggest that we could address a piece of legislation, or a portion of legislation, that is not of the purpose of a particular bill.

So could the chair provide for the members some explanation as to what would happen if they were successful in overturning your ruling? Where would it go from here?

• (1615)

**The Chair:** Mr. Hiebert, this is not a debatable point, but if you want to make your point after we've had this debate—

**Mr. Russ Hiebert:** But it's a point of clarification. I think it's important for members to know what they're voting on. What's the outcome? What's the consequence?

**The Chair:** The consequence is that it will go back to the House and the chair will make a ruling in the House.

Ms. Davies.

**Ms. Libby Davies (Vancouver East, NDP):** On a point of order, on the same point, because I think it is important to understand what we're doing, my understanding is that the Liberal amendment was submitted as an amendment to section 87.6, as paragraphs (h) and (i), and it was actually the legislative counsel, the Journals Branch, who brought it back in this form.

It seems to me that we need some clarification from them as to why they brought it back in this form, because this is not the way it was submitted as the Liberal amendment.

**The Chair:** And that is a point of debate as well.

Mr. Silva.

**Mr. Mario Silva:** That's exactly the point I was going to raise, that when I originally put this forward, it was to be a paragraph (h) and a paragraph (i). It was the legislative counsel today, a couple of hours ago, who brought this in the way it is. I'm presenting section 87.4 as amended because that's what in fact legislative counsel brought back to me today.

But my motion, when I put it forward, was to add a paragraph (h) and a paragraph (i), under part two.

So I'm unclear as well as to why that was put the way it is.

**The Chair:** Okay, Mr. Silva, I certainly can't comment on what was proposed or what may have been. But you have read an amendment, a new clause, into the record. That is what we are voting on. We have had the recommendation of the legal counsel. You've had my recommendation. I've been challenged now. So what I will do is call a vote that—

**Mr. Mario Silva:** We can't vote until we get a clarification, Mr. Chair. Since it's already here—I've submitted it before the committee as a paragraph (h)—that will clarify it. There's no need to challenge the chair, because it will be in order.

**The Chair:** Ms. Davies.

**Ms. Libby Davies:** On a point of order, I wonder if it would be helpful if Mr. Silva has the original, what he actually sent to the Legislative Branch, because my understanding is that his amendment actually was trying to amend clause 2 in the bill before us today, proposed subsection 94(2.1), by adding a new paragraph 94(2.1)(h) and a new paragraph 94(2.1)(i). That's what actually was the intent. Somehow this is being sent back to the committee as amending section 87.4 of the Canada Labour Code, which is not before us.

If Mr. Silva has the original of what he sent in, I think that would be clear.

• (1620)

**The Chair:** Thank you, and thank you, Mr. Silva.

Once again, given the fact that this is a new clause being read into the record, I've said that this particular clause to replace clause 1 is inadmissible, so if you want to support the decision of the chair, there is a possibility that at a later point in time you could reintroduce that. We would have to go through the same process, but that is the clause that's on the table right now; that is what we're voting on.

Go ahead, Mr. Silva.

**Mr. Mario Silva:** Mr. Chair, I have here in front of me what we sent today to the legislative counsel, which in part two, page 2, says additional paragraphs (h) and (i). It is clearly stated here, and it's been changed totally, so I'm not sure what happened there. Our intent was to have an addition of paragraphs (h) and (i) to the motion.

**Ms. Ruby Dhalla (Brampton—Springdale, Lib.):** If I could just add to that, when Mr. Silva made the request for the amendment, as he said, it was to add paragraphs (h) and (i). There was no intent at all to have the actual clause replaced. So if the judgment has been made under that misunderstanding, that's obviously going to affect the outcome that has been made. Perhaps if you could reconsider with whomever you need to reconsider with in terms of the decision, it would be beneficial before we move forward.

**Mr. Mario Silva:** Mr. Chair, for clarification purposes, if you really look at where my motion begins, "During a strike or lockout", it is exactly the same language as in proposed subsection 94(2.1). We're not dealing with the first section. I don't know how that got misnumbered, but all the language is the same as proposed subsection 94(2.1) of the act. It's not about section 87.4, as has been put on here.

The only thing we can do is talk about...it's fine to say "subject to section 87.4", but it's all about dealing with subsection 94(2.1) of the act. That is what the language is about. It's not about proposed section 87.6, as it is here.

**The Chair:** Go ahead, Ms. Davies.

**Ms. Libby Davies:** The question to be asked is if we upheld the chair on the basis that this amendment on this particular clause and section 87.4 is not in order and in fact is incorrect, would the chair agree that Mr. Silva could then move the same wording that he wants to move, but that in actual fact it should be on the next clause in the bill before us, which is clause 2, dealing with subsection 94(2.1)? If you look at the bill, it shows proposed paragraphs 94(2.1)(a), (b), (c), (d), (e), (f), (g); he is seeking to add proposed paragraphs 94(2.1)(h) and (i). That is actually the amendment he is seeking.



We're dealing with the wrong clause, but if we uphold your decision, what I'd like to know is that you are not then going to rule it out of order if he tries to move the wording in clause 2—because technically, it's not on the paper here, right? They got the wrong clause.

My understanding is you can do that verbally, as long as it's clear. I'd like to know that you are generally in agreement, so that we can proceed and then vote on it.

• (1625)

**The Chair:** Thank you, Ms. Davies and Mr. Silva.

I would certainly entertain having a look at that. I haven't seen the motion the way it was presented. I can only rule on what we're dealing with here on clause 1, so once again, I would not have an issue with its being presented, and we could deal with it. That would have to be looked at in the context. Once again, we'd still have to go through the same process before we have a discussion and move forward on that. If you're willing to uphold my decision on that clause, it will go back to what clause 1 was originally, and then we'd move to Liberal amendment 2. As I said, if it is reintroduced, we'll evaluate it at that time and in that context.

I have not seen that, once again. I have only seen the proposals right here. Once again, if it's going to be reintroduced, we could have a look at that.

Mr. Hiebert is next, and then Mr. Silva.

**Mr. Russ Hiebert:** Just to clarify, if we uphold, you've been challenged. If those who challenged you are successful, then your ruling on this first clause as being out of order is overturned. And then what?

**The Chair:** It will stand.

**Mr. Russ Hiebert:** As being overturned. It will remain as it is on this document right here.

**The Chair:** Right.

**Mr. Russ Hiebert:** And then we proceed.

**The Chair:** We would proceed to the next clause or the next amendment.

**Mr. Russ Hiebert:** That's despite the fact that there's already agreement that this motion, as it's currently drafted before us, was not the one presented by Mr. Silva. Is that—

**The Chair:** That's correct.

**Ms. Libby Davies:** The amendment is correct; it has just been applied to the wrong clause in the bill. That presents a problem. If we move over clause 1 and let it stand as it is in the bill, then when we move to clause 2, the next clause in the bill, there is exactly the same amendment from Mr. Silva but it will apply to clause 2, not to clause 1.

**The Chair:** I want you to know that even though it is reintroduced under paragraph (h), there's no guarantee that it wouldn't be ruled out. We would certainly consider it and put it to the law clerk again.

**Ms. Libby Davies:** You would do that right here and now?

**Mr. Mario Silva:** If you make a ruling and you're challenged, if it is the will of the committee to proceed, then you can still proceed. Right?

**The Chair:** That is correct, yes.

**Mr. Russ Hiebert:** I want to be sure I understand what's going on here.

If I understand the comments made by Mr. Silva and Ms. Davies, the motion presented to the committee, the first amendment to clause 1, which is, "Subsection 87.4(1) of the *Canada Labour Code* is replaced by the following:", including this text, is not what they intended.

But you're saying that this particular clause is out of order because it's amending a section that Mr. Nadeau's bill, Bill C-257, does not reference. So it cannot amend this particular section.

Originally they were trying to overturn your decision that this was not amendable, and now they're saying, oh sorry, there's a mistake, this is not what was intended. So we're waiting to see whether they will in fact uphold their challenge of your decision.

And then you want to revisit this topic immediately after—

**The Chair:** No. It would have to come up in the context of the order we go through. The new clause, L-2, would be the next one we deal with. It would have to come in its order.

• (1630)

**Mr. Russ Hiebert:** So it's off the table.

**The Chair:** That particular clause would be off the table. Then they would reintroduce it to (h), or wherever, and we would deal with it at that point in time.

I'll ask to suspend for five minutes, so we can have a ruling on Mr. Silva's motion.

We will suspend for five minutes, please.

•

• \_\_\_\_\_ (Pause) \_\_\_\_\_

•

• (1655)

**The Chair:** Let's get back to the orders of the day.

We left off with a Liberal motion before us that the legislative clerk had ruled inadmissible and that I had also ruled inadmissible. I was challenged on that fact. There was some discussion going around. We could put it to the vote now.

Mr. Hiebert.

**Mr. Russ Hiebert:** We're still waiting for a copy of the motion so we can review it before we vote on it.

**The Chair:** I don't believe there's any copy of the motion at this point in time.

**Mr. Mike Lake:** We still haven't seen a copy of the amendments.

**The Chair:** I believe when that point comes, we'll give you a chance to look at that amendment. We're not at that point in the process right now.

**Mr. Russ Hiebert:** How are we expected to vote on this motion without seeing the substance of the motion?

**The Chair:** We're voting on clause 1, which I've ruled inadmissible. All we're voting on is whether you agree with the legislative clerk and the chair that clause 1 should be inadmissible.

**Mr. Mike Lake:** Do you mean amendment 1?

**The Chair:** Sorry, I meant amendment 1, yes.

Mr. Hiebert, what was being challenged was that the decision of the chair be sustained, and that's what the vote is on.

**Mr. Russ Hiebert:** I'm wondering, Mr. Chair, if Mr. Silva wants to remove that.

**Mr. Mario Silva:** With the committee's indulgence, what I plan to do is move (h) and (i), as was originally the intention of my motion. When we get to clause 2, we'll add an additional (h) and (i). I'll move the amendment forward at that time and you'll make a ruling at that time.

**The Chair:** At that point in time we'll make a ruling. We'll also submit that motion to the other members.

What we're looking at right now is whether the decision of the chair should be sustained.

**Mr. Mario Silva:** There's no challenge.

**The Chair:** Are you withdrawing it?

Just so you're informed, you need unanimous consent to withdraw the motion. Do we have unanimous consent?

**Some hon. members:** Agreed.

**The Chair:** You guys are all heart. That's great.

We are now done on clause 1.

We've got Madame Lavallée, Mr. Lessard, and Mr. Hiebert.

[Translation]

**Mrs. Carole Lavallée:** Pardon me, but Mr. Lessard asked to speak before me. I'm going to let him start.

[English]

**The Chair:** Sorry. Thank you.

[Translation]

**Mr. Yves Lessard:** Mr. Chair, to make sure of the order of our business, and since you've asked us, following consideration of clause 1, to state our views on the continuation of our proceedings, I introduce the following motion: "That the committee—

[English]

**Mr. Mike Lake:** A point of order, Mr. Chair.

I don't believe we're actually done on clause 1. We've done amendment 1, but there's a second amendment in clause 1, is there not?

**The Chair:** Mr. Lessard, are you moving an additional motion on clause 1?

[Translation]

**Mr. Yves Lessard:** Mr. Chair, you said that we had disposed of clause 1. Did I understand correctly?

**Mrs. Carole Lavallée:** That's what I heard as well.

**Mr. Yves Lessard:** Have we finished consideration of clause 1, Mr. Chair?

[English]

**The Chair:** No, we have not. We need to vote on clause 1 as it stands in the bill right now. Sorry if I made that confusing. All we did was remove, by unanimous consent, the new amendment. We now go back to the original amendment as it stands for clause 1. That's where we're at right now.

[Translation]

**Mr. Yves Lessard:** All right, Mr. Chair.

I'll take this opportunity to announce that, immediately afterward, I'll introduce a motion on the continuation of our proceedings.

[English]

**The Chair:** Thank you.

I think we could probably get unanimous consent on that. We won't need seconds.

That was new clause 1 that has been removed.

Mr. Lake.

• (1700)

**Mr. Mike Lake:** Just to clarify, so new clause 1 has been removed. You were talking about the amendments, right?

**The Chair:** That is correct.

**Mr. Mike Lake:** Amendment L-1 has been removed.

**The Chair:** That is correct.

**Mr. Mike Lake:** And there's a second amendment still to come.

**The Chair:** That is what we're going to move into next.

**Mr. Mike Lake:** And the first amendment you're going to replace with another...?

**Mr. Mario Silva:** I'm not touching it right now.

**Mr. Mike Lake:** You don't want to go back and do that right now.

**Mr. Mario Silva:** We're not dealing with part 1.

We are dealing with part I, but I'm not touching part I, is what I'm saying. My amendments are both to part II and to part III.

**Mr. Mike Lake:** So at this point we're discussing amendment L-2.

**The Chair:** That is correct.

**Mr. Mario Silva:** You haven't voted yet on clause 1.

**The Chair:** Sorry. We've just voted on clause 1.

We now need to look at clause 2, if we're interested in moving that.

**Mr. Mario Silva:** Was that a vote of unanimous consent?

**The Chair:** The vote was just unanimous consent to remove new clause 1, not new clause 2.

**Mr. Mario Silva:** That's right, but the old clause 1 is still there to be voted and discussed, right?

**The Chair:** Yes, after new clause 2.

**Mr. Mike Lake:** So we're going to come back to clause 1 eventually?

**The Chair:** We've got to deal with clause 1 before we can move on to clause 2.

So we look at the amendments first. We have two amendments: L-1, which Mr. Silva just removed; and we now have a second amendment that was put forward by the Liberals, on pages 3 and 4, and we have to vote on that before.... If that was declined, then we would come back to the original clause 1 the way it stands and the way it was originally written in the bill.

Mr. Lake, and then Ms. Davies.

**Mr. Mike Lake:** Is there currently a motion on the floor?

**The Chair:** No.

**Mr. Mike Lake:** I'd like to move my motion, then:

That, in accordance with its order of reference of Wednesday, October 25, 2006—

[*Translation*]

**Mr. Yves Lessard:** Mr. Chair, we haven't disposed of clause 1. I had announced a motion. If we're doing the clause-by-clause consideration, first we have to vote on clause 1.

We shouldn't be going to clause 2 now. Mr. Silva announced that the Liberals' amendments started with clause 2.

[*English*]

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

Just to clarify, we did deal with new clause 1. Therefore, since that was done, no new motion was made on new clause 2, so we're in between motions. So Mr. Lake's motion is debatable.

Continue, Mr. Lake.

**Mr. Mike Lake:** I'd like to make a motion:

That, in accordance with its order of reference of Wednesday, October 25, 2006, your committee has considered Bill C-257, An Act to amend the Canada Labour Code (replacement workers), and agreed to report the following: Bill C-257—

**The Chair:** Hold on, Mr. Lake. We have a point of order.

Madame Lavallée.

[*Translation*]

**Mrs. Carole Lavallée:** Earlier, my colleague announced that there already was a motion. I raised my hand. In fact, he raised his hand first, then I did it. I therefore turn the floor over to him, as is normal. Mr. Lake raised his hand much later.

I think it would be reasonable to consider Mr. Lessard's motion first, and we can then consider other motions. A motion has already been announced.

I wouldn't want to have to quote the Annotated Standing Orders of the House of Commons, but if you force me, it will be an immense pleasure for me to do so.

[*English*]

**The Chair:** Go ahead, please.

• (1705)

[*Translation*]

**Mrs. Carole Lavallée:** I'm going to remind you of Standing Order 62, which appears on page 223 of the Annotated Standing Orders. This Standing Order normally applies to the proceedings of the House, but you'll understand that it can also apply to committee proceedings.

Standing Order 62 reads as follows:

When two or more Members rise to speak, the Speaker calls upon the Member who first rose in his or her place; but a motion may be made that any Member who has risen "be now heard", or "do now speak", which motion shall be forthwith put without debate.

[*English*]

**The Chair:** I've just been informed by the legislative clerk that we did recognize that Mr. Lessard was to continue on with the business, but we were in between motions. Because there was no motion on the floor at that point in time, Mr. Lake's motion still stands and we are in debate, if he would like to continue.

**Mr. Mike Lake:** Should I continue just in the second paragraph of the motion?

**The Chair:** Please, if you would.

**Mr. Mike Lake:** Continuing, "Bill C-257 fails to"—

**The Chair:** Sorry, but we have a point of order, sir.

Mr. Lessard, followed by Madame Lavallée.

[*Translation*]

**Mr. Yves Lessard:** I'd like to have some clarification, Mr. Chair.

Earlier, when I wanted to introduce my motion, you said that we hadn't disposed of clause 1, and we still haven't disposed of it. I don't even know what happened to clause 1. Did it carry? Did we vote on clause 1?

Once we know what happened to clause 1, we can introduce our motion. It seems to me that's what you said earlier.

What happened to clause 1, Mr. Chair?

[*English*]

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

What we have before us, as I know you're aware, is clause 1 as it was written in the original bill. There were two new clauses proposed by the Liberals. The first clause we just dealt with. What would happen next is that there would be a new motion put forward for clause 2, still dealing with the new amendment or the new clause 2—this is getting confusing—on the first clause.

Because we were in between motions, a new motion can be introduced. Pages 1 and 2 were the Liberal clause 1 and pages 3 and 4 are the new clause 2 for clause 1.

If you'd like to continue, I have Mr. Lessard, I have Madame Lavallée, and then I have Ms. Davies.

[*Translation*]

**Mr. Yves Lessard:** I don't want to put you in a difficult position, Mr. Chair; I simply want to understand.

If there is no amendment to clause 1... We're still talking about the bill, of course. But I believe that, in order to dispose of clause 1, we have to examine clause 2. Is that correct?

[English]

**The Chair:** No, we're still dealing with a new motion for clause 1. Clause 1 was withdrawn and there was an additional new amendment that the Liberals put forward. That motion has not been read in, but it is in the order of the bill in terms of how we move forward.

[Translation]

**Mr. Yves Lessard:** We're still on clause 1, Mr. Chair.

[English]

**The Chair:** Yes.

[Translation]

**Mr. Yves Lessard:** That means that my colleague Mr. Lake will have to debate the Liberal amendment to clause 1. Do we understand each other?

[English]

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

I'm informed that the second motion may not be moved until "some immediate proceeding or item of business has been considered". We did consider the first clause. Once the first clause was considered and withdrawn, then before the motion for the second clause, a new motion can be introduced. That's where we are right now.

Monsieur Lessard, then Madame Lavallée, and then Ms. Davies.

• (1710)

[Translation]

**Mr. Yves Lessard:** If I understand correctly, there isn't a new amendment to clause 1. Is that correct?

If there isn't a new amendment to clause 1, do we consider it carried as is, or does there have to be a vote?

[English]

**The Chair:** No, there is an additional new amendment to clause 1. It's on pages 3 and 4 of your committee-stage report.

[Translation]

**Mr. Yves Lessard:** Does the new amendment apply to clause 1? What is it? That's the one we have to talk about. If I understand correctly, this new clause comes from the Liberal Party. If it comes from the Liberal Party, what is it? It can't be a new amendment from Mr. Lake.

[English]

**The Chair:** We have a new motion on the floor from Mr. Lake, in between motions on the new clause 1 and the new clause 2 from the Liberals. Because the second clause has not been moved, that can happen. We still are on clause 1 and we are able to still debate this.

Madame Lavallée, then Madame Davies.

[Translation]

**Mrs. Carole Lavallée:** I understand nothing here, Mr. Chair. And yet I usually understand quickly.

You say that clause 1 hasn't carried yet and that Mr. Lake is introducing a new motion on clause 1. Is that in fact what you're telling me?

[English]

**The Chair:** No, he has not moved a new motion on clause 1. He has moved a new motion.

[Translation]

**Mrs. Carole Lavallée:** A new motion concerning the agenda? You can't accept that new motion, Mr. Chair. That can't be. We haven't completed consideration of clause 1.

If you decide to let him speak to his motion, we'll challenge your decision. We won't have any choice.

It's Valentine's Day. I like you a lot, and I was even getting ready to kiss you before leaving...

**Mr. Yves Lessard:** A little restraint here.

**Ms. Carole Lavallée:** We'll be forced to challenge your ruling because we have to finish consideration of clause 1. When you ask whether clause 1 shall carry, you can say that it's carried as amended, negated or stood.

We understand quickly, but you have to explain it to us for a long time.

[English]

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

**Ms. Libby Davies:** I don't know if anybody else feels like we're in the twilight zone or something.

Mr. Chairman, I do feel you're contradicting yourself in terms of what you said earlier. When we first started on this point, Mr. Lake tried to introduce his motion. Mr. Lessard then tried to introduce his motion to continue the business. My recollection is that you clearly said that could not be done until clause 1 was completed, and then you would entertain another motion. You did not say that in the middle of the debate on clause 1, when we had disposed of one amendment and were about to begin another amendment, that you could then introduce a completely different motion. You said that at the conclusion of clause 1 and before we got to clause 2, another motion would be permissible.

I do believe you've contradicted yourself, because we're still in the middle of clause 1. We haven't yet voted on it. Based on what you said earlier to us, I do believe that only when we have voted on it can you then entertain whoever gets to the mike first—either Mr. Lake or Monsieur Lessard—with some other kind of motion.

But we're still on clause 1. You should not be allowing some motion that interrupts the flow of us continuing with clause 1. I feel you've contradicted yourself.

**The Chair:** I apologize if I have contradicted myself, but I am just going by Marleau and Montpetit. It indicates that if there is a motion that is defeated, then it can proceed after some immediate proceeding or item of business has been considered.

Once again, one of the things we considered was the new clause 1, so I may stand corrected in terms of what was said.

Mr. Savage.

• (1715)

**Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.):** Thank you, Chair.

Notwithstanding the enormous progress that we've made so far in the meeting, what is the issue? I would certainly suggest that we should finish clause 1 before we go to Mr. Lake's amendment. I have no idea what legal weight that carries, but in the interest of finishing this any time in the near future, it seems to me that we should deal with clause 1 and then go to Mr. Lake's amendment.

[Translation]

**Mrs. Carole Lavallée:** Pardon me, Mr. Chair. According to Standing Order 62 of the House of Commons, before moving on to Mr. Lake's motion, we'll have to consider the motion by Mr. Lessard, who raised his hand first.

[English]

**The Chair:** Thank you.

I believe I've explained how we need to proceed.

Mr. Lake, continue with your motion, please.

**Mr. Mike Lake:** The motion is that:

Bill C-257 fails to provide balance to both sides in the collective bargaining process and fails to address other issues reflected in the evidence presented by witnesses. Accordingly, your committee recommends, pursuant to Standing Order 97.1, that the House of Commons not proceed with Bill C-257, an Act to Amend the Canada Labour Code (replacement workers).

It's astounding to me that we're seeing the term "ad hoc" taken to a whole new level. We're dealing with a badly flawed private member's bill that has been voted down—10 times, I believe we've heard—by Liberal majorities who could have brought in a very well-structured bill, one that was well thought out, through their majority governments over 11 years, I believe. They had the opportunity to bring in legislation like this, and instead they've chosen to wait a couple more years and vote for a private member's bill that has been proven to have many flaws.

Not only was that bill sent to committee, but we saw an attempt to ram it through the committee in three days. Basically there was two days' worth of testimony over three days before Christmas. Thankfully, some common sense prevailed and we were able to get a decent number of witnesses in here to hear a little more. Thankfully, we heard many of those witnesses testify that they had concerns about balance—the total lack of balance in this legislation and a complete lack of due diligence in terms of the process.

We heard that the original Sims review took four years in the late 1990s to go through section 1 of the Labour Code dealing with industrial relations. It was a comprehensive process, very carefully thought out and very consultative. It travelled across the country and heard people on all sides of the issue talk about this.

As we've heard more and more of the witnesses come forward, we've heard concerns about the provision of essential services in this bill. It's completely missing in the bill; there's been no thought given to that. We've also seen translation issues.

At first we heard that some people said the managers could work, but of course as we went through and studied it further, we realized the bill does not allow managers to work. It doesn't allow employees,

who were employed in the business before and may not have wanted to strike, to keep their jobs and continue to feed their families. It doesn't take into account concerns about the impact on the Canadian economy and industries that are crucial.

Obviously, by definition, anything that is regulated federally is vital to the Canadian economy. We're talking about transportation. We're talking about rail transportation that farmers rely on to move their goods. We're talking about the mining industry. We're talking about many industries that are actually unionized, the workers of which will be severely impacted negatively by strikes in other areas. For example, workers in the mining industry would be impacted by rail strikes or air transportation strikes.

We're talking about what impact a shutdown of the ports on the west coast could have on our ability to import and export goods that are vital to the Canadian way of life. Obviously many of the people who would enjoy using those goods or enjoy the economic benefits of our being able to actually move and sell those goods are union employees who will be negatively affected by this. None of that has been taken into account.

We've heard total confusion regarding the essential services. We've heard claims being made that it's hogwash and that the union can write out—I can't remember exactly what it's called—an agreement and agree before they strike that they're going to protect essential services, but we know you can't count or rely on that.

• (1720)

There's no legal basis to rely on that for any kind of assurance whatsoever, that if a strike shut down the phone system we would have access to 911 services, or if a strike shut down the air transport system, food would be able to get into the northern reaches of Labrador, the Northwest Territories, Nunavut, or the Yukon.

There are all sorts of concerns about these things, and they just seem to be totally ignored in a mad rush to take on this legislation that, from what I understand, almost no country in the world of any stature has actually supported or put into law.

That's the rationale behind moving this motion. As I explained before, there is an intention, in conjunction with this motion, to answer some of the questions and some of the people who really do want this process looked at properly.

I'm not introducing the motion, but it will be the following:

That the committee recommends to the Minister of Labour to establish a consultative process to conduct an examination of the concerns raised by witnesses, and the subject matter of Bill C-257, an Act to Amend the Canada Labour Code Replacement Workers.

We're saying that if we're going to do this, let's do it in a way that makes some sense. This makes no sense whatsoever. It astounds me that we're even in a situation where legislation this bad actually has a chance to be enacted.

I've read a little bit from an article in the *Winnipeg Free Press* by Sidney Green. In the interest of completeness of information, I'm going to read the article, because I think it touches on all of the concerns I have. Keep in mind that Sidney Green is a former NDP cabinet minister in the Manitoba government. By the way, the NDP governments in Saskatchewan and Manitoba right now don't have this legislation. Why haven't they enacted it?

This is what Sidney Green had to say on November 21, 2006:

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.

Last month, by a vote of 167 to 101, divided substantially on government and opposition lines, the House of Commons gave second reading to a bill commonly referred to as anti-scab legislation. If passed, the legislation would affect workers under federal jurisdiction.

The history of union demands for such legislation is interesting. Until the mid-1970s, the battle cry of the labour movement was free collective bargaining. Nothing was more sacred to the philosophy of trade unions than the unrestricted right of working people in combination with one another to withdraw their labour and to seek public support for their demands. For years, labour leaders had been plagued by legislative nuances and court rulings that infringed on their freedom to do what all other citizens had the unchallenged right to do, namely to cease working.

I notice that Mr. Simms is trying really hard to listen to this and everybody else is talking and making a lot of noise. In the interest of showing respect for Mr. Simms, maybe we could have a little bit of quiet in the room so he can hear what I'm reading, because he's very interested.

I'll continue:

The labour movement regarded any third party intervention in their disputes as anathema. Labour resisted all governmental attempts to impose third party intervention.

In the mid-1970s, a drastic turnabout took place. Governments friendly to the trade union movement were in power. Trade union organizers could not resist the opportunity that friendly governments seemed to make available.

• (1725)

**The Chair:** Mr. Lessard.

[*Translation*]

**Mr. Yves Lessard:** Mr. Chair, I have a point of order. I definitely can't prevent my colleague from speaking until 5:30 p.m. That intention is obvious.

To be more practical today and to be able to say that we've done something instructive in the past few minutes, I ask my colleague to suspend his speech so that we can examine the order of business on the other bills. If the clerk has to call for witnesses, in particular for the study of Bill C-36 and C-269, we'll have to give her the mandate to do so.

We could take the next five minutes to dispose of that.

[*English*]

**The Chair:** Mr. Lessard, that's not a point of order. That's a point of debate right now. I'm going to continue with Mr. Lake.

**Mr. Mike Lake:** I'm just trying to figure out where I was here.

For years, governments favoured employers and passed legislation restricting unions. The trade union movement now reasoned that friendly governments should come to the aid of unions and restrict management. In other words, it was pay-back time.

The labour movement abandoned free collective bargaining and actively sought government intervention. They were confident that such intervention would remove some of the risks inherent in the free collective bargaining process. When free collective bargaining is the rule, employees have the right to withdraw their services. But when they do so, they run the risk of being unsuccessful. The ultimate risk is the risk of losing one's job. The employers had the right to resist union demands and to carry on their business. But in doing so, they ran the risk of losing. The ultimate risk was being put out of business.

This balance of ultimate risks was a most important feature. It demanded responsibility on both sides. It was the cornerstone and safety valve of the free collective bargaining process.

One of the first accomplishments of the labour movement's drive toward government-regulated bargaining was the so-called First Agreement legislation, passed in Manitoba about 20 years ago under the NDP.

The law stated that after a union was certified and bargaining with the employer was unsuccessful, an agreement could be imposed by the Labour Board. It does violence to the English language to characterize a Labour Board-imposed schedule of terms and conditions of employment as an agreement. But such niceties do not stand in the way of this headlong retreat from free collective bargaining.

Other legislation followed, each aspect of which drove additional nails into the now-sealed coffin of free collective bargaining.

Each new legislative stricture involves the participation of lawyers, bureaucrats, labour boards and ultimately courts. The so-called anti-scab legislation is the most outrageous demand yet, and lowers the coffin into the grave.

Now remember, a former NDP cabinet minister wrote this.

Under the legislation, an employer is prohibited from hiring an employee to take the place of a union member who is on strike. The employer cannot even hire a union member who refuses to join the strike and opts to work instead. When the strike is over, the employer must reinstate every employee who chose to go on strike. Aside from the fact that such legislation completely undermines the free collective bargaining process, it will, in the end, lead to results never contemplated in its conception.

I think that's the point here. We're talking about results that are not contemplated in an ad hoc piece of legislation like this, without proper comprehensive review.

He goes on to say:

There will be disputes as to whether a strike was lawful. It will have to be legally determined as to when a strike was over.

• (1730)

**The Chair:** That is all the pain and suffering I can deal with today.

The meeting is adjourned.









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